

## 5.1. DRAFT NEW LOCAL LAWS

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### RECOMMENDATION

That Council resolves to:

1. **endorse the draft Local Laws to proceed with the next stages of the Local Law Review; and**
2. **delegates authority, in accordance with section 257 of the *Local Government Act 2009*, to the Chief Executive Officer to undertake community consultation and State Interest Checks on the approved draft Local Laws.**

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### EXECUTIVE SUMMARY

Local laws are the laws made by Council under the Local Government Act 2009 to regulate a broad range of issues. Local laws ensure that through regulation and enforcement growing communities are sustainable, safe and harmonious.

An integral part of amending local laws is seeking the views of the wider community. Additionally, Council is required to conduct State interest checks to ensure the interests of the Queensland Government are protected.

### BACKGROUND

The current local laws were developed and gazetted during the amalgamation with Cairns Regional Council and comprise the 6 Model Local Laws, as provided by the State. These local laws are comprised of Administration, Animal Management, Community and Environmental Management, Local Government Controlled Areas, Facilities, and Roads, Parking and Bathing Reserves.

Local laws are generally reviewed every 10 years or when significant amendments are required. Despite the current suite of laws only being adopted in 2011, as the new Douglas Shire Council has now been established for over 4 years, it is imperative that Council revitalise the local laws to make them contemporary and relevant to the communities of the Douglas Shire.

### COMMENT

A number of new and amended provisions have been included in the draft local laws and all of the references to the Cairns region have been removed.

### PROPOSAL

That Council resolves to:

1. approve the draft Local Laws; and
2. delegates authority to the Chief Executive Officer to undertake community consultation and State Interest Checks on the approved draft Local Laws.

This community consultation process is intended to occur over a 28 day period. The duration of consultation is consistent with consultation that occurred for the recently adopted Planning Scheme and is a week longer than that required by legislation.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Council provided \$20,000 for the completion of the local law review process in the 2018/2019 budget. This allocation will be used to undertake the community consultation process, collate community feedback and report back to Council, with the objective of adopting a final set of Local Laws.

### **RISK MANAGEMENT IMPLICATIONS**

By not having robust and relevant local laws, Council may be at risk of failing to effectively manage activities occurring in public spaces and protecting the amenity of its communities.

Council is bound by legislation when developing, finalising and approving local laws. Council Officers have ensured that the legislation has been followed in the review of the local laws, thus reducing the risk of the laws being successfully challenged in the future.

### **SUSTAINABILITY IMPLICATIONS**

- Economic:** The draft new local laws propose to ease the approval process for activities such as commercial filming. Assessment based on the impact of activities such as wedding ceremonies is a key theme, with the intent being to encourage future attraction of these types of events.
- Environmental:** The new local laws have been drafted incorporating principles from the Corporate Sustainability General Policy and intend to better manage public place activities in an environmentally sustainable way.
- Social:** Community consultation of the draft local laws allows the community to give feedback with regard to how the Shire is regulated and managed and provides a sense of ownership and belonging. The local laws are formed so as to effectively address matters relevant to communities within the Douglas Shire.

### **CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE**

This report has been prepared in accordance with the following:

#### **Corporate Plan 2014-2019 Initiatives:**

##### **Theme 4 - Engage, Plan, Partner**

*4.1.2 - Undertake community engagement activities that are clearly identified and are appropriate in relation to the project.*

#### **Operational Plan 2017-2018 Actions:**

**4.1.2 - Finalise local laws review**

## **COUNCIL'S ROLE**

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

**Regulator** Meeting the responsibilities associated with regulating activities through legislation or local law.

## **CONSULTATION**

**Internal:** Media Officer, all sections of Council.

**External:** MacDonnells Law

## **COMMUNITY ENGAGEMENT**

A community engagement plan is being developed, incorporating Council's Community Engagement General Policy.

## **ATTACHMENTS**

1. Local Law No. 1 - 21 June 2018- F 104159 **[5.1.1]**
2. Local Law No. 2 - amended 25 June 2018- F 104166 **[5.1.2]**
3. Local Law No. 3 - amended 26 June 2018- F 104169 **[5.1.3]**
4. Local Law No. 4 - amended 26 June 2018- F 104172 **[5.1.4]**
5. Local Law No. 5 - amended 26 June 2018- F 104173 **[5.1.5]**
6. Local Law No. 6 - version 3.1 - 18 April 2018 (clean)- F 294936 **[5.1.6]**
7. Subordinate Local Law No. 1 - version 3.1 - 21 June 2018 (clean)- F 294934 **[5.1.7]**
8. Subordinate Local Law No. 2 - 21 June 2018 (clean)- F 294933 **[5.1.8]**
9. Subordinate Local Law No. 3- amended 26 June 2018 (clean)- F 294915 **[5.1.9]**
10. Subordinate Local Law No. 4 - amended 25 June 2018 (clean)- F 294928 **[5.1.10]**
11. Subordinate Local Law No. 5 - amended 25 June 2018 (clean)- F 294924 **[5.1.11]**
12. Subordinate Local Law No. 6 26.7.18 (clean)- F 295017 **[5.1.12]**
13. Register of Cemetery Reserves **[5.1.13]**
14. Register of Parks and Reserves **[5.1.14]**
15. Register of Dog Off Leash Areas **[5.1.15]**
16. PIT Plan **[5.1.16]**



**Draft 3.1**

**Douglas Shire Council  
Local Law No. 1  
(Administration) 201~~87~~**

# Douglas Shire Council

## Local Law No. 1 (Administration) 2018<sup>87</sup>

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 1 (Administration) 2018*<sup>7</sup>.

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

- (1) The purpose of this local law is 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 purpose is to be achieved by providing for—
  - (a) consistent and comprehensive processes for the local government to grant and regulate approvals to undertake prescribed activities;
  - (b) authorised persons for enforcing local laws;
  - (c) review of certain decisions made under local laws;
  - (d) enforcement of local laws;
  - (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 and other local laws.

### 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 Offence to undertake prescribed activity without an approval

- (1) A person must not undertake a prescribed activity without an approval granted by the local government.

Maximum penalty — 50 penalty units

- (2) Subsection (1) does not apply to an activity for which a Local Government Act, other than a local law, authorises the local government to grant an approval.

*Example—*

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<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 Local Government Act 2009, Section 27.

It will not apply to approvals required under section 75 of the *Local Government Act 2009*.

- (3) A local government may, by subordinate local law, declare that subsection (1) does not apply to a particular category of prescribed activity.

*Example—*

A subordinate local law may declare that subsection (1) 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.

## 6 Form of application

- (1) An application for an approval of a prescribed activity must be—
- (a) made in the form approved by the local government;
  - (b) made by the person who will be operating the prescribed activity;
  - (c) include—
    - (i) the name, address and contact telephone number of the applicant;
    - (ii) if the applicant is a corporation, the Australian company number; and
    - (iii) full details of the prescribed activity; and
  - (d) be accompanied by—
    - (i) proof that the applicant currently holds any separate approval required under another law for the prescribed activity;
    - (ii) the prescribed fee;
    - (iii) if the applicant is not the owner of the premises on which the prescribed activity is to be operated, the owners' written consent (unless the owner is the local government);
    - (iv) any documents, information or materials identified as required within the relevant application form; and
    - (v) such other information, materials or documents as the local government may prescribe by subordinate local law.

*Example for paragraph (i)*

A prescribed activity may require approvals under another Act in relation to development, building, liquor, or business licensing.

- (2) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in or accompanying the application.
- (3) The notice under subsection (2) 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 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.
- (4) If—

- (a) an application is not made in the form set out in subsection (1); or
  - (b) the applicant does not, without reasonable excuse, provide the further information by the stated date,
- the application lapses and the local government is not required to consider the application.
- (5) The local government may in its discretion extend the period for receipt of further information in subsection (4).
  - (6) 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 (6)—20 penalty units

## 7 Deciding an application for an approval

- (1) By written notice to the applicant, the local government may—
  - (a) approve an application for an approval unconditionally; or
  - (b) approve an application for an approval subject to conditions; or
  - (c) refuse to grant the approval.

*Example 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, require the applicant to give reasonable security (which may include a deposit of money, a guarantee, or an insurance bond) to ensure that any damage is made good.
- (2) The criteria which the local government will consider in deciding an application for an approval to undertake a prescribed activity are—
  - (a) if the prescribed activity requires an approval under another law, whether that separate approval is held;
  - (b) the effect of the prescribed activity on the public health, safety or the amenity of the surrounding area;
  - (c) the prescribed activity is in accordance with the local government's adopted sustainability policies and principles;
  - (d) any environmental harm or nuisance which is likely to be caused by the prescribed activity;<sup>2</sup>
  - (e) the physical suitability of the land for the proposed use;
  - (f) if the application relates to land held in trust by the local government, whether the grant of the approval is consistent with the terms and conditions of the trust;
  - (g) whether the prescribed activity is consistent with any additional criteria prescribed for the activity under a subordinate local law; and
  - (h) any other matters which the local government considers relevant to deciding the application.

*Example for paragraph (f)—*

<sup>2</sup> See *Environmental Protection Act 1994*, sections 15 and 15 for definition of environmental harm and environmental nuisance.

An application for commercial use of a local government controlled area that is held in trust by the local government may require registration of a lease prior to the approval being granted for commercial use of the area.

- (3) 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.
- (4) In this section—

**non-standard condition** means a condition that is not prescribed under section 8(3) as a condition that must be imposed on an approval, or that will ordinarily be imposed on an approval.

## 8 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;
  - (b) be consistent with the purpose of any relevant local law;
  - (c) if the approval is for a prescribed activity mentioned in section 6 be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval;
  - (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 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.

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

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

## 9 Compliance with conditions of approval

- (1) An approval holder must ensure that each condition of an approval is complied with.

Maximum penalty – 50 penalty units:

- (2) This section does not apply to an activity for which a Local Government Act, other than a local law, authorises the local government to grant an approval.

## 10 Changing conditions of an approval

- (1) An approval holder may apply to the local government to amend the conditions of an approval.
- (2) The application must —
  - (a) be made in the form approved by the local government;
  - (b) be accompanied by the prescribed fee;
  - (c) include details of the proposed amendment; and
  - (d) include the reason for seeking the amendment.
- (3) The local government must decide whether to grant or refuse the application.
- (4) If the local government decides to amend the conditions as requested, the local government must give the approval holder a written notice of the amended conditions.
- (5) The amended conditions will take effect when the local government gives the written notice of the amended conditions under subsection (4).
- (6) If the local government refuses to amend the conditions, the local government must give the approval holder an information notice.
- (7) The local government may unilaterally change a condition of an approval if the local government is satisfied the change is urgently necessary to prevent<sup>4</sup>—
  - (a) harm to human health or safety or personal injury;
  - (b) property damage, or a loss of amenity;
  - (c) environmental harm; or
  - (d) a nuisance.
- (8) To change a condition of an approval under subsection (7), the local government must—
  - (a) give the approval holder an information notice stating—
    - (i) the proposed change and the reasons for the change;
    - (ii) that the approval holder may make a written submission to the local government about the proposed change; and
    - (iii) the time, at least 14 days after the information notice is given to the approval holder, within which any written submission may be made; and

<sup>4</sup> A change to the conditions of an approval includes a change by omission, substitution or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954* (Qld)).

- (b) consider any written submission made within the time stated in the information notice by the approval holder.
- (9) After considering any written submission made by the approval holder, the local government must give to the approval holder—
  - (a) if the local government is not satisfied the change is necessary — an information notice stating that it has decided not to change the conditions; or
  - (b) if the local government is satisfied that the change is necessary — an information notice stating that it has decided to change the conditions and the details of the changed conditions.
- (10) The changed conditions take effect from the day the information notice in subsection (9)(b) is given to the holder of the approval.

In this section – **nuisance** means the unreasonable, unwarranted or unlawful use of one's property in a manner that substantially interferes with the enjoyment or use of another individual's property or an act or omission that unreasonably interferes with the rights of the public or community

## 11 Independent certification

- (1) In deciding an application for an approval, the local government may, in its discretion, accept the certificate of an independent certifier as evidence about any information, materials or document required to be included in or to accompany the application that is mentioned in a subordinate local law for this subsection.
- (2) In this section—

**independent certifier** means—

  - (a) an individual or organisation declared under a subordinate local law for this paragraph as an independent certifier for a particular application requirement; 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 a particular application requirement.

**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.

## 12 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 sub-section; or
- (b) if there is no term provided for under a subordinate local law—1 year from the date the approval is granted.

## 13 Renewal or transfer of an approval

- (1) The holder of **aan** approval may make an application to the local government to—

- (a) renew the approval; or
  - (b) transfer the approval to another person.
- (2) An application to renew or transfer an approval must be—
  - (a) made—
    - (i) by the holder of the approval;
    - (ii) before the expiration of the approval; and
    - (iii) in the form approved by the local government; and
  - (b) accompanied by—
    - (i) the prescribed fee;
    - (ii) for a transfer of approval, the consent of the transferee; and
    - (iii) such other information as is reasonably requested by the local government.
- (3) The local government may decide to—
  - (a) renew or transfer an approval—
    - (i) where the undertaking of the prescribed activity complies with the conditions of the approval and the provisions of this and any relevant local law or subordinate local law; and
    - (ii) subject to such conditions as the local government considers appropriate; or
  - (b) refuse to renew or transfer the approval.
- (4) If the local government refuses to renew or transfer the approval, the local government must give the approval holder a written information notice.
- (5) Subject to section 14 of this local law, if an application to renew an approval is made under this section, the approval is taken to continue in force from the day that it would, apart from this section, have expired until the day the application is decided under subsection (3).
- (6) The local government may prescribe, by subordinate local law, categories of prescribed activities for which an approval cannot be transferred.

#### **14 Amendment, cancellation or suspension of an approval**

- (1) The local government may amend, cancel or suspend an approval where—
  - (a) the approval holder agrees to the amendment, cancellation or suspension;
  - (b) the local government reasonably considers the amendment, cancellation or suspension is necessary—
    - (i) for the protection of public health or safety;
    - (ii) to prevent property damage or a loss of amenity;
    - (iii) to prevent environmental harm;
    - (iv) to prevent a nuisance;
    - (v) to allow for works on roads or local government controlled areas;
    - (vi) to improve access to a road; or



- (vii) to improve the efficiency of vehicle or pedestrian traffic;
  - (c) the approval holder contravenes an Act, or a condition of the approval or a local law in undertaking the prescribed activity;
  - (d) another approval required for the prescribed activity under an Act has not been obtained, has been suspended, or cancelled;
  - (e) the approval holder has failed to comply with a condition of the approval;
  - (f) the approval was granted on the basis of false or misleading information;
  - (g) the approval holder has failed to comply with a compliance notice issued with respect to the prescribed activity under section 22; or
  - (h) the approval holder has failed to comply with a stop order issued with respect to the prescribed activity under section 24.
- (2) If the local government considers it is necessary to amend, cancel or suspend an approval, other than with the agreement of the approval holder under subsection 14(1)(a), the local government must give the approval holder a written notice (a **show cause notice**) stating—
- (a) the reasons for the proposed action to amend, cancel, or suspend the approval;
  - (b) if the proposed action is suspension, the proposed suspension period; and
  - (c) that the approval holder may make a written submission to the local government about why the proposed action should not be taken within a stated time at least 14 days after the notice is given to the approval holder.
- (3) After considering any written submissions made by the approval holder, the local government must give to the approval holder—
- (a) a written notice stating whether or not the local government has decided to amend, suspend or cancel the approval; and
  - (b) if the local government decides to amend, suspend or cancel the approval, an information notice.
- (4) The local government's decision takes effect from the day that written notice is given to the approval holder under subsection (3).

## 15 Procedure for immediate suspension of approval

- (1) Despite section 14, the local government may immediately suspend an approval if the local government considers that the continuation of the prescribed activity by the approval holder poses—
- (a) an urgent and serious threat to public health or safety;
  - (b) an urgent and serious risk of environmental harm, property damage, loss of amenity; or
  - (c) nuisance.
- (2) The suspension—
- (a) can only be ~~effected~~**affected** 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 the proposed action under section 14(2); and

- (b) operates immediately after the notices referred to in paragraph (a) 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 by written notice to the approval holder; or
  - (ii) the local government gives the approval holder notice under section 14(3) of its decision about the show cause notice.

## Part 3 Authorised persons

### 16 Appointment

- (1) The Chief Executive Officer may appoint a person under the Act to be an authorised person for these local laws.<sup>5</sup>
- (2) An authorised person's instrument of appointment must state the local law(s) for which the person is appointed as an authorised person.

### 17 Threatening etc. an authorised person<sup>6</sup>

A person must not threaten, insult or use abusive language to an authorised person.

Maximum penalty— 50 penalty units

## Part 4 Review of decisions

### 18 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>
- (2) The application (a **review application**) must be made within 14 days from—
  - (a) if the person is given<sup>9</sup> 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) The local government may extend the time referred to in subsection (2) 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

<sup>5</sup> See the *Local Government Act 2009*, Chapter 6, Part 6, for the power to appoint authorised persons.

<sup>6</sup> See also the *Local Government Act*, section 149, in relation to obstructing a person enforcing the *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 required by the Act, section 268.

<sup>9</sup> See the *Acts Interpretation Act 1954* (Qld) sections 39 and 29A regarding the service of documents on a person.

- (b) supported by enough information to enable the local government to decide the application.

## 19 Review decision

- (1) The local government must review the original decision and make a decision (the **review decision**) within 28 days after receiving a review application- 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.

## 20 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

## 21 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>10</sup>
- (2) The authorised person may require the occupier of the property 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.

<sup>10</sup> See the Local ~~Government Act~~Government Act, section 132.

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

## 22 Compliance notice

(1) If—

(a) an authorised person is satisfied that:

(i) a person—

A) is contravening a local law or an approval; or

B) has contravened a local law or an approval in circumstances that make it likely the contravention will continue or be repeated; and

(ii) the contravention can be remedied; and

(iii) it is appropriate to give the person an opportunity to remedy the contravention; or

(b) a local law provides that an authorised person may give a compliance notice to a person,<sup>11</sup>

the authorised person may give<sup>12</sup> a written notice (a **compliance notice**) to the person (the **recipient**) requiring the person to remedy the contravention.<sup>13</sup>

*Examples for paragraph (a)(ii) 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 compliance notice must state the following—

(a) either—

(i) the particular provision of the local law or approval the authorised person is satisfied is being, or has been, contravened; or

(ii) the provision of the local law that authorises the authorised person to give a compliance notice;

(b) briefly, how it is believed the provision of the local law or approval is being, or has been, contravened;

(c) the specified action that the recipient must take to comply with the notice;

(d) the time by which the recipient must remedy the contravention;

(e) that it is an offence to fail to comply with the compliance notice; and

<sup>11</sup> For example, see *Local Law No. 3 (Community & Environmental Management) 2018*<sup>7</sup>, section 10(1) (Pest control notices), section 13(2) (Overgrown and unsightly allotments), section 14(2) (Accumulation of objects and materials on allotments), section 16(2) (Fire hazards), section 19(2) (Removal or reduction of community safety hazards).

<sup>12</sup> See the *Acts Interpretation Act 1954* (Qld), sections 39 and 39A, regarding the service of documents on a person.

<sup>13</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 138AA of the Local Government Act.

- (f) the maximum penalty for failing to comply with the compliance notice.
  - (3) The time under subsection (2)(c) must be reasonable having regard to—
    - (a) the action required to comply with the notice;
    - (b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm or nuisance that may result from a failure to comply with the notice; and
    - (c) when the contravention occurred.
  - (4) The compliance notice may include, or be accompanied by, an information notice.
  - (5) The recipient must comply with the compliance notice.<sup>14</sup>
- Maximum penalty for subsection (5)— 50 penalty units.

## 23 Power to remove and cost recovery

- (1) This section applies where—
  - (a) a structure or other material thing, other than an animal, has been brought onto a local government controlled area or road in contravention of a local law; or
  - (b) a structure has been erected or installed in, on, across, under or over a road in contravention of a local law.
- (2) An authorised person may seize (by dismantling if necessary), remove and impound the structure or thing if—
  - (a) its immediate removal is necessary—
    - (i) in the interests of public health or safety; or
    - (ii) to prevent environmental harm, property damage or loss of amenity; or
  - (b) a compliance notice has been given requiring the owner or person in possession of a structure or thing to remove it—
    - (i) the owner, or person in possession of the structure or thing, has not complied with the compliance ~~notice; and~~ notice; and
    - (ii) the time for making an application for review of the compliance notice under section 18 has expired.
- (3) 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).

## 24 Stop orders

- (1) An authorised person may order a person 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.

<sup>14</sup> See also section 14 regarding the local government's power to amend, suspend or cancel an approval where a notice is not complied with and with section 142 of the Act, regarding the local government's power to enter property and take action that is required under a remedial notice.

- (2) An order under this section—
  - (a) may be given verbally 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; or
    - (ii) the local government immediately suspends the approval for the prescribed activity under section 15.
- (3) An authorised person must confirm a verbal 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 any other law.

## Part 6 Legal proceedings

### 25 Defence of lawful 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 lawful excuse for the contravention.

### 26 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.

### 27 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*.

### 28 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

### 29 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 leave the meeting place.
- (3) A person asked to leave a meeting place under subsection (2) must immediately leave the place and remain away until the end of the meeting, or for such lesser period specified 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.
- (5) For the purpose of this section "obstruct" includes to disrupt, hinder or interrupt verbally or by conduct.

### 30 Fees

- (1) If a local law provides for payment of a ~~fee, and~~ 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.
- (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.

### 31 Abandoned goods

- (1) This section applies where an authorised person considers on reasonable grounds that goods<sup>15</sup> have been abandoned in a local ~~government controlled~~ government controlled area or on a road.
- (2) The authorised person may seize and impound the goods.
- (3) This section does not apply if the abandoned good is a vehicle abandoned on a local government controlled area or on a road

### 32 Dealing with seized and impounded items

- (1) Despite any other provision of the local laws, if an impounded item is perishable, it may be immediately disposed of as the Chief Executive Officer directs and the proceeds applied in accordance with subsection (4).
- (2) A person may reclaim an impounded item if—

<sup>15</sup> 'Goods' does not include animals. For seizing and impounding animals see Part 4 of *Local Law No. 2 (Animal Management)* 2018<sup>7</sup>.



- (a) written application is made to the local government;
  - (b) proof is produced to the satisfaction of the Chief Executive Officer that the applicant is the owner of the item, or is acting on the owner's behalf; and
  - (c) the applicant pays the prescribed fee for seizing and impounding of the item.
- (3) If an impounded item is not reclaimed within 28 days of being impounded, the local government may dispose of the item—
- (a) if in the reasonable opinion of the Chief Executive Officer, it has no commercial value or has a value that would not cover the costs of sale of the item—as the Chief Executive Officer directs; or
  - (b) by sale—
    - (i) by public auction or tender using the most cost effective method that is not inconsistent with any other applicable Act following an advertisement published at least 14 days before the date of the proposed sale;
    - (ii) through an agent of the local government; or
    - (iii) if it has been offered for sale under paragraph (b)(i) or (ii) but has not been sold within a reasonable period of time—as the Chief Executive Officer directs.
- (4) The proceeds of the sale or disposal of the impounded item must be applied—
- (a) in accordance with section 38A of the Act if section 38A applies to the disposal of the item; or
  - (b) if subsection (a) does not apply—
    - (i) firstly, towards the costs of the sale or disposal;
    - (ii) secondly, towards the prescribed fee for seizing and impounding the impounded item; and
    - (iii) thirdly, subject to subsection (5), to the former owner of the impounded item.
- (5) If the former owner cannot be located or no person establishes a valid claim to the amount to which the former owner is entitled under subsection (4)(b)(iii) within 6 months from the date of the sale or disposal, the proceeds become the property of the local government.
- (6) This section does not apply if the seized and impounded good is a vehicle abandoned on a local government controlled area or on a road.

### **33 Abandoned vehicles**

- (1) This section applies where an authorised person considers on reasonable grounds that a vehicle has been abandoned in a local government controlled area or on a local government controlled road.
- (2) The authorised person may seize the vehicle and impound it at a place for safe keeping.
- (3) As soon as practicable after removal of the vehicle, the authorised person, must issue a notice in writing (**detention notice**) to the owner of the vehicle (if the owner can be identified) advising of the removal of the vehicle and the place at which the vehicle has been impounded.



- (4) The written notice must, if practicable, be served on the owner personally, but if this cannot be done within 14 days of the seizure of the vehicle, may be done by notice on Council's website and/or Council's social media pages.

### **34 Dealing with seized and impounded vehicles<sup>16</sup>**

- (1) A person may reclaim an impounded vehicle if—
- (a) written application is made to the local government;
  - (b) proof is produced to the satisfaction of the Chief Executive Officer that the applicant is the registered owner of the vehicle, or is acting on the registered owner's behalf; and
  - (c) the applicant pays the prescribed fee for seizing and impounding of the vehicle and any notices served or advertising in relation to its seizure and impounding and the intended sale of the vehicle.
- (2) If an impounded vehicle is not reclaimed within 28 days of the date of service or publication on Council's website and/or social media pages of a notice mentioned in section 33(3), the local government may dispose of the vehicle—
- (a) if in the reasonable opinion of the Chief Executive Officer, it has no commercial value or has a value that would not cover the costs of sale of the vehicle— as the Chief Executive Officer directs; or
  - (b) by sale—
    - (i) by notice published on the local government's website and/or social media pages, advertise that it will offer the vehicle for sale by tender or auction (including online and/or silent auctions), unless the owner (or a person acting on the owner's behalf) or a person claiming a right to possession has sooner obtained possession of the vehicle in accordance with the provisions of ~~subsection~~ (subsection (1); and
    - (ii) if no offer for the vehicle is received at such tender or auction— dispose of the vehicle in such manner and on such terms as the Chief Executive Officer of the local government may determine.
- (3) The proceeds of the sale or disposal of the vehicle shall be applied in the following order—
- (a) in payment of the expenses of the sale or disposal;
  - (b) in payment of the cost of removal, seizure and impounding of the vehicle and advertisement of any notice served or advertised;
  - (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* (Cth) — the amount owing under the security interest; and
  - (d) in payment of the balance of such proceeds to the owner of the ~~vehicle,~~ ~~or vehicle,~~ or if after reasonable inquiry, the owner can not be identified, in the general fund of the local government.

<sup>16</sup> Pursuant to section 100(12) of the *Transport Operations (Road Use Management) Act 1995*, this section replaces the procedure for the removal of abandoned vehicles from roads set out in sections 100(3)-(11) of the *Transport Operations (Road Use Management) Act 1995*.

(4) A secured party cannot enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection 3(a) or (b).

(5) Any person who takes delivery or obtains possession of or removes or attempts to remove from the detention of a local government a vehicle seized and impounded pursuant to the provisions of section 33, except in accordance with the provisions of subsections (1) or (2) shall be guilty of an offence.

Maximum penalty—40 penalty units.

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

(7) However, any perishable goods in or on the vehicle at the time of its seizure may be disposed of in the way the Chief Executive Officer of the local government shall direct and the proceeds (if any) of such disposal shall be applied in accordance with the provisions of subsection (3).

## Part 8 Transitions, Savings and Repeals

### **3335** Repeal

Subject to sections 36 - 42, upon the making of this local law, the following local laws and subordinate local laws are repealed:

- (1) *Local Law No. 1 (Administration) 2011;*
- (2) *Subordinate Local Law No. 1 (Administration) 2011;*
- (3) *Model Local Law No. 2 (Meetings) 2008;*
- (4) *Local Law No. 2 (Animal Management) 2011;*
- (5) *Subordinate Local Law No. 2 (Animal Management) 2011;*
- (6) *Local Law No. 3 (Community and Environmental Management) 2011;*
- (7) *Subordinate Local Law No. 3 (Community and Environmental Management) 2011;*
- (8) *Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011;*
- (9) *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011;*
- (10) *Local Law No. 5 (Parking) 2011;*
- (11) *Subordinate Local Law No. 5 (Parking) 2011;*
- (12) *Local Law No. 6 (Bathing Reserves) 2011;*
- (13) *Subordinate Local Law No. 6 (Bathing Reserves) 2011;*
- (14) *Local Law No. 28 (Control of Advertising);*
- (15) *Local Law No. 59 (Commercial Use of Roads) 2002; and 2002; and*
- (16) *Subordinate Local Law No. 59 (Commercial Use of Roads) 2002.*

**3436 Existing approvals**

- (1) This section applies to an application or approval (however described) that was made and was decided before the repeal of the local laws and subordinate local laws in section 33.
- (2) An approval is taken to be an approval under this local law to carry out the prescribed or restricted activity.
- (3) An approval is taken to have been issued on the same conditions as those to which the approval was subject immediately before commencement of this local law.

**3537 Pending approvals**

- (1) This section applies to an application (however described) that was made under the repealed local laws and subordinate local laws in section 33, but was not decided before the commencement of this local law.
- (2) A pending application for an approval is taken to have been an application for an approval under this local law.

**3638 Action to cancel or suspend an existing approval**

- (1) This section applies if, immediately before the repeal of the local laws and subordinate local laws in section 33—
  - (a) a person holds an approval;
  - (b) the person has received a notice under the repealed local laws and subordinate local laws to show cause why the approval should not be cancelled or suspended; and
  - (c) the commencement of this local law precedes the day by which the person could show cause.
- (2) The person may attempt to show cause under the repealed local law or subordinate local laws as if this local law had not commencement.
- (3) The Chief Executive Officer (or their delegate) may after the person has attempted to show cause, cancel or suspend the existing approval under the repealed local law or subordinate local laws as if this local law had not commenced.

**3739 Suspended approval**

- (1) This section applies if an existing approval has been suspended under a repealed local law or subordinate local law and the period of suspension has not ended immediately before the commencement of this local law.
- (2) The suspension is taken to continue as a suspension of an approval under this local law.

**3840 Offences**

- (1) A proceeding for an offence against the repealed local laws or subordinate local laws may be started or continued and the repealed provisions that are necessary or convenient to be used in relation to the proceedings continue to apply, as if this local law had not commenced.

- (2) For subsection (1), the *Acts Interpretation Act 1954* (Qld), section 20 applies, but does not limit the subsection.

### 3941 Things seized

A thing seized under a repealed local law or subordinate local law, and in relation to which a proceeding for an offence under a repealed provision was not finalised or started immediately before the commencement of this local law, is taken to have been properly seized under this local law.

### 4042 Appeals

- (1) Subsection (2) applies if—
- (a) person has, before the commencement of these new local laws and subordinate local laws, appealed to the Chief Executive Officer or other authority under a repealed provision against a decision of the local government; and
  - (b) the Chief Executive Officer or other authority has not made a decision about the appeal before the commencement of this local law.
- (2) The Chief Executive Officer or other authority may decide the appeal under the repealed provisions as if this local law had not commenced.
- (3) Subsection (4) applies if—
- (a) immediately before the commencement of this local law a person could have appealed to the Chief Executive Officer or other authority under a repealed provision against a decision of the local government; and
  - (b) the person has not appealed before the commencement of this local law.
- (4) The person may appeal, and the Chief Executive Officer or other authority may decide the appeal, under the repealed provisions as if this local law had not commenced.
- (5) For giving effect to the Chief Executive Officer's or other authority's decision under subsections (2) or (4), the Chief Executive Officer or other authority may give directions to the local government that are considered necessary having regard to the provisions of this local law.

*Example for subsection (5) —*

*On an appeal by a person against a decision of the local government to refuse to grant an approval under a repealed provision, the Chief Executive Officer or other authority may direct the local government to issue an approval to the person under this local law.*

## Part 9 Subordinate local laws

### 4143 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>17</sup>

<sup>17</sup> See section 5(3).

- (b) the information, documents or materials that must accompany an application for an approval;<sup>18</sup>
- (c) additional criteria for the granting of approvals for prescribed activities;<sup>19</sup>
- (d) the conditions that must be imposed on an approval or that will ordinarily be imposed on an approval;<sup>20</sup>
- (e) application requirements for which an independent certifier's certificate may be accepted by the local government;<sup>21</sup>
- (f) the individuals or organisations that are declared as independent certifiers for particular application requirements;<sup>22</sup>
- (g) the qualifications that are necessary for an individual or organisation to provide an independent certificate about particular application requirements;<sup>23</sup>
- (h) the term for which an approval for a prescribed activity remains in force;<sup>24</sup>
- (i) categories of prescribed activities for which approvals are non-transferable;<sup>25</sup>
- (j) complementary accommodation prescribed as appropriate for caravan parks;<sup>26</sup>
- (k) a State-controlled road to which this local law applies;<sup>27</sup>
- (l) public place activities prescribed as regulated activities on local government controlled areas and roads;<sup>28</sup>
- (m) a prescribed activity that is declared as a category 1 activity;<sup>29</sup>
- (n) a prescribed activity that is declared as a category 2 activity;<sup>30</sup> and
- (o) a prescribed activity that is declared as a category 3 activity.<sup>31</sup>

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<sup>18</sup> See section 6(1)(d)(v)

<sup>19</sup> See section 7(2)(f)

<sup>20</sup> See section 8(3)

<sup>21</sup> See section 11(1)

<sup>22</sup> See section 11(2), definition of ~~independent certifier~~**independent certifier**, paragraph(a).

<sup>23</sup> See section 11(2), definition of **independent certifier**, paragraph(b).

<sup>24</sup> See section 12.

<sup>25</sup> See section 13(6).

<sup>26</sup> See schedule 1, definition of **complementary accommodation**, paragraph (b).

<sup>27</sup> See schedule 1, definition of **road**, subparagraph (b)(i).

<sup>28</sup> See schedule 2, part 2, definition of **regulated activities on local government controlled areas and roads**, paragraph (c).

<sup>29</sup> See Schedule 1 definition of category 1 activity.

<sup>30</sup> See Schedule 1 definition of category 2 activity.

<sup>31</sup> See Schedule 1 definition of category 3 activity.

## Schedule 1 Dictionary

### Section 3

**Act** means an Act of the Queensland Parliament;

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

**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; and
- (c) another incorporated association which—
  - (i) has objects similar to the objects of one of the incorporated associations referred to in paragraphs (a) or (b); and
  - (ii) is recognised as an animal welfare agency by the local government.

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

**authorised person** see the Act, Schedule 4.<sup>32</sup>

**breeding cat** means an entire cat.

**breeding dog** means an entire dog.

**camping** means in relation to land, the physical occupation of, or staying overnight on land by a person including in a temporary structure, vehicle, or sleeping out.

**caravan** see *Residential Tenancies Act 1994*, section 3A.

**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.

**cattery** has the meaning in the Planning Scheme.

**Chief Executive Officer** means the chief executive officer of the local government.

**complementary accommodation** means—

- (a) accommodation in an on-site caravan, a cabin, 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 caravan parks.

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

- (a) section 22; or
- (b) another local law that authorises the giving of a compliance notice.

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

<sup>32</sup> See also section 202 of the Act.

**DOGIT land** means land that is DOGIT land under the *Aboriginal Land Act 1991*, section 13, 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.

**goods** does not include animals.

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

**information notice**, for a decision, means a written notice stating or including by attachment the following—

- (a) the decision;
- (b) the reasons for the decision;
- (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.

**kennel** has the meaning in the Planning Scheme.

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

**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) means land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road;
  - (2) includes part of a local government controlled area; and
  - (3) does not include a residential lot on DOGIT land.
- (4) *Examples of local government controlled areas*—
- (5) parks, reserves and gazetted foreshores
  - (6) camping grounds or caravan parks on land owned or controlled by the local government
  - (7) local government swimming pools
  - (8) cemeteries
  - (9) Council Chambers and local government offices
  - (10) jetties.

**market** has the meaning in the Planning Scheme.

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

**pet shop** means a retail shop or market at which animals are offered for sale.

**prescribed activity** means—

- (a) an activity prescribed in Part 1 of Schedule 2 and defined in Part 2 of Schedule 2; or



- (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.

Example for paragraph (b)—

an approval under section 175 of the *Local Government Act 2009*.

**prescribed fee** means a cost-recovery fee fixed by the local government, by local law or by resolution, under the Act<sup>33</sup>.

**property** see *Acts Interpretation Act 1954*, section 36 and Schedule 1<sup>2.1</sup>.

**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 19(1).

**road** means any of the following:

- (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 including rooming accommodation<sup>34</sup> occupied or available for occupation by holiday makers or travellers, 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; or
- (e) cooking facilities;<sup>3.1</sup>

but expressly excludes bed & breakfast accommodation.

**show cause notice** see section 14(2).

**shop** has the meaning in the Planning Scheme.

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

**the local government** means the Douglas Shire Council and its successors or assigns.

**vehicle** includes any type of transport that moves on wheels and a hovercraft, but does not include a train, ~~or~~ tram or ship (except for hovercraft).

<sup>33</sup> See the Act, section 97.

<sup>34</sup> See *Residential Tenancies and Rooming Accommodation Act 2008*, section 15.



## Schedule 2 Prescribed activities

### Section 5

### Part 1 Prescribed activities

alteration or improvement to local government controlled areas and roads  
bringing or driving motor vehicles onto local government controlled areas  
bringing or driving prohibited vehicles onto motor vehicle access areas  
carrying out works on a road or interfering with a road or its operation  
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 a pet shop, cattery or kennel  
operation of camping grounds  
operation of cane railways  
operation of caravan parks  
operation of cemeteries  
operation of public swimming pools  
operation of shared facility accommodation  
operation of temporary entertainment events  
parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee  
parking in a loading zone by displaying a commercial vehicle identification label  
undertaking animal breeding  
undertaking regulated activities on local government controlled areas and roads  
installation and operation of gates and grids  
undertaking regulated activities regarding human remains  
use of bathing reserves for training, competitions etc.  
use of moorings  
[commercial filming and photography](#)

### 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—

<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.

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

***carrying out works on a road*** means carrying out works or conducting activities on a road or interfering with a road or its operation, including interference with vehicular or pedestrian traffic under section 75(2) of the *Local Government Act 2009*.

***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; or
- (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 a camping ground or caravan park.

***holding of a public place activity*** means the holding of a public place activity prescribed under a subordinate local law for this definition, excluding the operation of a temporary entertainment event.

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

<sup>37</sup> See footnote 32.

**installation of advertising devices** means the installation, erection, or display of an moveable 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) 2018*.

**local government cemetery** means a cemetery owned or operated by the local government.

**operation of camping grounds** means to permit access to, or use of, a commercial camping ground, but does not include a caravan park.

**operation of cane railways** means the operation of a tramway or railway—

- (a) operated, entirely or partly, on an access right under the *Sugar Industry Act 1999*, Chapter 2, Part 4<sup>39</sup>;
- (b) used, or proposed to be used, to transport sugar cane, sugar or sugar cane by-products; and
- (c) that does not transport passengers or other freight for reward.

**operation of caravan parks** means to operate, on a commercial basis, a place for parking and residing in caravans, including a place that provides also for complementary accommodation.

**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 a pet shop, cattery or kennel** means to operate, on a commercial basis, a pet shop, cattery or kennel, but excluding operation by an animal welfare agency.

**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;
- (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, motel, hotel, motel or bed and breakfast accommodation.

**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.

**temporary entertainment event** means an event whether on or at a public place or on private land, that is held temporarily – not on a regular basis, to provide entertainment to the public whether or not upon payment of a fee for admission and

<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.

<sup>39</sup> *Sugar Industry Act 1999*, Chapter 2 (Supply contracts and cane access rights), Part 4 (Cane access, harvesting and mill supply).

whether or not the management reserves the right to exclude individual members of the public.

***undertaking animal breeding means—***

- (a) where a person keeps on land 1 or more breeding cats or breeding dogs or both;
- (b) allows or encourages the breeding cat or breeding dog to breed; and
- (c) offers for sale or supply of the progeny of the breeding cat or breeding dog.

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

- (a) disturbance of human remains buried outside a cemetery;
- (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>40</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 or encroachment of goods or materials; or
- (c) holding of a public place activity.

***use of bathing reserves for training, competitions etc.*** means to—

- (a) use or set apart a bathing reserve, or a part of a bathing reserve for life saving training on an exclusive basis; or
- (b) use any part of a bathing reserve for the conduct of a surfing competition, a surf life saving competition, or another aquatic activity.

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<sup>40</sup> See footnote 36.



**Douglas Shire Council  
Local Law No. 2  
(Animal Management) 2017~~8~~<sup>7</sup>  
Draft 3.1**

# Douglas Shire Council Local Law No. 2 (Animal Management) 2017

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 2 (Animal Management) 2018*<sup>7</sup>.

### 2 Purposes and how they are 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;
  - (b) protects the community against risks to health and safety;
  - (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;
  - (b) the prescription of minimum standards for keeping animals;
  - (c) the proper control of animals in public places and koala conservation areas;
  - (d) the management of dangerous or aggressive animals other than dogs;<sup>1</sup>
  - (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) 2018*<sup>7</sup>.

<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; and
  - (h) the nature of the premises in which the animals are to 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.
- (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;

<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.

- (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; and
  - (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 an animal of a particular species or breed 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.

- (4) Section 7(3) shall commence 6 calendar months after the date the adoption of Local Law No. 2 (Animal Management) 2018 or such longer period as the local government decides by resolution.

## 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.

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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.

- (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.

## 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—
  - (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—

<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.

**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;
    - (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;
    - (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;
  - (b) the animal is tethered in or on a vehicle and unable to reach beyond the vehicle extremities;
  - (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;
  - (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

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.

<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.

Maximum penalty— 20 penalty units.

## 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 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.

## Division 3 Aggressive behaviour by animals other than dogs

### 15 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.

### 16 Animals not to attack or cause fear to persons or animals<sup>16</sup>

- (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)—

<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.

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

<sup>16</sup> See section 195 of *Animal Management (Cats and Dogs) Act 2008*.

- (a) if the attack causes the death of or grievous bodily harm to a person—300 penalty units;
  - (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units;
  - (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;
  - (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units;
  - (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>17</sup>

## 17 Defences for offence against s 16<sup>18</sup>

It is a defence to a prosecution for an offence against section 16 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.

## Division 4 Dangerous animals other than dogs

### 18 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.

<sup>17</sup> See section 83 of that Act.

<sup>18</sup> See section 196 of the *Animal Management (Cats and Dogs) Act 2008*.

- (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>19</sup> about the declaration.

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

An authorised person may, by giving a compliance notice,<sup>20</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**

### **20 Seizure of animals**

- (1) An authorised person may seize<sup>21</sup> an animal, other than a dog,<sup>22</sup> in the following circumstances—
  - (a) the animal is found wandering at large;
  - (b) the responsible person for the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law;
  - (c) the animal has attacked, threatened to attack, or acted in a way that causes fear to, a person or another animal; or
  - (d) 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*.<sup>23</sup>
- (2) An authorised person may seize a dog in the following circumstances—
  - (a) the dog is found wandering at large;

<sup>19</sup> See the definition of **information notice** in *Local Law No. 1 (Administration) 2011*, Schedule 1.

<sup>20</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>21</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>22</sup> See the *Animal Management (Cats and Dogs) Act 2008*, section 125, for seizure of a dog.

<sup>23</sup> The *Transport Operations (Road Use Management) Act 1995*, section 100(13) provides: "If a local law provides for a matter mentioned in subsection (12), subsections (3) to (11) no longer apply in the local government's area."



- (b) the responsible person for the dog has not complied with a compliance notice that has been issued in relation to compliance with this local law; or
  - (c) 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*.
- (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 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**

### **21    Power to immediately destroy seized animal**

- (1) This section applies where an authorised person has seized an animal other than a regulated dog,<sup>24</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;
  - (b) the animal is significantly suffering as a result of disease, severe emaciation or serious injuries; or
  - (c) an owner of the animal has requested the authorised person to destroy it.

## **Division 3                    Return or impounding of animals**

### **22    Immediate return of animal seized wandering at large**

- (1) This section applies where—
  - (a) an animal has been seized under section 20(1)(a) or section 20(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.

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<sup>24</sup> See the *Animal Management (Cats and Dogs) Act 2008*, section 127, for power to destroy a seized regulated dog.



## 23 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 the local government.

## 24 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;
    - (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;
    - (iii) if the animal has been seized under section 20(1)(b) or 20(2)(b)— the owner or responsible person has complied with the relevant compliance notice;
    - (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.
- (2) In this section—

**relevant compliance notice** means the compliance notice mentioned in section 20(1)(b) or 20(2)(b).

## 25 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 20(1)(a) or 20(2)(a);
  - (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 20(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 29.

## **26 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 20(1)(b) or 20(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.

## **27 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 20(1)(c).
- (2) The authorised person may<sup>25</sup>—
  - (a) make a destruction order for the animal under section 29; or
  - (b) give the owner or responsible person a notice of impounding.

## **28 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 responsible person—
  - (a) reclaims the animal within the prescribed period;
  - (b) pays the cost-recovery fee;
  - (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.
- (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.

<sup>25</sup> An authorised person may also declare an animal as a declared dangerous animal under section 19 if specified criteria are met.

- (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 of 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).

## Division 4                      Destruction of animal following notice

### 29      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>26</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.

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<sup>26</sup> See note 17

- (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 28(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 28(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) [insert year]*.

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

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

### **30    Application of this division**

This division applies where—

- (a) an impounded animal has not been reclaimed within the prescribed period under section 28(2); or
- (b) if section 28(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 28(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 26(2)(b); or
- (e) the owner or responsible person for an animal has surrendered the animal to the local government.

### **31    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 26(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; 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

### 32 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 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) 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.

### **33 Access to impounded animal**

- (1) This section applies to an animal impounded under section 23.
- (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.
- (4) The inspection must be provided free of charge.

### **34 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) a seized animal from the custody or control of an authorised person; or
  - (b) 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**

### **35 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.

### **36 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.

### **37 Stay of destruction order**

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

### **38 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.

### **39 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.

### **40 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**

### **41 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.

## 42 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the circumstances in which the keeping of animals is prohibited;<sup>27</sup>
- (b) the circumstances in which an approval is required for the keeping of animals;<sup>28</sup>
- (c) the circumstances in which desexing of an animal is required;<sup>29</sup>
- (d) minimum standards for keeping animals generally or animals of a particular species or breed;<sup>30</sup>
- (e) the identification for cats and dogs required under the *Animal Management (Cats and Dogs) Act 2008*;<sup>31</sup>
- (f) the exclusion of animals, or animals of a specified species, from public places;<sup>32</sup>
- (g) designated dog off-leash areas;<sup>33</sup>
- (h) animals whose faeces in public places must be removed and disposed of;<sup>34</sup>
- (i) proper enclosure requirements;<sup>35</sup>
- (j) requirements for keeping a dog within a koala area;<sup>36</sup>
- (k) designation of an area as a koala area;<sup>37</sup>
- (l) the criteria for declaring an animal other than a dog to be a declared dangerous animal;<sup>38</sup>
- (m) the organisation or local government that operates a place or care for impounded animals;<sup>39</sup>
- (n) the species, breed or class of animal that may be disposed of other than by public auction or tender;<sup>40</sup>

<sup>27</sup> See section 5(1).

<sup>28</sup> See section 6(1).

<sup>29</sup> See section 7(1).

<sup>30</sup> See section 8(1).

<sup>31</sup> See section 9.

<sup>32</sup> See section 10(1).

<sup>33</sup> See section 11(1).

<sup>34</sup> See section 13.

<sup>35</sup> See section 14(2).

<sup>36</sup> See section 15(1).

<sup>37</sup> See section 15(4).

<sup>38</sup> See section 19(1).

<sup>39</sup> See section 24(b).

<sup>40</sup> See section 32(1)(b).



- (o) the office at which the register of impounded animals is available for public inspection;<sup>41</sup>
- (p) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale;<sup>42</sup>
- (q) the exclusion of animals of a particular species from the application of this local law;<sup>43</sup>
- (r) the declaration of a species of animal as a declared dangerous animal;<sup>44</sup> or
- (s) the period within which an impounded animal may be reclaimed.<sup>45</sup>

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<sup>41</sup> See section 33(3).

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

<sup>43</sup> See the definition of **animal** in the Schedule.

<sup>44</sup> See the definition of **declared dangerous animal** in the Schedule.

<sup>45</sup> See the definition of **prescribed period** in the Schedule.

## Schedule 1 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.

**attack**, by an animal, means—

- (a) aggressively rushing at or harassing any person or animal;
- (b) biting, butting, kicking, or otherwise causing physical injury to, a person or an animal; or
- (c) 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) 2018*, section 22.

**cost-recovery fee** means the fee fixed by the local government to cover the costs associated with impounding an animal. See the Act, section 97 for the power of a local government to fix a cost recovery fee.

**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 18 of this local law to be a declared dangerous animal.

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

**destruction order** see section 29(1).

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

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

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

**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 *Planning Act 2016* Part 2.

**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—
  - (i) a public place; or
  - (ii) a private place without the consent of the occupier.



**Douglas Shire Council  
Local Law No. 3  
(Community and Environmental  
Management) 2018**

**DRAFT 3.1**

# Douglas Shire Council Local Law No. 3 (Community and Environmental Management) 2018

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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) 2018*.

### 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;
  - (b) vegetation overgrowth;
  - (c) visual pollution resulting from accumulation of objects and materials;
  - (d) fires and fire hazards not regulated by State law;
  - (e) community safety hazards;
  - (f) storage, servicing, removal and disposal of waste; and
  - (g) 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) 2018*.

## Part 2 Declared local pests

### Division 1 Application

#### 5 Application of part

- (1) This part does not apply to—
  - (a) an animal or plant that is prohibited matter; or
  - (b) an animal or plant that is restricted matter; or
  - (c) an animal or plant that is regulated matter.

- (2) In this section—

**prohibited matter** has the meaning given to it in the *Biosecurity Act 2014*;

**restricted matter** has the meaning given to it in the *Biosecurity Act 2014*.

<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.

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

## Division 2 Declaration of local pests

### 6 Declaration of local pests

- (1) The local government may, by subordinate local law, declare an animal or 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.

### 7 Emergency declarations

- (1) This section applies if the local government is satisfied urgent action is needed to avoid or minimise an immediate risk of environmental harm posed by a plant or animal.
- (2) The local government may, by resolution, declare an animal or plant of the relevant species to be a local pest.
- (3) A declaration under this section—
  - (a) must be published in a newspaper circulating generally in the local government's area;
  - (b) comes into force on the date of publication; and
  - (c) comes to an end three (3) months after the date of publication.
- (4) In this section—

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

### 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.

## 10 Pest control notices

- (1) An authorised person may, by compliance notice<sup>2</sup> given to the owner of land, require the owner<sup>3</sup> 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;
  - (b) minimise the risk of an outbreak of declared local pests on the land;
  - (c) prevent or minimise seeding or reproduction by declared local pests;
  - (d) contain infestation by declared local pests within a localised area;
  - (e) reduce the density or extent of infestation by declared local pests; or
  - (f) remove harbour provided to declared local pests.
- (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.

## 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

<sup>2</sup> See *Local Law No. 1 (Administration) 2018*<sup>2</sup>, section 22, regarding the requirements for compliance notices and the offence for not complying with a compliance notice.

<sup>3</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.

(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.

- (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 Overgrown and unsightly allotments

- (1) The responsible person for an allotment must ensure the allotment is not overgrown with vegetation to such an extent that it—

- (a) has seriously affected the visual amenity of the allotment; or
- (b) is likely to attract or harbour reptiles.

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

- (2) Without limiting any other power the local government has in relation to a breach of subsection (1), an authorised person may, by compliance notice<sup>4</sup> given to the responsible person for the allotment, require the responsible person to clear the vegetation to an extent specified in the notice.

- (3) However, the notice cannot prevent a use of land authorised under the Planning Act<sup>5</sup> or the *Environmental Protection Act 1994*.

- (4) Despite any other provision of this or the local government's other local laws, if a person fails to comply with a compliance notice given in accordance with subsection (2) and a local government worker enters the allotment pursuant to the powers in section 142 of the Act, the local government worker may take the steps required in the compliance notice.

- (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>6</sup> of the State or Commonwealth or under the local government's planning scheme.

### 14 Accumulation of objects and materials on allotments

- (1) The responsible person for an allotment must ensure that any objects or materials contained on an allotment—

- (a) do not seriously affect the visual amenity of the allotment; or

<sup>4</sup> See footnote 2.

<sup>5</sup> See definition of *Planning Act* in the Act, Schedule 4.

<sup>6</sup> For example, vegetation may be protected under the *Nature Conservation Act 1994*, the *Vegetation Management Act 1999* or the *Aboriginal Cultural Heritage Act 2003*.

(b) are not likely to attract or harbour reptiles.

*Examples for paragraph (a) of objects and materials that may seriously affect the visual amenity of an allotment—*

- Discarded or disused machinery or machinery parts.
- Broken-down or severely rusted vehicles.
- Discarded bottles, containers or packaging.
- Refuse or scrap material.

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

(2) Without limiting any other power the local government has in relation to a breach of subsection (1), an authorised person may, by compliance notice<sup>7</sup> given to the responsible person for the allotment, require the responsible person to—

- (a) remove objects or materials that are causing the circumstance mentioned in subsection (1)(a) or (b); or
- (b) take other specified action to remedy the circumstance mentioned in subsection (1)(a) or (b).

*Example of action that might be required under paragraph (b)—*

Erecting an appropriate structure (in accordance with requirements under the Planning Act) to screen unsightly objects or materials from public view.

- (3) However, the notice cannot prevent a use of land authorised under the Planning Act or the *Environmental Protection Act 1994*.
- (4) Despite any other provision of this or the local government's other local laws, if a person fails to comply with a compliance notice given in accordance with section 14(2) and a local government worker enters the allotment pursuant to the powers in section 142 of the Act, the local government worker may take the steps required in the compliance notice, including removing the objects or materials from the allotment.
- (5) If a local government worker has seized and removed objects from the allotment, the local government may dispose of the objects or materials in the way prescribed in section 32 of *Local Law No. 1 (Administration) 2018*<sup>7</sup>.

## Part 4 Fires and fire hazards

### 15 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 Rescue Service Act 1990*.<sup>8</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.
- (3) The subordinate local law might prohibit the lighting of fires, or a particular type of fire, in the open, unless:

<sup>7</sup> See footnote 2.

<sup>8</sup> See the *Fire and Rescue Service 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 Fire and Rescue Service published in the gazette on 6 August 2004.

- (a) the fire is contained in an approved incinerator; specified precautions are taken to prevent the spread of the fire;
- (b) the fire is lit and extinguished within a specified time.

A person must comply with a prohibition or restriction imposed under this section.

Maximum penalty for subsection (3)(b)—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.

## 16 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>9</sup> given to the responsible person for the allotment, require the responsible person to take specified action to reduce or remove the fire hazard.<sup>10</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 constructed so 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 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;
- (b) objects or materials on land that are unsecured or inadequately secured and are likely to become airborne in periods of high wind in a way that poses a significant risk of causing injury to a person or damage to property; or

<sup>9</sup> See footnote 2.

<sup>10</sup> See also the *Fire and Rescue Service 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.

- (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.
- Electric fences adjoining public land.

*Example of an object or material that may be a community safety hazard for paragraph (b)—*

- Sheet metal and guttering.

## **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>11</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—*

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

<sup>11</sup> See footnote 2.

## 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 Waste Management

### 21 Designation of areas

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

### 22 Meaning of 'serviced premises'

- (1) Relevant premises in the local government area are ***served premises*** if—
  - (a) the relevant premises are in an area designated by the local government under section 21 as an area in which the local government may conduct general waste collection; or
  - (b) the local government has required the owner or occupier of the relevant premises to arrange for removal of general waste from the relevant premises.

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

- (1) The owner or occupier of premises in the local government area must—
  - (a) subject to subsection (2), supply standard general waste containers at the premises as—
    - (i) are necessary to contain the general waste and recyclable 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 and recyclable waste produced at the premises; or
    - (ii) are prescribed by subordinate local law.

Maximum penalty—20 penalty units.

- (2) However, subsection (1)(a) does not apply if the local government supplies to the premises the number of 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.
- ~~(3)~~(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.

## 24 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;
  - (b) store in a recyclable waste container only recyclable waste;
  - ~~(b)~~(c) keep each waste container clean and in good repair; and
  - ~~(c)~~(d) 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;
    - (ii) material that is smouldering or aflame;
    - (iii) matter or a thing that is alive; or
    - (iv) a thing stated in a subordinate local law;
  - ~~(b) store recyclable waste in a waste container that is designated for general waste other than recyclable waste;~~
  - ~~(c)~~(b) store general waste other than recyclable waste in a waste container that is designated for recyclable waste;
  - ~~(d)~~(c) remove or disturb the cover of a waste container, except when placing waste in or cleaning the container;
  - ~~(e)~~(d) use or damage a waste container so that it is not weatherproof or serviceable or can not be securely covered; or
  - ~~(f)~~(e) 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.

## 25 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 be kept at a particular place at the premises—at the place;
  - (b) if a subordinate local law requires the container to be kept at a particular place at the premises— at the 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) ~~1224~~ hours before and 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.*

- (3) If a local government has arranged for the collection of general waste from a waste container at the serviced premises, the occupier of the premises must ensure there is unobstructed access to the container for removal of the waste.

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.

## 26 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) the registered suitable operator for a prescribed environmentally relevant activity carried out at the premises;
  - (c) the holder of an environmental authority for a mining activity or petroleum activity carried out at the premises.
- (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; and
  - (iii) a suitable enclosure for the area where the waste containers are kept; and
- (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.

## **27 Local government may give notice about removal of general waste**

- (1) This section applies if the local government has arranged for the removal of general waste produced at a relevant premises.
- (2) The local government may give the occupier of the premises a written notice stating—
  - (a) the days on which the waste is to be collected;
  - (b) the location where the waste container is to be placed for collection of the waste (the designated location);
  - (c) the time by which the waste container is to be placed in the designated location for collection of the waste;
  - (d) the time by which the waste container is to be removed from the designated location for collection of the waste.

## **28 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; or
  - (b) in accordance with—

- (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.

## 29 Requirements for storing industrial waste

- (1) The occupier of relevant 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;
    - (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.

Maximum penalty—20 penalty units.

- (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; and
  - (iii) keeping each waste container clean and in good repair.
- (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 a subordinate local law under subsection (1)(b).
- (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.

~~(2)~~(4) In this section—

**industrial waste container** means a waste container of a type approved by the local government for storing industrial waste at premises within the local government's area.

## 30 Requirement to treat industrial waste for disposal

- ~~(1)~~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 for—
    - (i) disposal of the waste at a waste facility; or
    - (ii) transport to, and disposal of the waste at, a waste facility; and

- (b) if a requirement is prescribed by subordinate local law— comply with each requirement, prescribed by subordinate local law, about the treatment of industrial waste for—
  - (i) disposal of the waste at a waste facility; and
  - (ii) transport to, and disposal of the waste at, a waste facility.

Maximum penalty—40 penalty units.

### **31 Unlawful disposal of waste at waste facility**

- (1) A person must not deposit the following waste at a waste facility—
  - (a) liquid or semi-liquid 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; or
  - (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.

### **32 Restrictions on burning waste at waste facility**

- (1) A person must not set fire to, or burn, waste at a waste facility other than under—
  - (a) an environmental authority;
  - (b) a development condition of a development approval; or
  - (c) the *Fire and Emergency Services Act 1990*.

Maximum penalty—20 penalty units.

### **33 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;
  - (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;
  - (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".

### **34 Limitation of liability for waste available for sale or disposal at a "tip shop"**

- (1) This section applies to the sale or disposal by the local government of waste at a "tip shop".
- (2) All waste disposed of or sold at a "tip shop" operated by the local government is disposed of or sold subject to the terms and conditions displayed at the "tip shop".
- (3) The local government is not liable in respect of any claim by the recipient or purchaser of waste available for sale or disposal through a local government operated "tip shop".
- (4) The local government is not liable in respect of any claim by the previous owner of waste available for sale or disposal through a local government operated "tip shop".

### **35 ~~Waste transporter~~ 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 the facility's owner or operator; and
  - (b) comply with all reasonable instructions about dealing with the waste at the waste facility which are given by the person in charge of the facility;
  - ~~(b) deal with the waste in accordance with reasonable instructions given by the person in charge of the facility; and~~
  - (c) if asked by the facility's owner or operator—give information to the owner or operator about the type and amount of waste being delivered.

Maximum penalty—20 penalty units.

### **36 Placement of waste containers outside property boundaries**

- (1) The owner or occupier of serviced premises where domestic or commercial waste is produced must—
  - (a) not place any waste containers outside the property boundary earlier than 12 hours before the scheduled day of collection; and
  - (b) bring all waste containers within the property boundary no later than 12 hours after the day of collection.

Maximum penalty— 10 penalty units for an individual and 20 penalty units for a corporation.

- (2) In relation to domestic waste it is a defence to a breach of, or non-compliance with, subsection (1) if the owner or occupier has a reasonable excuse.

*Example—*

*An example of a reasonable excuse for domestic waste may include a resident is absent for personal, family, reasons; or a resident is absent on business or work related activities.*

### **37 Defacing of waste containers**

- (1) A person must not place, attach or affix to a waste container a notice, poster, sign or any other similar material, or markings that deface or mark a waste container by any other means, except for the purpose of placing street numbers, business / unit names or similar identification features on the waste container.

Maximum penalty— 10 penalty units.

### **38 Prohibited use of public place waste containers**

- (1) A person must not place any waste other than litter in a waste container caused to be placed by the local government on or in any local government controlled area or road for the purpose of the storage of litter.

Maximum penalty— 20 penalty units.

*Examples of litter—*

*Cans, paper, bottles, wrappers, plastic bags, take-away containers, banana peel, apple core and other similar materials.*

## **Part 7 Noise standards**

### **39 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>12</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>13</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>14</sup>

<sup>12</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>13</sup> See, however, *Local Law No. 1 (Administration) 2018*, section 10(4)(a), regarding conditions of approvals that may authorise an act or omission that contravenes a noise standard.

<sup>14</sup> Section 440O(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.

## Part 8 Miscellaneous

### 40 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>15</sup>
- (b) lighting and maintaining of fires in the open;<sup>16</sup>
- (c) fire hazards;<sup>17</sup>
- (d) community safety hazards;<sup>18</sup>
- (e) prescribed requirements relating to community safety hazards;<sup>19</sup>
- (f) a thing that is specified to be waste, pursuant to the Schedule (Dictionary) of this local law;
- (g) storage, servicing, removal, treatment and disposal of waste;<sup>20</sup> or
- (h) prescribed noise standards for the *Environmental Protection Act 1994*.<sup>21</sup>

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<sup>15</sup> See section 6(1).

<sup>16</sup> See section 15(2).

<sup>17</sup> See section 16(3)(b).

<sup>18</sup> See section 17(c).

<sup>19</sup> See section 20(1).

<sup>20</sup> See sections 21-38.

<sup>21</sup> See section 39(2).

## Schedule 1 Dictionary

### Section 3

**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.

**authorised person** means a person authorised by the local government pursuant to *Local Law No. 1 (Administration) 2018*.

**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.

**compliance notice** means a compliance notice mentioned in *Local Law No. 1 (Administration) 2018*, section 22.

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

**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 ~~two~~ (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.

**domestic clean-up waste** means non-putrescible, dry and inoffensive waste, other than green waste or recyclable waste, produced as a result of a clean-up of domestic premises.

**electric fence** means any fence through which an electric current can be passed, giving an electric shock to any person or animal that makes contact with the fence, but excludes fencing or barriers specifically manufactured for the containment of dogs and cats that convey a low voltage current no greater than 1,000 volts.

**environmental authority** has the meaning given in the *Environmental Protection Act 1994*.



**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**general waste** means—

- (a) commercial waste;
- (b) domestic waste;
- (c) 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 waste;
  - (iii) domestic clean-up waste;
  - (iv) green waste;
  - (v) recyclable waste;
  - (vi) recyclable interceptor waste;
  - (vii) waste discharged to a sewer.

**industrial waste container** means a waste container of a type approved by the local government for storing industrial waste at premises within 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.

**litter** means waste that does not include green waste, interceptor waste, domestic waste, commercial waste or industrial waste.

**local government worker** has the meaning in the Act.

**manufacturing process** means 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 as a rent.

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

**premises** includes domestic premises, government premises, industrial premises and commercial premises.

**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.

**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**, for a local government's area, means clean and inoffensive waste that is declared by the local government to be recyclable waste for the area.

*Examples of recyclable waste—*

- *glass bottles, plastic containers, paper, cardboard, steel and aluminium cans and green waste.*

**relevant premises** includes domestic premises and commercial premises.

**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.

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

**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 facility** means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste.



Draft 3.1

**Douglas Shire Council  
Local Law No. 4  
(Local Government Controlled Areas,  
Facilities and Roads) 20187**

## Douglas Shire Council

### Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 20187

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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) 2018<sup>7</sup>*.

### 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 roads.

### 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) 2018<sup>7</sup>*.

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

### 5 Prohibited and restricted activities

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

*Example for paragraph (a)—*

<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 1995* and the *Land Protection (Pest and Stock Route Management) Act 2002*.

<sup>3</sup> *Local Law No. 1 (Administration) 2018<sup>7</sup>* 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.

*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 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—
  - (a) if the declaration relates to the whole area—the restricted activities for the area; and
  - (b) 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
  - (c) in general terms, the provisions of subsection (4).
- (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) 2018<sup>7</sup>*, 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) 2018<sup>7</sup>*, 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.

<sup>4</sup> *Local Law No.1 (Administration) 2018<sup>7</sup>*, 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.

- (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) 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—

- (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 and facilities

- (1) The local government may, by subordinate local law, declare the times when a local government controlled area or facility is open to the public (the **opening hours**).
- (2) A person must not enter or remain in a local government controlled area or facility 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 or facility 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) The local government may, by resolution temporarily close a local government controlled area to public access—
- (a) to carry out construction, maintenance, repair or restoration work;
  - (b) to protect the health and safety of a person or the security of a person's property;
  - (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.
- (2) A resolution under subsection (1)—
- (a) must state a period, not greater than 6 months, during which the area will be closed; and

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



- (b) must be revoked by the local government as soon as practicable after the local government becomes satisfied that the reason for making the resolution 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
    - (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.
  - (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.
- (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.

*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 eExecutive 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.

## Part 3 Matters affecting roads

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

- (1) This section applies if, in the local government's opinion, 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 local government 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

<sup>7</sup> See *Local Law No. 1 (Administration) 2018<sup>7</sup>*, 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.

## Part 4 Matters affecting harbours

### 11 Definitions in this part

- (1) In this part—
  - (a) **abandoned property** means property that—
    - (i) the local government reasonably believes has been abandoned in a boat harbour; and
    - (ii) includes a ship, vehicle and anything attached to, or contained in, a ship or vehicle.
  - (b) **boat harbour** means—
    - (i) the Port Douglas Boat Harbour; and
    - (ii) any other boat harbours designated by the local government by subordinate local law; and
    - (iii) any other boat harbours or marine facilities designated under an Act.<sup>9</sup>
  - ~~(iv)(c)~~ **detention notice** see section 2924.
  - ~~(d)~~ **regulatory notice** means a notice ~~signed~~ issued by the ~~e~~Chief Executive ~~o~~Officer of the local government which deals with matters relating to the boat harbour as set out under this part. A regulatory notice may be—
    - (i) erected or displayed at the harbour; or
    - ~~(e)(ii)~~ a document given to a person having access to, or using the harbour;<sup>40</sup> and;

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

<sup>9</sup> *Transport Infrastructure Act 1994* and *Transport Infrastructure (Public Marine Facilities) Regulation 2011*.

<sup>40</sup> See section 72 of the *Transport Infrastructure (Public Marine Facilities) Regulation 2011*

~~(d)~~(e) ship has the meaning given to it in the Transport Operations (Marine Safety) Act 1994 and includes any ~~marine vessel~~kind of boat or other vessel used, or intended to be used, in navigation by water or for any other purpose on water. -

## 12 General control of activities

- (1) The local government may, by a regulatory notice, control access to, or the use of, the boat harbour.
- (2) Without limiting subsection (1), the local government may, by a regulatory notice, control activities or conduct in the boat harbour for—
  - (a) maintaining or improving the safe, secure or efficient operation of the boat harbour; or
  - (b) maintaining or improving the convenience of users of the boat harbour; or
  - (c) protecting the environment at or in the boat harbour.
- (3) The power conferred by another provision of this part to control by a regulatory notice does not limit the power conferred by this section.

## 13 Movement or mooring of ships

- (1) An authorised person may control the movement or mooring of ships at a public marine facility in a boat harbour and, for the purpose, may give directions to persons apparently in charge of ships.
- (2) Also, an authorised person may control the movement or mooring of ships in a boat harbour if the movement or mooring may affect the boat harbour's operation and, for the purpose, may give directions to persons apparently in charge of ships.
- (3) In addition, an authorised person may control activities on or by ships moored in a boat harbour if the activities may affect the boat harbour's operation and, for the purpose, may give directions to persons apparently in charge of ships.
- ~~(4) The local government may, by a regulatory notice, control the movement or mooring of ships at a boat harbour.~~
- ~~(5) Also, the local government may, by a regulatory notice, control the movement or mooring of ships in a boat harbour if the movement or mooring may affect the boat harbour's operation.~~
- ~~(6) In addition, the local government may, by a regulatory notice, control activities on or by ships moored in a boat harbour if the activities may affect the boat harbour's operation.~~

## 14 Movement, handling or storage of goods

An authorised person may control the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships using a public marine facility in a boat harbour and, for the purpose, may give directions to persons apparently in charge of goods in the boat harbour.  
~~The local government may, by a regulatory notice, control the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships in a boat harbour.~~

## 15 Movement of passengers

An authorised person may control the movement of passengers to or from ships using a public marine facility in a boat harbour and, for the purpose, may give directions to

~~persons in the boat harbour. The local government may, by a regulatory notice, control the movement of passengers to or from ships using a public marine facility in a boat harbour.~~

## 16 Movement, stopping or parking of vehicles

- (1) ~~An authorised person may control the movement, stopping or parking of vehicles in a boat harbour and, for the purpose, may give directions to drivers of vehicles and other persons in the boat harbour including~~The local government may, by a regulatory notice, control the movement, stopping or parking of vehicles in a boat harbour, including, for example the following—

- (a) fixing a maximum speed limit;
- (b) indicating a pedestrian crossing;
- (c) indicating a place where driving, parking or standing of vehicles is restricted or prohibited.

- (2) In this section—

**boat harbour** does not include land in the boat harbour over which a person, other than the local government, has a tenure.

## 17 Safety and security

An authorised person may give directions to persons in a boat harbour if the directions are reasonably necessary for ensuring the safety or security of the boat harbour, its users or the local government's employees.

## 18 Noncompliance with directions and regulatory notices

- (1) ~~A person must comply with a direction given to the person by an authorised person under this part, unless the person has a reasonable excuse.~~

~~Maximum penalty— 520 penalty units.~~

- (2) ~~If the person fails to comply with the direction, the authorised person must warn the person it is an offence not to comply with the direction unless the person has a reasonable excuse.~~

- (3) ~~The authorised person must give the person a further reasonable opportunity to comply with the direction.~~

- (4) ~~A person must comply with a regulatory notice under this part.~~

~~Maximum penalty— 20 penalty units.~~

### **19 Movement or mooring of ships**

- (1) ~~An authorised person may control the movement or mooring of ships at a public marine facility in a boat harbour and, for the purpose, may give directions to persons apparently in charge of ships.~~

- (2) ~~Also, an authorised person may control the movement or mooring of ships in a boat harbour if the movement or mooring may affect the boat harbour's operation and, for the purpose, may give directions to persons apparently in charge of ships.~~

- (3) ~~In addition, an authorised person may control activities on or by ships moored in a boat harbour if the activities may affect the boat harbour's operation and, for the purpose, may give directions to persons apparently in charge of ships.~~

## **20 Movement, handling or storage of goods**

An authorised person may control the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships using a public marine facility in a boat harbour and, for the purpose, may give directions to persons apparently in charge of goods in the boat harbour.

## **21 Movement of passengers**

An authorised person may control the movement of passengers to or from ships using a public marine facility in a boat harbour and, for the purpose, may give directions to persons in the boat harbour.

## **22 Movement, stopping or parking of vehicles**

(1) An authorised person may control the movement, stopping or parking of vehicles in a boat harbour and, for the purpose, may give directions to drivers of vehicles and other persons in the boat harbour.

(2) In this section—

**boat harbour** does not include land in the boat harbour over which a person, other than the Local government, has a tenure.

## **23 Noncompliance with directions**

(1) A person must comply with a direction given to the person by an authorised person under this subdivision, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) If the person fails to comply with the direction, the authorised person must warn the person it is an offence not to comply with the direction unless the person has a reasonable excuse.

(3) The authorised person must give the person a further reasonable opportunity to comply with the direction.

## **24<sup>19</sup> Moving illegally moored ships**

(1) This section applies if—

(a) an authorised person reasonably believes—

(i) a ship is moored in a boat harbour in contravention of a requirement of a regulatory notice, an approval or a direction of an authorised person; and

(ii) it is necessary to move the ship having regard to—

(A) the convenience of ships or persons using the boat harbour; or

(B) the safety or security of the boat harbour, its users or the local government's employees; and

(b) the authorised person—

(i) can not immediately find the ship's master or another person in charge of the ship; or

(ii) reasonably believes neither the ship's master, nor any other person in charge of the ship, is able or willing to move the ship immediately.

(2) The authorised person may take steps that are necessary and reasonable to have the ship moved.

## **2520 Moving illegally left goods**

- (1) This section applies if—
  - (a) an authorised person reasonably believes—
    - (i) goods have been left in a boat harbour in contravention of a requirement of a regulatory notice, an approval or a direction of an authorised person; and
    - (ii) it is necessary to move the goods having regard to—
      - (A) the efficient operation of the boat harbour; or
      - (B) the safety or security of the boat harbour, its users or the local government's employees; and
  - (b) the authorised person—
    - (i) can not immediately find the owner of the goods or another person in charge of the goods; or
    - (ii) reasonably believes neither the owner, nor any other person in charge of the goods, is able or willing to move the goods immediately.
- (2) The authorised person may—
  - (a) take steps that are necessary and reasonable to have the goods moved; or
  - (b) if the goods are perishable or of little or no value—treat the goods as abandoned property.

## **2621 Moving illegally parked vehicles**

- (1) This section applies if—
  - (a) an authorised person reasonably believes—
    - (i) a vehicle is parked in a boat harbour in contravention of a requirement of a regulatory notice, an approval or a direction of an authorised person; and
    - (ii) it is necessary to move the vehicle having regard to—
      - (A) the convenience of persons using the boat harbour; or
      - (B) the safety or security of the boat harbour, its users or the local government's employees; and
  - (b) the authorised person—
    - (i) can not immediately find the driver of the vehicle or another person in charge of the vehicle; or
    - (ii) reasonably believes neither the driver of the vehicle, nor any other person in charge of the vehicle, is able or willing to move the vehicle immediately.
- (2) The authorised person may take steps that are necessary and reasonable to have the vehicle moved.

## **2722 Liability for movement of ships, goods, vehicles**

- (1) If the local government reasonably incurs expenses because an authorised person takes steps under this part to have a ship or goods moved, the amount of the expenses is a debt payable jointly and severally to the local government by



the owner of the ship or goods and the person who appears to the authorised person to be in control of the ship or goods.

- (2) If the local government reasonably incurs expenses because an authorised person takes steps under this part to have a vehicle moved, the amount of the expenses is a debt payable jointly and severally to the local government by the owner and driver of the vehicle.

### **2823 Locating owner of, and moving, abandoned property**

- (1) This section applies if the local government—
  - (a) finds abandoned property; and
  - (b) intends to take action under this part.
- (2) The local government—
  - (a) must take reasonable steps to locate the owner of the property; and
  - (b) may have the property moved to a place the local government considers appropriate.

### **2924 Detention notice for abandoned property**

- (1) As soon as practicable, but within 14 days, after finding the abandoned property and deciding to take the action, the local government must give the owner of the property, if known, a written notice (**detention notice**)—
  - (a) describing the property; and
  - (b) stating the property has been found; and
  - (c) explaining how the property may be recovered; and
  - (d) stating the property may be sold or disposed of if it is not recovered.
- (2) If the owner of the property is not known or can not be located within the 14 days, the detention notice may be given by publishing it in a newspaper circulating generally in the local government area.

### **3025 Returning claimed abandoned property**

If a person claims the abandoned property within 1 month after the detention notice is given, the local government must return the property to the person if the person—

- (a) satisfies the local government the person is the owner of the property; and
- (b) pays the expenses reasonably incurred by the local government in dealing with the property under this division.

### **3126 Selling or disposing of unclaimed abandoned property**

- (1) If no person claims the abandoned property within 1 month after the detention notice is given, the local government may—
  - (a) sell the property; or
  - (b) dispose of the property in the way the local government considers appropriate, if the proceeds of sale of the property are not likely to cover the total of—
    - (i) the expenses reasonably incurred by the local government in selling the property; and

- (ii) the expenses reasonably incurred by the local government in dealing with the property under this part; and
  - (iii) any fees and other expenses owing to the local government in relation to the property.
- (2) Despite anything else in this part, if the abandoned property is perishable, the local government may sell the property immediately if it is impracticable, having regard to the nature and condition of the property, for it to be detained by the local government.

### **3227 Application of proceeds of sale of abandoned property**

- (1) If the local government sells abandoned property, the local government must apply the proceeds of the sale in the following order—
  - (a) in payment of the expenses reasonably incurred by the local government in selling the property;
  - (b) in payment of the expenses reasonably incurred by the local government in dealing with the property under this part;
  - (c) in payment of any fees and other expenses owing to the local government in relation to the property;
  - (d) if there is an amount owing to an entity under a security interest registered for the abandoned property under the *Personal Property Securities Act 2009* (Cth)—in payment of the amount owing under the security interest;
  - (e) the balance to the owner of the abandoned property or, if the owner can not be found, to the consolidated fund.
- (2) If the proceeds of the sale are less than the total of the expenses mentioned in subsection (1)(a), (b) and (c), the difference is a debt payable to the local government by the owner.

### **3328 Disposal of valueless abandoned property**

Despite anything else in this part, if the local government reasonably considers abandoned property has no value or insufficient value to justify its sale, the local government may dispose of the property in the way the local government considers appropriate.

### **3429 Compensation not recoverable**

If the local government sells or disposes of abandoned property under this part, no compensation is recoverable against the local government for the sale or disposal of the property.

### **3530 Conduct causing public nuisance**

A person in a boat harbour must not be disorderly or create a disturbance.

Maximum penalty—20 penalty units.

### **~~36 Ship to be securely moored~~**

- ~~(1) A person who moors a ship in a boat harbour must ensure that—~~
  - ~~(a) the ship is securely fastened at its mooring; and~~
  - ~~(b) all the ship's mooring lines are appropriate for—~~
    - ~~(i) the ship; and~~



- (ii) ~~the prevailing and reasonably foreseeable wind, tide and weather conditions while the ship is at the mooring.~~

~~Maximum penalty—40 penalty units.~~

- ~~(2) In this section—~~

~~**mooring lines** includes cables, chains, ropes, wires, shackles and all other fittings and equipment used for mooring a ship.~~

### **3731 Prohibition on anchoring**

- (1) A person must not anchor a ship in a boat harbour.

Maximum penalty—40 penalty units.

- (2) In this section—

**boat harbour** does not include land in the boat harbour over which a person, other than the local government has a tenure.

### **38—Head and stern mooring for ship at pile or buoy mooring**

- ~~(1) A person who moors a ship in a boat harbour to a pile or buoy mooring must ensure the ship is moored head and stern.~~

~~Maximum penalty—40 penalty units.~~

- ~~(2) In this section—~~

~~**boat harbour** does not include land in the boat harbour over which a person, other than the local government has a tenure.~~

### **3932 Prohibition on unloading fish**

- (1) A person who is the owner, master or apparently in charge of a fishing ship (operator) in a relevant boat harbour must not unload fish from the ship, at a place in the boat harbour, to a person who is not the holder of a current fish receival service approval for the place.

Maximum penalty—40 penalty units.

- (2) However, the operator does not contravene subsection (1) if—

- (a) the operator unloads fish, at the place, at a fixed facility—

- (i) provided by the holder of a fish receival service approval for the place; and  
(ii) in accordance with the approval of the holder; and  
(iii) the person receiving the fish at the facility has the approval holder's prior permission to receive fish at the place.

## **Part 5 Miscellaneous**

### **4033 Subordinate local laws**

The local government may make subordinate local laws about—

- (a) the declaration of prohibited activities or restricted activities;<sup>11</sup> or

<sup>11</sup> See section 5(1).

- (b) the declaration of motor vehicle access areas<sup>12</sup>
- (c) the declaration of prohibited vehicles<sup>13</sup>
- (d) the opening hours for a local government controlled area;<sup>14</sup> or
- (e) closing a local government controlled area to public access;<sup>15</sup> or
- (f) minimum standards for fences on land adjoining a road.<sup>16</sup>

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<sup>12</sup> See section 6(1)

<sup>13</sup> See section 6(3)

<sup>14</sup> See section 7(1).

<sup>15</sup> See section 8(3).

<sup>16</sup> See section 9(3).

## Schedule 1 Dictionary

### Section 3

**local government controlled area** see Local Law No. 1 (Administration) 20187, Schedule 1.

**road** see Local Law No. 1 (Administration) 20187, Schedule 1.



Draft 3.1

**Douglas Shire Council  
Local Law No. 5  
(Parking) 20187**

# Douglas Shire Council Local Law No. 5 (Parking) 2017

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 5 (Parking) 2018*.

### 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) 2018*.

## 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.

<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 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>

<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) 2018*, 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) 2018* provides that an approval required for a prescribed activity must be obtained under Part 2 of *Local Law No. 1 (Administration) 2018*. 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) 2018*, 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) 2018* provides that an approval required for a prescribed activity must be obtained under Part 2 of *Local Law No. 1 (Administration) 2018*. 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 offences

### 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>
- (b) the declaration of off-street regulated parking areas;<sup>16</sup>
- (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>
- (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 1 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*.



## **Draft 3.1**

# **Douglas Shire Council Local Law No. 6 (Bathing Reserves) 2018**

# Douglas Shire Council Local Law No. 6 (Bathing Reserves) 2018

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 6 (Bathing Reserves) 2018*.

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

- (1) The purpose of this local law is to enhance the public safety and convenience of bathing reserves placed under the local government's control<sup>1</sup> through orderly management and regulation of activities within these reserves.
- (2) The purpose is achieved by providing for—
  - (a) the designation and management of safe, supervised bathing areas within bathing reserves; and
  - (b) the regulation of conduct and the use of aquatic equipment within bathing reserves; and
  - (c) the assignment of responsibility to life-saving clubs for managing, patrolling and supervising bathing reserves; and
  - (d) the appointment and powers of authorised persons to manage and enforce the regulation of conduct within bathing reserves.

### 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>

- (1) This local law is to be read with *Local Law No. 1 (Administration) 2018*.
- (2) However, a reference to an authorised person in *Local Law No. 1 (Administration) 2018* does not include an authorised person appointed under this local law.

## Part 2 Bathing reserves

### Division 1 Designation of bathing reserves

#### 5 Signs indicating existence of bathing reserve

- (1) If the local government proposes to regulate the use of a bathing reserve under this local law, the local government must erect and maintain signs (**reserve signs**) in prominent positions on or adjacent to the foreshore to indicate the existence of the bathing reserve.

### Division 2 Bathing areas

#### 6 Bathing areas

- (1) An authorised person may mark out an area (a **bathing area**) within a bathing reserve.

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<sup>1</sup> As declared by gazette notice under the Act.

<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 the Commonwealth. See the Act, section 27.

- (2) The area selected as a bathing area must be the part of the bathing reserve that is, in the authorised person's opinion, the safest and most suitable for bathing in view of the prevailing conditions.
- (3) The bathing area is marked out by placing 2 patrol flags at different points on or adjacent to the foreshore.
- (4) The bathing area consists of the area defined by—
  - (a) an imaginary line between the 2 patrol flags; and
  - (b) lateral boundaries extending seaward from each patrol flag at right angles from the imaginary line; and
  - (c) an outer boundary parallel to, and 200 metres to the seaward side of, the imaginary line.
- (5) Where the boundary of the bathing reserve is less than 200 metres to the seaward side of an imaginary line between the 2 patrol flags, then the boundary of the bathing area shall be the outer boundary of the bathing reserve.
- (6) An authorised person may, in view of prevailing conditions, change the boundaries of a bathing area by changing the position of the patrol flags.
- (7) Patrol flags must not be exhibited if the bathing area is not under surveillance by a life-saving patrol.

## **7 Flags to inform bathers about prevailing conditions**

- (1) This section applies if—
  - (a) an authorised person has marked out a bathing area under section 6; and
  - (b) in the authorised person's opinion, there are potentially hazardous conditions prevailing within the bathing area.
- (2) The authorised person must exhibit in a prominent position on or adjacent to the foreshore a yellow flag warning bathers of the potentially hazardous conditions.

## **8 Closure of bathing reserve**

- (1) An authorised person may close a bathing reserve or part of a bathing reserve to bathing by erecting a red flag in a prominent position on or adjacent to the foreshore.
- (2) The authorised person may close the bathing reserve if the prevailing conditions pose a risk to the lives of members of the public bathing in the reserve.
- (3) If patrol flags marking out a bathing area have been placed in position, the patrol flags must be removed on closure of the bathing reserve or a part of the bathing reserve in which the bathing area is situated.
- (4) A person must not bathe in a bathing reserve or part of a bathing reserve while the reserve or the relevant part of the reserve is closed to bathing.

Maximum penalty for subsection (4)—20 penalty units.

## **Division 3                      Reservation for training, competitions and special occasions**

### **9      Reservation for life-saving training**

- (1) An authorised person may—

- (a) temporarily set apart the whole or a part of a bathing reserve for life-saving training; and
  - (b) impose restrictions on access to the area set apart.
- (2) However an authorised person may not set apart any part of a bathing reserve for life-saving training exclusively.
- (3) An area set apart under this section, and the restrictions applying to access, must be clearly indicated by signs erected in prominent positions on the bathing reserve.

## **10 Reservation for competitions and special occasions**

- (1) For the purposes of *Local Law No. 1 (Administration) 2018*, section 5(b), it is a prescribed activity<sup>3</sup> to—
  - (a) set apart a bathing reserve or a part of a bathing reserve for life-saving training on an exclusive basis; or
  - (b) use any part of a bathing reserve for the conduct of a surfing competition, a life-saving competition or another aquatic activity.
- (2) Where an approval for an activity mentioned in subsection (1) permits restrictions on access to any part of a bathing reserve, the area set apart for the activity and the restrictions applying to access must be clearly indicated by signs erected in prominent positions on the bathing reserve.
- (3) A person must not contravene a restriction on access imposed under this section.  
Maximum penalty for subsection (3)—20 penalty units.

## **Part 3 Use of aquatic equipment in bathing reserves**

### **11 Prohibition of use of aquatic equipment in bathing areas**

- (1) A person must not use aquatic equipment in a bathing area.  
Maximum penalty for subsection (1)—20 penalty units.
- (2) However—
  - (a) this section does not prevent the use of aquatic equipment if its use at a place within a bathing reserve is authorised under another law; and
  - (b) a rubber float or board that does not give rise to risk of injury to other bathers may be used in a bathing area; and
  - (c) if an authorised person authorises the use of other aquatic equipment in a bathing area, the equipment may be used subject to conditions fixed by the authorised person when giving the authorisation; and
  - (d) life-saving equipment may be used in a bathing area by members of a life-saving patrol for surveillance of the bathing area or to assist bathers in distress.

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<sup>3</sup> *Local Law No. 1 (Administration) 2018*, 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.

## 12 Restrictions on use of aquatic equipment in bathing reserves

- (1) The local government may, by subordinate local law, prohibit or restrict the use of aquatic equipment or a specified class of aquatic equipment within a bathing reserve or a particular part of a bathing reserve.
- (2) Notice of a prohibition or restriction imposed under this section must be included on the reserve signs or on notices adjacent to the reserve signs.
- (3) A person must not use aquatic equipment in contravention of a prohibition or restriction imposed under this section unless authorised to do so by an authorised person under section 13, or authorised under another law.

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

## 13 Reservation of areas for use of aquatic equipment

- (1) An authorised person may temporarily set apart a particular part of a bathing reserve for the use of aquatic equipment of a particular type.
- (2) A part of the bathing reserve set apart under this section must be defined by signs and flags or in some other way that clearly indicates the relevant part of the reserve and the use for which it is set apart.
- (3) If a part of a bathing reserve is set apart for the use of aquatic equipment of a particular type under this section, a person must not—
  - (a) use aquatic equipment of the relevant type in the bathing reserve outside the part of the reserve set apart for its use; or
  - (b) use aquatic equipment, in the relevant part of the reserve, that is not of the type for which the relevant part of the reserve is set apart.

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

# Part 4 Behaviour in bathing reserves

## 14 Dangerous objects

- (1) A person must not bring an item of aquatic equipment or other object into a bathing reserve, or use aquatic equipment or anything else in a bathing reserve, if the item or object is dangerous.

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

- (2) This section does not apply to life-saving equipment used by members of a life-saving patrol for surveillance of the bathing reserve or to assist bathers in distress.

## 15 Prohibited equipment

- (1) A person must not have prohibited equipment in a bathing reserve.

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

- (2) However, this section does not apply in circumstances excluded under a subordinate local law from the application of this section.
- (3) In this section—

***prohibited equipment*** means—

- (a) a spear gun; or
- (b) a fishing spear; or



- (c) another object classified as prohibited equipment under a subordinate local law for this paragraph.

## **16 Dangerous conduct**

A person must not use aquatic equipment or anything else in a bathing reserve in a way that creates a risk to the safety of others.

Maximum penalty—20 penalty units.

## **17 Restriction on particular animals in bathing reserves**

- (1) The local government may, by subordinate local law, prohibit or restrict access to bathing reserves by particular animals.
- (2) Notice of a prohibition or restriction imposed under this section must be included on the bathing reserve signs or on notices adjacent to the bathing reserve signs.
- (3) A person must not bring an animal onto a bathing reserve in contravention of a prohibition or restriction imposed under this section.

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

## **18 Emergency evacuation alarm**

- (1) If an emergency evacuation alarm is given, a person within a bathing reserve—
  - (a) must leave the water as soon as practicable; and
  - (b) must not enter or re-enter the water until the all-clear is given.Maximum penalty for subsection (1)—20 penalty units.
- (2) An emergency evacuation alarm is given by—
  - (a) the prolonged ringing of a bell or sounding of a siren; and
  - (b) the exhibition of a red flag.
- (3) The all-clear is given by—
  - (a) a short ringing of the bell or sounding of the siren; and
  - (b) the replacement of the red flag by a yellow flag.
- (4) An emergency evacuation and the all-clear may also be given in ways recognised by SLSQ.

*Example—*

The emergency evacuation alarm may be given by holding up a red and white quartered flag and the all-clear may be given by taking down the flag when the danger has passed.

## **19 False alarms**

A person must not, without the authority of an authorised person—

- (a) give an emergency evacuation alarm or do anything likely to be reasonably interpreted as an emergency evacuation alarm; or
- (b) give the all-clear after an emergency evacuation alarm or do anything likely to be reasonably interpreted as the all-clear after an emergency evacuation alarm.

Maximum penalty—50 penalty units.

## **Part 5 Life-saving clubs and powers of authorised persons**

### **Division 1 Life-saving clubs and patrols**

#### **20 Recognised life-saving clubs**

- (1) The local government may, after consultation with interested life-saving clubs, assign to a life-saving club the responsibility for patrolling a bathing reserve or a particular part of a bathing reserve.
- (2) The responsibility—
  - (a) may be assigned on conditions the local government considers appropriate; and
  - (b) may only be assigned with the agreement of the club to which the responsibility is assigned.

#### **21 Enclosure for life-saving patrols**

A recognised life-saving club may, with the local government's written approval, enclose a part of a bathing reserve for the exclusive use of members of life-saving patrols.

#### **22 Distinctive clothing**

A member of a life-saving patrol must wear a distinctive uniform appropriate to the member's rank in a design approved by SLSQ.

### **Division 2 Powers of authorised persons**

#### **23 Power to remove or reduce danger**

- (1) If a person brings a dangerous object or dangerous item of aquatic equipment onto a bathing reserve, an authorised person may direct the person to take specified action to remove or reduce the danger posed by the object or item.

*Example—*

If a person brings a beach umbrella onto a bathing reserve and the umbrella appears likely to blow away, an authorised person might direct the person to take specified action to secure the umbrella.

- (2) A person must comply with a direction under this section.

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

#### **24 Power to stop dangerous and antisocial conduct**

- (1) If a person behaves in a bathing reserve in a way that endangers the safety of the person or someone else, or causes a nuisance to someone else, an authorised person may direct the person to stop the behaviour.

- (2) A person must comply with a direction under this section.

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

#### **25 Power to require bathers to leave water**

- (1) An authorised person may give a direction to a bather to leave the water if—

- (a) the bathing reserve, or the relevant part of the bathing reserve, is closed to bathing;
  - (b) an emergency evacuation alarm has been given; or
  - (c) there is some other risk to the bather's safety.
- (2) A person must comply with a direction under this section.
- Maximum penalty for subsection (2)—20 penalty units.

## 26 Seizure and detention of dangerous objects and prohibited equipment

- (1) This section applies if, in a bathing reserve, a person—
  - (a) possesses, uses or has used a dangerous object or dangerous item of aquatic equipment;
  - (b) uses or has used an object in a dangerous way; or
  - (c) has prohibited equipment.
- (2) An authorised person may seize the object, item or equipment (the **seized thing**).
- (3) The authorised person must give the person from whom the seized thing is taken a receipt—
  - (a) stating the nature of the seized thing;
  - (b) stating the date and time of seizure;
  - (c) stating a period (which must be at least 1 hour and not more than 6 months) for which the seized thing is to be detained; and
  - (d) stating a place where the seized thing may be reclaimed.
- (4) The seized thing must, if not reclaimed on the day on which it was seized, be delivered into the custody of the local government or the life-saving club of which the authorised person is a member.
- (5) The local government or the relevant life-saving club must take all reasonable measures to ensure the safe custody of the seized thing.
- (6) At the conclusion of the period fixed for its detention under subsection (3)(c), if the seized thing is in the custody of a life-saving club it must be delivered into the custody of the local government.
- (7) At the conclusion of the period fixed for its detention under subsection (3)(c), the seized thing must be dealt with by the local government as an impounded item under *Local Law No. 1 (Administration) 2018*, section 32.

## Part 6 Authorised persons

### 27 Who are authorised persons

- (1) The following persons are authorised persons for this local law—
  - (a) a person who is an authorised person under a subordinate local law for this paragraph; or
  - (b) a person appointed as an authorised person for this local law under this section.

*Example for paragraph (a)—*

- The subordinate local laws might provide that a person who holds a particular rank in a life-saving patrol is an authorised person
  - The subordinate local laws might provide that a life guard or a beach inspector is, while he or she holds that position, an authorised person.
- (2) A local government may appoint any of the following persons as authorised persons for this local law—
- (a) employees of the local government; or
  - (b) other persons who are eligible for appointment as authorised persons under the Act.<sup>4</sup>
- (3) An appointment of a person as an authorised person under this section must state the provisions of this local law for which the person is appointed as an authorised person.
- (4) A local government may appoint a person as an authorised person under this section only if—
- (a) the local government considers the person has the necessary expertise or experience for the appointment; or
  - (b) the person has satisfactorily finished training approved by the local government for the appointment.

## 28 Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment or under a subordinate local law for this section.

## 29 Authorised person's appointment conditions

- (1) An authorised person holds office on the conditions stated in the instrument of appointment or a subordinate local law for this subsection.
- (2) An authorised person—
- (a) if the instrument or subordinate local law provides for a term of appointment—ceases holding office at the end of the term;
  - (b) if appointed as an authorised person under section 27(1)(b)—may resign by signed notice of resignation given to the local government;
  - (c) if the person holds a particular rank or position, and is an authorised person under a subordinate local law because he or she holds the relevant rank or position—ceases holding office as an authorised person on ceasing to hold the relevant rank or position; and
  - (d) if the conditions of appointment provide—ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the **main office**).
- (3) However, an authorised person may not resign from the office of authorised person (the **secondary office**) under subsection (2)(b) if a condition of the authorised person's employment in the main office requires the authorised person to hold the secondary office.

## 30 Authorised person's identity card

- (1) Each authorised person must hold an identity card issued by the local government or a recognised life-saving club.

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<sup>4</sup> See the Act, chapter 6, part 6.

- (2) An identity card issued by the local government must—
  - (a) contain a recent photograph of the authorised person;
  - (b) be signed by the authorised person;
  - (c) identify the person as an authorised person for the local government; and
  - (d) include an expiry date.
- (3) An identity card issued by a recognised life-saving club must—
  - (a) contain a recent photograph of the authorised person or state the authorised person's date of birth;
  - (b) be signed by the authorised person;
  - (c) identify the person as an authorised person for the life-saving club; and
  - (d) include an expiry date.
- (4) A person who ceases to be an authorised person must return the person's identity card to the local government or the life-saving club that issued it within 21 days after the person ceases to be an authorised person.

Maximum penalty for subsection (4)—10 penalty units.
- (5) This section does not prevent the giving of a single identity card to a person for this part and for other purposes.

### 31 Production of identity card

- (1) An authorised person may exercise a power in relation to someone else (the **other person**) only if the authorised person—
  - (a) first produces his or her identity card for the other person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

### 32 Offence

A person must not pretend to be an authorised person or a member of a life-saving patrol.

Maximum penalty—50 penalty units.

### 33 Protection from liability

- (1) This section applies to—
  - (a) an authorised person; and
  - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act done or omission made honestly and without negligence under this local law.
- (3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

## Part 7 Miscellaneous

### 34 Compliance with Australian Standards

- (1) The flags and signs to be used for the purposes of this local law should comply with any relevant Australian Standard issued or approved by the Standards Association of Australia.
- (2) However, non-compliance with an applicable Standard does not invalidate anything done under this local law.

### 35 Obstruction of authorised persons and life-savers

- (1) A person must not obstruct an authorised person or a member of a life-saving patrol in the conduct of their duties.  
Maximum penalty for subsection (1)—50 penalty units.
- (2) A person must not use insulting or abusive language to an authorised person or a member of a life-saving patrol.  
Maximum penalty for subsection (2)—20 penalty units.

### 36 Interference with flags and life-saving equipment

- (1) A person must not, without the approval of an authorised person, damage, destroy or interfere with a sign or flag erected or placed under this local law.  
Maximum penalty for subsection (1)—50 penalty units.
- (2) A person must not, without the approval of an authorised person, interfere with life-saving equipment on a bathing reserve.  
Maximum penalty for subsection (2)—50 penalty units.

### 37 Subordinate local laws

The local government may make subordinate local laws about—

- (a) prohibiting or restricting the use of aquatic equipment;<sup>5</sup>
- (b) the classification of objects as prohibited equipment;<sup>6</sup>
- (c) the circumstances in which a person may have prohibited equipment in a bathing reserve;<sup>7</sup>
- (d) prohibiting or restricting the access of particular animals to bathing reserves;<sup>8</sup>
- (e) the appointment of authorised persons for this local law;<sup>9</sup>
- (f) the limitation of an authorised person's powers;<sup>10</sup> or
- (g) conditions of office for authorised persons.<sup>11</sup>

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<sup>5</sup> See section 12(1).

<sup>6</sup> See section 15(3).

<sup>7</sup> See section 15(2).

<sup>8</sup> See section 17.

<sup>9</sup> See section 27(1)(a).

<sup>10</sup> See section 28.

<sup>11</sup> See section 29(1).

## Schedule 1 Dictionary

### Section 3

**aquatic equipment** means—

- (a) a ship;
- (b) a surf ski;
- (c) a jet ski;
- (d) a surf board;
- (e) a sail board;
- (f) a body board; or
- (g) another device (whether motorised or not) for use on or in water to carry a person or thing across or through water or for recreational use in water.

**authorised person** means a person who is an authorised person for this local law under part 6.

**bathing** includes all activities involving the immersion or partial immersion of the body in water.

**bathing area** see section 6.

**bathing reserve** means

- (a) a part of the seashore, adjacent land under the sea, and sea placed under the control of the local government as a bathing reserve under the Act; and
- (b) includes each bathing reserve identified in Schedule 2 of this local law.

**dangerous item of aquatic equipment** means an item of aquatic equipment that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.

*Examples of dangerous items of aquatic equipment—*

- A surfboard with sharp or broken edges.
- A ship with projections liable to cause injury to bathers.

**dangerous object** means an object or thing that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.

**life-saving club** means a body—

- (a) affiliated with—
  - (i) Surf Life Saving Queensland Inc (SLSQ); or
  - (ii) the Head Centre of the Royal Life Saving Society; and
- (b) accredited by the Department of Community Safety.

**life-saving equipment** means equipment for use in sea rescue, life-saving, or the provision of first aid.

**life-saving patrol** means the members of a recognised life-saving club assigned by the club or SLSQ to patrol a bathing reserve, or part of a bathing reserve, at a particular time.

**patrol flag** means a red and yellow flag of the design prescribed by the relevant Australian Standards relating to patrol flags.

**recognised life-saving club** means a life-saving club to which the local government has assigned the responsibility for patrolling a bathing reserve or a particular part of a bathing reserve.<sup>12</sup>

**reserve sign** see section 5(1).

**SLSQ** means Surf Life Saving Queensland Inc.

**surveillance** means the visual supervision of an area.

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

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<sup>12</sup> See section 29(1).



## Schedule 2 Designated Bathing Reserves

### Section 5

A list and mapping of the designated bathing reserves within the local government area can be accessed using the following link [insert hyperlink](#).



## **Draft 3.1**

# **Douglas Shire Council Subordinate Local Law No. 1 (Administration) 2018**

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## Part 1 Preliminary

### 1. Short title

This subordinate local law may be cited as Subordinate Local Law No. 1 (Administration) 2018.

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

The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2018*, 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 specified regulatory powers under legislation and for miscellaneous administrative matters.

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. Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2018* (the **authorising local law**).

### 4. Definitions—the Dictionary

The Dictionary in Schedule 1 defines particular words used in this subordinate local law.

Other particular words have the same meaning as in the authorising local law.

## Part 2 Approvals for prescribed activities

### 5. Prescribed activities that do not require an approval - authorising local law, s 5(3)

For section 5(3) of the authorising local law, it is declared that section 5(2) of the authorising local law does not apply to the prescribed activities listed in Schedule 2.

### 6. Categories of prescribed activities for the purposes of maximum penalties - authorising local law, Schedule 2

For section 5(1) of the authorising local law, it is declared that—

- (a) the prescribed activities listed in Part 1 of Schedule 3 are category 1 activities; and
- (b) the prescribed activities listed in Part 2 of Schedule 3 are category 2 activities; and
- (c) the prescribed activities listed in Part 3 of Schedule 3 are category 3 activities.



**7. Approvals that are non-transferable - authorising local law, s 13(6)**

For section 13(1) of the authorising local law, it is declared that the categories of approval listed in Schedule 4 are non-transferable.

**8. Prescribed complementary accommodation - authorising local law, Schedule 1**

For the purposes of the definition of complementary accommodation in Schedule 1 of the authorising local law, the accommodation listed in Schedule 5 is prescribed as appropriate for caravan parks.

**9. 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.

**10. Public place activities that are prescribed activities - authorising local law, Schedule 2, Part 2**

For the purposes of paragraph (c) of the definition of **undertaking regulated activities on local government controlled areas and roads** in Part 2 of Schedule 2 of the authorising local law, the holding of a public place activity listed in Schedule 25 is a prescribed activity.

**11. Matters regarding prescribed activities - authorising local law, sections 5(3), 6(1)(d)(v), 7(2), 8(3) and 13(6)**

For each prescribed activity, Schedule 2 of the authorising local law- prescribes the matters specified in this section for the prescribed activity named in section 1 of each Schedule.

For section 5(3) of the authorising local law, it is declared that section 5(1) of the authorising local law does not apply to an activity stated Schedule 2 relating to the prescribed activity.

For section 6(1)(d)(v) of the authorising local law, the documents and materials in addition to those listed in section 6(1)(d) that must accompany an application for an approval for the prescribed activity are stated in the Schedule relating to the prescribed activity.

For section 7(2)(f) of the authorising local law, the local government may only grant an approval for a 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 the Schedule 8 relating to the prescribed activity.

For section 8(3) of the authorising local law, the conditions that must be imposed on an approval for a prescribed activity are stated in the Schedule relating to the prescribed activity.

For section 8(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for a prescribed activity are stated the Schedule relating to the prescribed activity.

For section 12 of the authorising local law, the term of an approval for a prescribed activity is provided for in the Schedule relating to the prescribed activity.

For section 13(6) of the authorising local law, the categories of prescribed activities for which an approval cannot be transferred are set out in Schedule 4.

## Schedule 1 Dictionary

### Section 4

**Act** means an Act of the Queensland Parliament;

**advertisement area** means the total area of an advertisement;

**ancillary advertisement** means an advertisement which provides information about a business, commercial enterprise, or industry conducted on-site; excluding uses otherwise defined. The information may include—

- (a) the use of the site (including the proposed future use of the land);
- (b) the use of a building on the land;
- (c) goods manufactured or offered for sale or hire on the land;
- (d) services offered on the land;
- (e) the name and address of the owner or occupier of the land;
- (f) where a number of persons are carrying on different businesses on the land, an advertisement identifying the place; and/or
- (g) where an event or activity is to be conducted on the land, information about the event or activity.

**animated or moving advertisement** means an advertisement that has moving parts or which rotates or revolves. The term includes advertisements containing chasing or running bulbs, reader boards (electronic variable message) and similar features.

**appropriate records**, for a swimming pool, has the meaning given to that term by "Queensland Health Swimming and Spa Water Quality and Operational Guidelines", Appendix 6 - Records.

**banner advertisement** means any advertisement—

- (a) suspended from any structure, tree or pole;
- (b) with or without supporting frame work; and
- (c) displaying an advertisement applied to paper, plastic or similar material, or fabric of any kind.

The term excludes symbolic flags of any institution or business.

**bedding** includes mattresses, pillows, bed linen, blankets and bed coverings.

**blue card** means a positive notice blue card issued under the *Commission for Children and Young People and Child Guardian Act 2000* (Qld).

**bunting** includes decorative flags, pennants and streamers.

**business advertising publications** means printed material distributed to call a business to the public's attention, usually for the purpose of selling products and/or services.

**busking** means to play music or perform entertainment in a public place.

**cabin** means an unregistered movable dwelling that is provided for hire, complying with the requirements of the *Building Act 1975* for the appropriate class of residential building.

**caravan park resident** means a person who resides in a caravan park, on a temporary or permanent basis.

**construction advertisement** means a temporary advertisement used to identify the name of a development or developer during the construction of a development.

**commercial filming** means audio or visual recording and associated activities for the purposes of cinema, television, the internet or another purpose specified in a subordinate local law, but does not include—

- (a) still photography, unless the photography is carried out:
  - (i) for a commercial benefit; and
  - (ii) is part of a fashion or sportswear shoot for a newspaper or other document as defined in the *Printing and Newspapers Act 1981* (Qld); or
- (b) audio or visual recording of a wedding or other private celebration or event; or
- (c) audio or visual recording for the purposes of reporting news, current affairs or sports; or
- (d) any other film or photography production specified in a subordinate local law.

**distribute a business advertising publication** includes make the business advertising publication available to other persons, but does not include merely display of the business advertising publication.

*Examples—*

- (i) A person “distributes” a business advertising publication if the person hands the business advertising publication out to other persons or leaves it at a place for other persons to take away, including posting the business advertising publication on a car windscreen;
- (ii) A person does not “distribute” a business advertising publication if the person attaches the business advertising publication onto walls and other structures, merely for display.

**emergency vehicle** includes the following—

- (a) an ambulance;
- (b) a fire-engine;
- (c) a police vehicle; or
- (d) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*

**estate entrance advertisement** means an advertisement placed or erected at the entrance to an industrial or residential development, identifying the particular development.

**fascia advertisement** means an advertisement which is affixed to, posted or painted on a fascia of a building, such that the advertisement protrudes no more than 100 mm from the surface to which it is attached.

**formal or organised sporting or recreational activity** means an event or prearranged gathering organised by a club or association involving physical exertion and skill, undertaken competitively or for pleasure.

**freestanding advertisement** means an advertisement which—

- (a) is erected on a pole or poles, or on a pylon structure ("a freestanding pole advertisement"); or
- (b) a solid, free standing structure, and does not form part of any building or other structure.

**home activity advertisements** means an advertisement associated with a lawful home activity, limited to 1 advertisement per premises, not exceeding 0.3 m<sup>2</sup> in size, and not illuminated.

**home based business advertisements** means an advertisement associated with a lawful home based business, limited to 1 advertisement per premises, not exceeding 0.3 m<sup>2</sup> in size, and not illuminated.

**gate** means a hinged or sliding barrier used to close an opening in a wall, fence or hedge.

**grid** means a structure designed to permit the movement of pedestrian or vehicular traffic along a road, but prevent the passage of livestock.

**landing** includes a jetty, pontoon and wharf.

**mobile food vending** means roadside vending for the sale of food.

**mooring** means a local government managed pile or buoy mooring in the Port Douglas Boat Harbour or any other boat harbours or marine facilities designated by the local government or under any Act.

**off-site advertisement** means an advertisement, either freestanding or affixed to a building or structure, that is intended to promote goods, services, a business, commercial enterprise or industry not available or conducted on-site.

**on-site advertisement** means an advertisement, either freestanding or affixed to a building or structure, that is intended to promote goods, services, a business, commercial enterprise or industry that is available or conducted on-site.

**over awning advertisement** means an advertisement which is located on top of an awning, verandah or canopy with no part of the advertisement projecting above the roofline or beyond the awning, canopy or verandah edge.

**owner, of an animal**, means for the purpose of *Local Law No. 2 (Animal Management) 2011*—

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

**owner** means in the case of—

- (a) premises—the person for the 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;
- (b) a vehicle—the person in whose name the vehicle is registered within a State or Territory; and
- (c) property other than premises or a registered vehicle—the person who has a legal or beneficial interest in the property.

**planning area** as defined by the Planning Scheme.

**Planning Scheme** means the Douglas Shire Council Planning Scheme gazetted on 2 January 2018 or such other planning scheme as the local government adopts from time to time.

**political advertisement** means a temporary advertisement exhibited for the purposes of an election.

**portable advertisement** means a freestanding moveable advertisement placed on the footpath, road reserve or other public place. The term includes sandwich and spinning boards.

**potable water** means water of a standard and quality that is acceptance for human consumption and complies with the Federal Government National Health and Medical Research Council's publication "*Australian Drinking Water Guidelines 2011*", or such other equivalent guideline or standard that may from time to time be the accepted guideline or standard published by the Federal Government for potable water quality

**projecting advertisement** means an advertisement attached to and protruding more than 100 mm either vertically, or horizontally from a building or structure, but not attached to the roof of a building or structure.

**public information advertisement** means an advertisement erected or displayed to indicate the location of a public building, service or place of interest, and which carries no other information or advertisement.

**public place activity** means an activity, as described in Schedule 25 of this subordinate local law where undertaken on or in a 'public place' as defined in section 125(5) of the Act.

**responsible person** for a gate or grid installed across a road, means—

- (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; and
- (c) the person who has the benefit of the gate or grid, or the gate and the grid installed across the road.

**real estate advertisement** means a temporary advertisement on-site, advising of the owner's intention to sell, lease, tender or auction the land and / or building.

**roadside vending** means—

- (a) the commercial supply of goods or services from a vehicle or place on a road; or
- (b) the setting up on, or bringing onto a road of a stall, vehicle, equipment or other thing for the commercial supply of goods or services.

**sale** includes—

- (a) to sell;
- (b) sell for resale;
- (c) intend for sale;
- (d) offer, or expose for sale;
- (e) agree or attempt to sell;
- (f) receive, keep or have in possession for sale;

- (g) cause licence to be sold or offered or exposed for sale;
- (h) send, forward for sale or deliver for sale;
- (i) provide a sample;
- (j) barter;
- (k) supply or have available for supply;
- (l) already sold or supplied;
- (m) provide for analysis; or
- (n) authorise, direct, cause, suffer or licence any of the above acts.

**sell** means sell by retail, wholesale or auction, and includes—

- (a) offer to agree to sell; and
- (b) invite to treat or expose for sale;
- (c) cause or permit to be sold; and
- (d) supply under a lease, exchange, hiring or other commercial arrangement.

**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, shower or other bathing facilities;
- (d) laundries; or
- (e) cooking facilities,

but expressly excludes bed and breakfast accommodation.

**sign** means a device that publicises a matter.

**social or community event** means a gathering of people in excess of 50 people at any one place for a social or community purpose.

**street stall** means a table, tent or similar temporary device or structure on a local government controlled area, road or footpath from which goods, services or information is distributed for a purpose of, or connected with any business, calling or employment.

**structure** has the meaning given in the *Local Government Act 2009*.

**temporary advertisement** means an advertisement which, by its nature, is intended to be in place for only a limited amount of time, not exceeding 3 months. The term includes—

- (a) a political advertisement;
- (b) a real estate advertisement; or
- (c) an advertisement for the sale, lease, tender or auction of a product.

**temporary entertainment event** means an event whether on or at a public place or on private land, that is held temporarily – not on a regular basis, to provide entertainment to the public whether or not upon payment of a fee for admission and whether or not the management reserves the right to exclude individual members of the public.

**temporary home** means a structure used or intended for temporary use as a place of residence and includes a tent, caravan motor vehicle or trailer,

**touting** means to publicise to another person either verbally or with a publication a business, commercial or trade activity, including by approaching that person. “touted” and “touting” have the corresponding meanings.

**transom advertisement** means an advertisement attached to the transom, horizontal beam, of a doorway in a building.

**under awning advertisement** means an advertisement which is attached to the underside of an awning, verandah, or canopy.

**wall advertisement** means an advertisement which is affixed to, posted or painted on a wall surface of a building, such that the advertisement protrudes no more than 100 mm from the wall to which it is attached. The term excludes fascia, and transom advertisements.

**window advertisement** means an advertisement which is attached to or displayed on the exterior or interior surface of a window. The term includes a device which is suspended from the window frame and may also be illuminated, and excludes product displays or showcases viewed by pedestrians.



## **Schedule 2      Prescribed activities that do not require an approval under the authorising local law**

Section 5(3)

- (a) Intensive Animal Husbandry as defined in the Douglas Shire Planning Scheme;
- (b) Primary Industry as defined in the Douglas Shire Planning Scheme;
- (c) Keeping native animals with an appropriate approval under another Act.

## **Schedule 3      Categories of prescribed activities for the purposes of maximum penalties**

### **Section 6**

#### **Part 1 - Category 1 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 camping grounds;  
operation of caravan parks;  
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 facilities, areas and roads;  
installation and operation of gates and grids;  
bringing or driving motor vehicles onto local government controlled areas;  
bringing or driving prohibited vehicles onto motor vehicle access areas;  
use of bathing reserves for training, competitions etc.;  
parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee;  
parking in a loading zone by displaying a commercial vehicle identification label;  
use of moorings;  
carrying out works on a road or interfering with a road or its operation;  
operation of a pet shop, cattery or kennel;  
undertaking animal breeding;  
commercial filming and photography.

## **Part 2 - Category 2 Activities**

operation of cemeteries.

## **Part 3 - Category 3 Activities**

operation of cane railways.

## **Schedule 4      Categories of approval that are non-transferable**

### **Section 7**

- (a) Establishment and occupation of a temporary home;
- (b) Operation of temporary entertainment events;
- (c) Use of bathing reserves for training, competitions etc.;
- (d) Undertaking regulated activities on local government controlled areas and roads;
- (e) Commercial use of local government controlled areas and roads;
- (f) Use of moorings;
- (g) Commercial filming and photography

## **Schedule 5      Prescribed Complementary Accommodation**

### **Section 8**

- (a) Demountable accommodation units;
- (b) Relocatable home;
- (c) Other relocatable structure used for sleeping or lodging e.g. reconfigured train carriages.

## **Schedule 6      State-controlled roads to which the local law applies**

### **Section 9**

All State controlled roads within the local government's area.

## **Schedule 7      Public place activities that are prescribed activities**

Section 10

Refer to Schedule 25.

## **Schedule 8      Alteration or improvement to local government controlled areas and roads**

### **Section 11**

#### **1. Prescribed activity**

Alteration or improvement to local government controlled areas and roads.

Example—

Planting of trees or garden beds on footpath, construction of driveway or kerb and channel.

#### **2. Activities that do not require approval under the Authorising local law**

This Schedule does not apply to activities that are covered by Schedule 32 of this Subordinate Local Law (Carrying out works on a road or interfering with a road or its operation) for which an approval under the Local Government Act 2009, section 75(2) is required.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such documents, information and materials identified within the relevant approved application form. For example—
  - (i) full details of the proposed alteration or improvement;
  - (ii) full details of building or other work to be carried out under the approval;
  - (iii) the proposed commencement date and completion date for the construction of the building or other work to be carried out under the approval;
  - (iv) details of any impact upon traffic or pedestrian movement, and how any impacts will be managed or addressed;
  - (v) details regarding compliance with relevant standards such as Australian standards or industry codes of practice; and
  - (vi) if the applicant is not the owner of land adjoining the proposed site for the works, the adjoining land holder's consent.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person the proposed activity would—
  - (i) adversely affect the amenity of the area and / or the environment; or
  - (ii) adversely affect existing services located in, on or over a road; and



- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on an approval—

- (a) the approval holder, its contractors or agents must—
- (i) only carry out the approved works or activities at the location specified in the approval;
  - (ii) ensure unobstructed movement of vehicles and pedestrians;
  - (iii) operate within the hours specified on the approval;
  - (iv) take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
  - (v) indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the works or activity;
  - (vi) lodge a security for performance bond in the amount decided by the local government and specified in the approval;
  - (vii) comply with any deadline for completion of the works or ceasing of the activity;
  - (viii) observe the standards specified in the approval in the carrying out the works or activity;
  - (ix) reinstate the area/road to the satisfaction of the local government's engineer following completion of the works or ceasing of an activity;
  - (x) ensure the safety of pedestrians and vehicles including but not limited to the safe temporary diversion of traffic, erection of warning lights and barricades;
  - (xi) comply with the requirements of relevant legislation, Australian standards and / or the FNQROC Development Manual; and
  - (xii) comply with all reasonable directions of an authorised person within the time specified by the authorised person.

## **6. Conditions that may be imposed on approvals**

For all approvals, the conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 9      Commercial use of local government controlled areas and roads**

### **Section 11**

#### **1. Prescribed activity**

Commercial use of local government controlled areas and roads.

Examples—

Outdoor dining, roadside vending (e.g. fruit and vegetable stalls), mobile vending (e.g. ice cream vans), market stalls in parks, busking in a public place, displaying goods on footpaths and commercial filming.

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) details of the nature, time, duration and place of the proposed activities for which the approval is sought;
  - (ii) if the applicant wants to use a particular part of a road for serving food or drink or for other business purposes—a plan showing the relevant part of the road;
  - (iii) details of the type of signage which is intended to be displayed and the method intended to be used to ensure stability of the signage; and
  - (iv) if the activity is to operate from a vehicle, a copy of a current vehicle registration certificate.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person the proposed activity would—
  - (i) adversely affect the amenity of the area or road and / or the environment;
  - (ii) adversely affect existing services located in, on or over an area or road; or
  - (iii) be in conflict with or not in accordance with any local government policy relating to the activity at the time of the application; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on approvals—

- (a) the approval holder, its contractors or agents must—
  - (i) conduct the activity on the days and hours specified on the approval;
  - (ii) adhere to relevant safety standards and the local government's policies as applicable and amended from time to time;
  - (iii) take out public liability insurance in an amount of at least \$20,000,000 where directed to do so by the local government or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
  - (iv) indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the works or activity;
  - (v) provide to its customers, or any other persons undertaking the activity, all necessary or appropriate safety equipment, warnings and instruction; and
  - (vi) comply with all reasonable directions of an authorised person in the time specified by the authorised person.

## **6. Conditions that may be imposed on approvals**

For all approvals, the conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) permit access to local government staff or contractors at all times to inspect or service facilities;
- (b) carry out the activity in accordance with any standards of the local government applicable at the time of the approval;
- (c) display the approval in the ways stated in the approval and produce the approval for inspection on demand by an authorised person;
- (d) comply with measures specified in the approval to protect the safety of persons who may be involved in, or affected by, the activities authorised by the approval;
- (e) comply with measures specified in the approval to ensure that the activities authorised by the approval do not cause a nuisance;
- (f) comply with a requirement to submit the business, vehicle or premises to be inspected by an authorised person;
- (g) maintain a defined access point for emergency vehicles at all times;
- (h) if the approval authorises the approval holder to use a specified part of a local government controlled area or road for carrying on a business—

- (i) pay rental specified in the approval to the local government at specified intervals; and
- (ii) maintain the area where the activity takes place in clean, tidy and orderly condition;
- (i) if the activity involves playing live or taped performances—
  - (i) obtain a casual licence from the Australasian Performing Rights Association; and
  - (ii) seek written authorisation from an authorised person prior to playing amplified music;
- (j) if the activity involves use of a footpath—maintain a clear unobstructed pedestrian corridor of not less than 2 metres or, in the case of high usage footpaths, a distance greater than 2 metres stipulated in the approval;
- (k) comply with relevant workplace health and safety requirements; and
- (l) any other condition the local government in its sole discretion, acting reasonably, deems appropriate.

For an approval for the commercial use of parks and reserves, additional conditions that will ordinarily be imposed on an approval are set out in the local government's *Guidelines for Commercial Activities and Regulated Events in Parks and Reserves* or similar local government document in effect at the time of the relevant application.

For an approval for mobile food vending, the additional conditions that will ordinarily be imposed are that the approval holder must—

- (a) not sell, or offer for sale, any food within 200 metres of a retail shop selling similar items of food;
- (b) not, unless authorised by an authorised person, park the vehicle used for that activity for a period longer than is necessary to serve a customer who has hailed down the vehicle; and
- (c) keep the vehicle at all times in a clean, tidy and orderly condition.

For an approval for roadside vending, the additional conditions that will ordinarily be imposed are that the approval holder must—

- (a) not sell, or offer for sale, any goods within 200 metres of a shopping centre or any retail business selling similar goods, unless otherwise approved in writing for charitable purposes;
- (b) not sell perishable or potentially hazardous foods;
- (c) not handle any food for sale at a street stall;
- (d) not amplify, or cause to be made, any noise identifying, advertising or otherwise drawing attention to a roadside vending stall;
- (e) keep the vehicle or stall and all goods contained therein or thereon, at all times in a clean, tidy and orderly condition;

- (f) maintain the area in which the vending activity is conducted at all times in a clean and tidy condition; and
- (g) not accost passers-by to encourage the purchase of goods.

For an approval for outdoor dining, additional conditions that will ordinarily be imposed on an approval are that the approval holder must—

- (a) provide a plan, to be approved by the local government (**approved plan**) depicting the area in which the outdoor dining activity is to take place;
- (b) ensure all tables and associated furniture used for the purpose of outdoor dining are placed and shall remain at all times in the position as indicated on the approved plan;
- (c) ensure that only the approved outdoor dining area shall be utilised at any time;
- (d) ensure that an unobstructed clear width of at least 2 metres is maintained for pedestrian access at all times (which area shall also be clear of any signage and ancillary items);
- (e) ensure all approved outdoor dining furniture is kept clean and tidy, suitable refuse containers are provided and the area is cleaned thoroughly at the end of each day the outdoor dining area is in operation;
- (f) ensure all tables and associated furniture remain within the permitted area during the hours of operation;
- (g) ensure all tables and associated furniture are secured at all times outside the business hours of operation;
- (h) ensure any umbrellas are suitably weighted or fixed to the satisfaction of an authorised person, to ensure there is neither uplift, nor damage to property or person;
- (i) ensure any permanent structures erected in the vicinity of the outdoor dining are structurally sound, certified by an RPEQ and approved by the local government;
- (j) ensure any outdoor dining furniture not approved by an authorised person is not placed on the footpath at any time;
- (k) ensure any amendments to the approved plan, including any additional furniture shall be submitted for the prior approval of an authorised person;
- (l) ensure that the approved area in which outdoor dining is to take place must not be used for any other purpose (e.g., smoking);
- (m) ensure the footpath and road reserves used for outdoor dining purposes remain public spaces at all times, including when the outdoor dining activity is taking place, and that there is no obstruction of the movement of vehicles or pedestrians that would ordinarily use the space;
- (n) ensure the approved activities are only conducted on the days and times specified on the approval;

- (o) display the approval in a clearly visible position to the public and produce the approval for inspection if requested by an authorised person (or, if the approval relates to a State-controlled road, a person authorised by the chief executive);
- (p) comply with the provisions of all relevant State laws, including without limitation the *Public Health Act 2005*, the *Liquor Act 1992* and the *Food Act 2006*;
- (q) ensure the holder of the approval does not cause a danger or nuisance to neighbouring residents or users of the area or road (including any disposal of waste water as part of that activity);
- (r) ensure the holder of the approval must not interfere with the existing services located in, on or over an area a road;
- (s) ensure any advertising signs intended to be erected must be in accordance with any local law or Planning Scheme requirements relating to the regulation of advertising and advertising devices or any development approval required to be given under the *Sustainable Planning Act 2009*;
- (t) be aware that the local government reserves the right to amend any conditions of this permit, subject to notification to the approval holder, at the local government's discretion; and
- (u) be aware this permit is at the local government's discretion and may be revoked at any time either partially or fully.

For an approval for displaying goods for sale on footpaths, additional conditions that will ordinarily be imposed on an approval are that the approval holder must—

- (a) provide an unobstructed clear width of a minimum of 2 metres for pedestrian access at all times;
- (b) ensure all approved outdoor furniture is to be kept in a clean and tidy manner at all times;
- (c) ensure that goods and associated furniture shall remain on the footpath only during the hours of operation of the business;
- (d) ensure that a Goods on Footpath Certificate provided by the local government is displayed in a clearly visible position;
- (e) produce a copy of the approval for inspection by an authorised person if requested;
- (f) ensure that footpath and road reserves the subject of a permit remain publicly accessible for the duration of the approval;
- (g) ensure that all display racks and stands or other things used for the display of goods shall be constructed of such materials and be of such design so as not to cause any injury to any person or damage to any property. If in the opinion of an authorised person any display rack, stand or other thing does not comply in this regard, the local government reserves the right to refuse an application or cancel a permit already granted;

- (h) maintain all display racks, stands and other items used in the display of goods in a clean, safe and well maintained condition at all times.
- (i) adhere to relevant safety standards;
- (j) comply with any directions of an authorised person;
- (k) pay any costs or expenses incurred by local government to rectify any damage caused by the activity;
- (l) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
- (m) not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided by the local government;
- (n) advise the means by which impacts on the amenity of neighbouring areas must be minimised;
- (o) be aware that the permit is at the local government's discretion and may be revoked at any time either partially or fully.

For an approval for busking, additional conditions that will ordinarily be imposed on an approval are that the approval holder must unless the permittee of those activities has provided written consent to the busking activity—

- (a) not cause a nuisance to the proprietors of business premises or occupiers of any residence located in close proximity to the busking activity;
- (b) not use any amplification equipment or cause to be made any unreasonable noise during the conduct of the busking activity;
- (c) not accost or cause a nuisance to passers-by;
- (d) not solicit audience participation in the busking activity;
- (e) ensure that busking activities can only be undertaken by those named/listed on the approval;
- (f) only conduct busking activities in the areas defined in the approval;
- (g) not undertake busking activities closer than 10 metres from—
  - (i) any outdoor dining area;
  - (ii) any licenced venue; or
  - (iii) any market stall;
- (h) allow a minimum 2 metre pedestrian corridor parallel to any road or footpath;
- (i) not use any percussion instrument or amplifier;
- (j) display their approval in a prominent and visible position at the busking site at all times during their acts;

- (k) only perform between the hours of 8:00 am and 10.00 pm;
- (l) perform for a maximum of 2 hours at any one site;
- (m) keep the busking site in a clean, tidy and orderly condition while they are busking;
- (n) ensure that their use of the site does not pose a threat to public safety;
- (o) not solicit funds (but approval holders may receive voluntary donations from the audience);
- (p) not offer goods and services for sale, display, demonstrate or advertise goods for sale or associate themselves with such advertising in conjunction with their performance (other than a compact disc or USB drive consisting of the busker's own work);
- (q) not interfere with pedestrian flow or cause obstruction to traders or delivery vehicles, including by way of encouraging audience formation in such a manner as to cause such interference;
- (r) not use dangerous implements and materials unless specifically prescribed in the approval;
- (s) comply with any direction of an authorised person;
- (t) be aware that the local government may revoke an approval if, in the opinion of an authorised person, the busking activities are causing inconvenience, are likely to cause harm to the public or property, or are otherwise in breach of the Busking General Policy.

For an approval for the landing of a helicopter, aircraft, parachute or other aircraft, additional conditions that will ordinarily be imposed on an approval are that the approval holder must—

- (a) ensure that its customers and all other persons undertaking the activity are accompanied and supervised by a person holding a recognised first aid certificate and all other certifications required by any State or Commonwealth authority;
- (b) only permit experienced and competent guides, agents or supervisors to oversee the operation of the activity;
- (c) accept full responsibility for the safe transportation of customers and all other persons undertaking the activity;
- (d) provide information explanations, cautions and warnings to customers and all other persons undertaking the activity regarding the hazards likely to be encountered by them when the activity is undertaken;
- (e) ensure that any motor vehicle, vessel, aircraft or other machinery used in connection with the activity, complies with all safety requirements and regulations and are operated in accordance with requirements, guidelines or recommendations published from tie to tie by the manufacturer or any State or Commonwealth authority;



- (f) identify the points at which an operator is to access the site for the purpose of undertaking the commercial recreation activity; and
- (g) state the number of customers to be taken to the site at any one time.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 10 Establishment or occupation of a temporary home**

### **Section 11**

#### **1. Prescribed activity**

Erection, establishment or occupation of a temporary home, moveable dwelling, camper trailer or caravan, whether on private land or Council controlled areas.

#### **2. Activities that do not require approval under the Authorising local law**

Camping, occupying or otherwise residing in a tent, caravan or moveable dwelling on private land, by a person who ordinarily resides elsewhere or by a temporary visitor who has the consent of the owner or occupier of the private land, for a total period not exceeding 28 days in any calendar year, if proper sanitary facilities are maintained to the satisfaction of an authorised person for use by such person or temporary visitor.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) an appropriate development approval or building approval;<sup>1</sup> and
- (b) any such documents, information and materials identified within the relevant approved application form. For example—
  - (i) a drawing showing the design and dimensions of the proposed temporary home, separation distances, the boundaries of the site and where the temporary home will be located within the site;
  - (ii) details of the materials out of which the temporary home is (or is to be) constructed and other structural details of the temporary home;
  - (iii) details of the duration of proposed occupancy of the temporary home;
  - (iv) the number and names of each person who are to occupy the temporary home;
  - (v) proposed water and electricity connections;
  - (vi) proposed on-site sewerage facilities, waste water disposal and refuse disposal; and
  - (vii) where the proposed temporary home is for the temporary on-site accommodation of an owner-builder or builder—
    - A. verification that the applicant is an owner-builder or a builder who is a licensed builder; or
    - B. written confirmation that the applicant is subcontracting the work to a licensed builder under the applicant's supervision.

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<sup>1</sup> See *Building Act 1975* (Qld), section 6.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) that—
  - (i) the temporary home is not intended to be used as a permanent or indefinite place of habitation. The temporary home will not be erected and used for a period of more than 12 calendar months; and
  - (ii) there is a current development and/or building approval to erect a dwelling on the relevant land which dwelling (or a part of which dwelling) will be used as a permanent or indefinite place of habitation;
- (b) the temporary home has in the opinion of an authorised person a sufficient source of water supply and sufficient means of disposal of effluent and refuse to ensure that minimum standards of health and hygiene for safe human habitation can be established and maintained;
- (c) that the temporary home is required for use during emergency and/or disaster relief periods including, but not limited to flooding, cyclone and fire events; and
- (d) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on approvals—

- (a) the approval must state—
  - (i) the date by which substantial progress must be made towards the completion of the dwelling to be constructed on the land;
  - (ii) the date by which habitation must cease – not being more than 12 months from the date of establishment or occupation of the temporary home; and
  - (iii) the dimensions of the temporary home or any part thereof;
  - (iv) toilet and laundry facilities which must be provided as part of the temporary home;
  - (v) the method by which water is to be supplied to the temporary home; and
  - (vi) the method by which waste water and refuse are to be disposed of from the temporary home.

#### **6. Conditions that may be imposed on approvals**

For all approvals, the conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the approval may state—
  - (i) the construction materials and methods of construction of the temporary home or any part thereof; and
  - (ii) painting and other external treatment of the temporary home or any part thereof, either at the stage of construction or at any later time.

## **7. Term of approval**

An approval commences on the date of issue and terminates on—

- (a) the date specified in the approval, being a date determined by the local government, but being not more than 12 months after the date of issue; or
- (b) the date on which a dwelling on the relevant land is “*substantially*” completed,

whichever is sooner.

## Schedule 11 Placement of movable advertising devices

### Section 11

#### 1. Prescribed activity

Placement of movable advertising devices.<sup>2</sup>

Examples—

Real estate advertisements; advertisements displayed from vehicles including banners in windows, A-frame advertisements placed in trailers or trays and portable advertisements e.g. A-frame.

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

**An approval is not required under the authorising local law for—**

- (a) an advertising device that is regulated by the local government's Planning Scheme; or
- (b) an exempt advertising device.

**An exempt advertising device is a movable advertising device that satisfies all of the following requirements—**

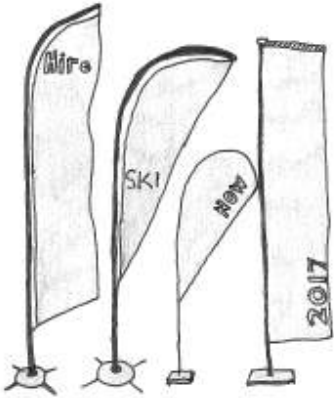

- (a) the movable advertising device is one of the types of advertising devices listed and defined in Column 1 of Table 1 to this Schedule;
- (b) the form and placement of the movable advertising device is within the parameters prescribed for the relevant type of advertising device in Column 2 of Table 1 to this Schedule; the movable advertising device advertises a lawfully established business or activity under the Planning Scheme (or temporary event under this local law);
- (c) is not fixed or placed on traffic signs or light poles or other similar infrastructure; and
- (d) the placement of the movable advertising device is not likely to cause—
  - (i) harm to human health and safety;
  - (ii) property damage or vegetation damage (including not being nailed to a tree);
  - (iii) a nuisance;
  - (iv) obstruction of pedestrian or vehicular traffic;
  - (v) environmental harm;
  - (vi) a detrimental impact on the amenity of the area; or



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<sup>2</sup> As defined in the *Planning Regulation 2017* (Qld).

- (e) obstruction of a view or vista from any premises.



**Table 1 – Exempt advertising devices (movable advertising devices not requiring an approval provided they are within prescribed parameters)**

Column 1 Type of device and definition	Column 2 Prescribed parameters (Movable advertising devices displayed within these parameters do not require approval)
<p><b>Free Standing Flag sign:</b> <i>any free standing flag-style advertising device including a feather banner or tear drop</i></p> 	<p>The prescribed parameters for a Free Standing Flag sign are—</p> <ul style="list-style-type: none"> <li>(a) not located on a local government controlled area or road;</li> <li>(b) may have a maximum height of 3.0 metres;</li> <li>(c) may be displayed during the duration of the event to which the sign relates;</li> <li>(d) shall be removed at the close of business each day;</li> <li>(e) a maximum of 1 sign may be displayed for the business or event being advertised; and</li> <li>(f) shall be positioned— <ul style="list-style-type: none"> <li>(i) at least 600 mm from the kerb; and</li> <li>(ii) provide a clear pedestrian corridor of 1.8 metres.</li> </ul> </li> </ul>
<p><b>Real Estate (Residential) sign:</b> <i>a temporary advertisement to facilitate the sale, auction or rental of a residential property or properties</i></p> 	<p>The prescribed parameters for a Real Estate (Residential) sign are—</p> <ul style="list-style-type: none"> <li>(a) must be located on private land and not on a local government controlled area or road;</li> <li>(b) may have a maximum face of 2.16 m<sup>2</sup> exhibited per agent or agency per property; and</li> <li>(c) 1 sign may be displayed on the property at all times until the property is sold/leased/auctioned or rented; and shall be fixed securely to a wall or fence or placed securely on the ground immediately adjacent to the property alignment.</li> </ul>

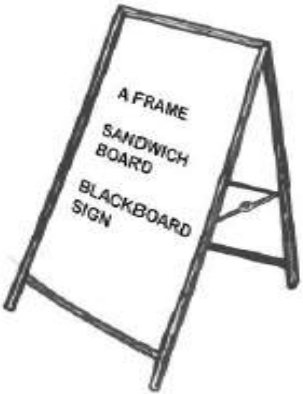
<b>Column 1</b> <b>Type of device and definition</b>	<b>Column 2</b> <b>Prescribed parameters</b> <b>(Movable advertising devices displayed within these parameters do not require approval)</b>	
<p><b>Real Estate (Commercial / Industrial) sign:</b>  <i>a temporary advertisement to facilitate the sale, auction or rental of commercial or retail or industrial property or properties</i></p> 	<p>The prescribed parameters for a Real Estate (Commercial / Industrial) sign are—</p> <ul style="list-style-type: none"> <li>(a) a total face area of 5 m<sup>2</sup> may be exhibited per street frontage of a property; and</li> <li>(b) where exhibited on a window shall not exceed 2.16 m<sup>2</sup> per street frontage of a property or tenancy; and</li> <li>(c) shall be securely fixed to the premises;</li> <li>(d) shall be removed from the premises within 7 (seven) days of the property reaching settlement or being leased; and</li> <li>(e) not illuminated.</li> </ul>	
<p><b>Garage Sale sign:</b>  <i>a temporary advertisement for a household 'garage sale'</i></p> 	<p>The prescribed parameters for a Garage Sale sign on a private place are—</p> <ul style="list-style-type: none"> <li>(a) may have a maximum face area of 1.2 m<sup>2</sup>; and</li> <li>(b) 1 sign may be displayed on the property commencing 24 hours before the event the day or weekend of the event; and</li> <li>(c) shall be fixed securely to a wall or fence or placed securely on the ground immediately adjacent to the property alignment; and</li> <li>(d) shall be removed within 24 hours after the event.</li> </ul>	<p>The prescribed parameters for a Garage Sale sign on a public place (i.e. directional signs) are—</p> <ul style="list-style-type: none"> <li>(a) may have a maximum— <ul style="list-style-type: none"> <li>(i) height of 1 m; and</li> <li>(ii) width of 0.6 m; and</li> <li>(iii) depth of 0.3 m; and</li> </ul> </li> <li>(b) may display a maximum of 1 sign 2 days before the day of the garage sale and 4 signs on the day of the garage sale; and</li> <li>(c) shall be securely, but not physically fixed on the</li> </ul>

Column 1 Type of device and definition	Column 2 Prescribed parameters (Movable advertising devices displayed within these parameters do not require approval)	
		ground; and  (d) shall be removed within 24 hours after the event.
<b>Event Direction sign</b> <i>any sign intended to provide information about the location of facilities or features of an event site (for example, designating the entrance to a festival or directions to event car parking)</i> 	The prescribed parameters for an Event Direction sign are—  (a) may be displayed for 2 days prior to and on the day, or days of the event; and (b) shall be removed within the course of, or immediately at the conclusion of the event; and (c) may display up to a maximum of 5 signs, or as determined by any event approval; and (d) may have a maximum face area of 0.6 m; and (e) may not be placed on any part of a median strip, traffic island or roundabout; and (f) shall be constructed to withstand consequent wind or other loads.	
<b>Footway sign:</b> <i>a sign placed on a footway or next to a road for purposes of promoting home produce, fund raising or an event</i> 	The prescribed parameters for a Footway sign are—  (a) may have a maximum face area of 1.2 m <sup>2</sup> ; and (b) 1 sign may be displayed on the day of the activity; and (c) shall be fixed securely on the ground; and (d) shall be removed at close of the business each day; and (e) shall be constructed to withstand consequent wind or other loads; (f) shall provide a clear pedestrian corridor of 1.8 metres.	



<b>Column 1</b> <b>Type of device and definition</b>	<b>Column 2</b> <b>Prescribed parameters</b> <b>(Movable advertising devices displayed within these parameters do not require approval)</b>
<p><b>Site Information sign:</b>  <i>any sign providing information about the use of facilities or features of a site</i></p> 	<p>The prescribed parameters for a Site Information sign are—</p> <ul style="list-style-type: none"> <li>(a) the panel may have a maximum face area of 2 m<sup>2</sup>; and</li> <li>(b) shall be constructed to withstand consequent wind or other loads; and</li> <li>(c) may display a company name or logo to a maximum of one third of the sign area; and</li> <li>(d) may display the name, logo, or slogan of an organisation having tenure of the property or control of the land on which the sign is exhibited; and</li> <li>(e) shall be placed on or as close to the property boundary as possible.</li> </ul>
<p><b>Footway dining sign</b>  <i>signage displayed on dining furniture, such as umbrellas and wind breaks on the footway</i></p> 	<p>The prescribed parameters for a Footway dining sign are—</p> <ul style="list-style-type: none"> <li>(a) may have a maximum height of 1 m and a maximum length equal to the length of the approved outdoor dining area;</li> <li>(b) shall be constructed to withstand consequent wind or other loads; and</li> <li>(c) shall be removed at the end of each day; and</li> <li>(d) shall allow for occupants of the footpath dining area to be visible from all public places in the vicinity.</li> </ul>

Column 1 Type of device and definition	Column 2 Prescribed parameters (Movable advertising devices displayed within these parameters do not require approval)	
<p><b>Fete or Charitable Event sign:</b>  <i>temporary non-illuminated sign advertising not for profit short-term events such as a fete, fair, or festival for charitable, education, sporting organisations or the like</i></p> 	<p>The prescribed parameters for a Fete or Charitable Event sign on a private place are—</p> <ul style="list-style-type: none"> <li>(a) a banner type sign of non-rigid material suspended at both ends may have a maximum face area of 8 m<sup>2</sup>; and</li> <li>(b) a rigid type sign may have a maximum face area of 2.4 m<sup>2</sup>; and</li> <li>(c) a freestanding flag sign may have a maximum face area of 2.4 m<sup>2</sup>; and</li> <li>(d) shall be constructed to withstand consequent wind or other loads; and</li> <li>(e) signs may be exhibited— <ul style="list-style-type: none"> <li>(i) on each frontage of the site of a fete or the property of the organisation holding the activity; and</li> <li>(ii) 2 weeks prior to the day of the event; and</li> </ul> </li> <li>(f) shall be removed by the end of the day following the event.</li> </ul>	<p>For a Fete or Charitable Event sign on a public place, the prescribed parameters are the same as for an Event Direction sign listed earlier in this table.</p>

Column 1 Type of device and definition	Column 2 Prescribed parameters (Movable advertising devices displayed within these parameters do not require approval)
<p><b>Sandwich board sign:</b>  <i>a portable freestanding sign normally supported by an 'A' or inverted 'T' frame, sometimes containing a blackboard face and typically displayed in a footway.</i></p> 	<p>The prescribed parameters for a Sandwich Board sign are—</p> <ul style="list-style-type: none"> <li>(a) may have a maximum— <ul style="list-style-type: none"> <li>(i) height of 0.9 m; and</li> <li>(ii) width of 0.6 m; and</li> <li>(iii) depth of 0.6 m at the base of the A-Frame; and</li> </ul> </li> <li>(b) may comprise only 1 sign per business, or 2 signs per business if the business premises has 2 road frontages; and</li> <li>(c) shall be displayed adjacent to the business premises;</li> <li>(d) shall be displayed to withstand consequent wind or other loads;</li> <li>(e) shall be positioned— <ul style="list-style-type: none"> <li>(i) at least 600 mm from the kerb; and</li> <li>(ii) to provide a clear pedestrian corridor of 1.8 metres; and</li> </ul> </li> <li>(f) may not have moving, rotating or animated parts, such as a spinning sign;</li> <li>(g) may be exhibited only during trading hours and may not be used for the display of merchandise.</li> </ul>

### 3. Documents and materials that must accompany applications for approval

The following documents and materials must accompany an application for an approval—

- (a) any such other document, information and materials identified within the relevant approved application form.
- (b) a colour photograph, drawing or diagram of the proposed advertising device;
- (c) a site plan indicating the placement of the device; and
- (d) the applicable application fee.

#### 4. Additional criteria for the granting of approval

The following additional criteria for the granting of an approval—

Type of advertisement	Criteria
(a) All advertisements, including those placed on local government controlled areas and roads	<p>All advertisements must—</p> <ul style="list-style-type: none"> <li>(i) not conflict with and is in keeping with the local government's adopted Sustainability Principles;</li> <li>(ii) be structurally sound;</li> <li>(iii) cause no significant obstruction of, or distraction to, vehicular or pedestrian traffic;</li> <li>(iv) not obscure a motorist's view in any way, particularly when an advertisement is proposed to be located on or near a street corner or junction;</li> <li>(v) be consistent with relevant applicable environmental protection policies;</li> <li>(vi) have dimensions that bear a reasonable relationship to the dimensions of surrounding buildings and lots, so that its presence is not unduly dominating or oppressive;</li> <li>(vii) not unreasonably obstruct existing views;</li> <li>(viii) be consistent in colour and appearance with building and natural features of the environment in which it is to be situated;</li> <li>(ix) be in other respects consistent with the character and values of the environment in which it is to be situated;</li> <li>(x) when overhanging a footpath, provide a minimum clearance of 2.5 m between the lowest part of the advertisement and the footpath;</li> <li>(xi) be coordinated and compatible in its contents, where there are multiple advertisements on site, with the other advertisements on site and reflect the architecture and style of any buildings or structures on the site;</li> <li>(xii) be designed so as not to detrimentally affect the amenity of the site or the locality, by reason of their location, construction or design;</li> <li>(xiii) not emit excessive glare or reflection from internal or external illumination;</li> <li>(xiv) be constructed of durable materials and maintained in good condition at all times;</li> </ul>

Type of advertisement	Criteria
	<p>(xv) be constructed in a workmanlike manner, so as not to endanger public safety;</p> <p>(xvi) be constructed so that there is no exposure of supports, fixing, suspension or other systems required for proper installation, unless constructed as an integral feature of the advertisement;</p> <p>(xvii) not be at the expense of landscaping to accommodate the sign;</p> <p>(xviii) directly relate to the primary business being advertised;</p> <p>(xix) be consistent with the character of the surrounding area and pose no hazard to pedestrians or distraction to motorists;</p> <p>(xx) comply with relevant Australian standards in regard to all electrical services and systems associated with the advertisement;</p> <p>(xxi) not be able to be misconstrued as a traffic control device or obscure motorist's view of a traffic control device;</p> <p>(xxii) display street numbers when they are not already displayed on the premises;</p> <p>(xxiii) A-frame sandwich board advertisements must display information relating directly to the primary business it is advertising; and</p> <p>(xxiv) must be on-site;</p> <p>(xxv) be removed along with all fixing material within the time frame specified in the approval</p>
(b) Construction advertisements	<p>(i) must not be animated or internally illuminated; and</p> <p>(ii) the advertisement must be removed when construction work is completed.</p>
(c) Estate entrance advertisement / estate sales office	<p>(i) details of the advertisement must be provided with applications for reconfiguration of a lot.</p>

Type of advertisement	Criteria
(d) Real estate advertisements	(i) a real estate advertisement must be displayed on the property or premises for sale, lease, tender or auction only, and shall be removed within a reasonable period, in the opinion of an authorised person, after sale or lease of the property or premises;  (ii) the maximum height of the advertisement must not exceed 3.6 metres; and  (iii) advertisements are limited to 1 advertisement per street frontage.
(e) Transom advertisements	(i) must not extend below the head of a doorway; and  (ii) must not project more than 100 mm from a wall.

## 5. Conditions that must be imposed on approvals

The following conditions are conditions that must be imposed on and approval—

- (a) the approval holder, its contractors or agents must—
  - (i) display only the sign for which approval was given;
  - (ii) secure the sign by removal and storage inside the premises proposed, at all times outside of the business hours of operation;
  - (iii) keep the sign positioned in accordance with the approved plan for the business premises;
  - (iv) display the portable advertisement only on the days and hours specified in the approval;
  - (v) adhere to safety standards;
  - (vi) take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
  - (vii) indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in consequence or arising out of the activity; and
  - (viii) comply with all reasonable directions of an authorised person in the time specified by the authorised person.

## 6. Conditions that may be imposed on approvals

For all approvals, the conditions that will ordinarily be imposed on an approval are such other conditions that the authorised person considers appropriate.

For example—

- (a) the approval holder will be responsible for maintaining the aesthetic appearance of the advertisement at all times and not permit the advertisement to degrade, deteriorate or become a safety hazard;

- (b) the advertisement must be capable of withstanding consequent wind or other loads;
- (c) the advertisement must not obstruct approved or permitted advertisements on adjoining properties or the vision of pedestrians or motorists;
- (d) the advertisement must not be fixed to trees, lighting poles or power poles or any other similar infrastructure;
- (e) the advertisement is not to be modified or relocated without approval (including conversion of the approved advertisement into a Third Party Advertising device); and
- (f) an annual renewal of the Term of Approval fee (where applicable).

## 7. Term of approval

The term of approval is the period stated on the approval.

## 8. Signs that will not be approved

- (a) Signs that will not be approved anywhere in the local government include fly-posters, blimps, inflatable signs, bunting, streamers and portable interchange letter signs as these types of signs are considered to be contrary to the unique character, lifestyle and environmental attributes of the local government area.
- (b) Signs that will not be approved on local government controlled areas and roads include vehicle standing signs as these types of signs are considered to be contrary to the unique character, lifestyle and environmental attributes of the local government area.



**Inflatable signs**



**Vehicle Standing Signs**



**Portable Interchange Letter Signs**

## **Schedule 12 Keeping of animals**

### **Section 11**

#### **1. Prescribed activity**

Keeping of animals.

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

Any native, non-domestic animal for which an approval is required under other Queensland or Commonwealth legislation.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) the species, breed, age and gender and any unique identification details of each animal for which the approval is sought;
  - (ii) the number of animals to be kept;
  - (iii) whether the animals have been desexed;
  - (iv) the nature (including details of fencing) and location of the enclosure in which the animal or animals are to be kept;
  - (v) the arrangements for disposal of waste generated by the animal or animals; and
  - (vi) the location of water supply and any food storage areas.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person—
  - (i) the land is physically suitable for the keeping of the animal;
  - (ii) the enclosure in which the animal is to be kept is of a suitable standard;
  - (iii) there is a likelihood of the animal causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
  - (iv) there is likelihood that there will be an effect on the local environment and a potential for pollution;
  - (v) there is a likelihood that there will be any other environmental damage; and



- (vi) the number of animals permitted; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on approvals—

- (a) the approval holder must—
  - (i) care for the animal in accordance with appropriate and reasonable standards;
  - (ii) keep the animal in enclosures that comply with reasonable standards;
  - (iii) comply with reasonable standards of hygiene;
  - (iv) ensure that the animal wears or displays an appropriate identifying tag;
  - (v) ensure that the animal does not cause nuisance, inconvenience or annoyance to others;
  - (vi) take specified action to protect against possible harm to the local environment; and
  - (vii) comply with all reasonable directions of an authorised person in the time specified by the authorised person.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 13    Operation of camping grounds**

### **Section 11**

#### **1. Prescribed activity**

Operation of camping grounds.

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) a scaled plan showing the boundaries of the camping ground, the division of the camping ground into camping sites and the separation distances;
  - (ii) a current certificate of compliance issued by the Queensland Fire and Rescue Service, and an electrical safety certificate of compliance;
  - (iii) details of the facilities to be provided for campers, including location and type;
  - (iv) details of sewerage disposal;
  - (v) details of water quality, water supply reticulation and drainage;
  - (vi) the proposed maximum number of occupants;
  - (vii) details of waste management systems, and the position of all garbage receptacles;
  - (viii) details of the on-site nightsoil discharge points or pump out facilities for self-contained recreation vehicles;
  - (ix) projected average and maximum duration of stay of occupants;
  - (x) details of a cleaning and maintenance schedule that specifies the frequency with which camping ground facilities are to be cleaned and maintained; and
  - (xi) details of public liability insurances held by the person operating the camping area.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person the application is consistent with the provisions of the Planning Scheme and any development approval issued for the site and the provisions of the *Land Act 1994*; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## 5. Conditions that must be imposed on approvals

The following conditions are conditions that must be imposed on approvals—

- (a) ensure that the maximum number people accommodated at the camping ground does not exceed the limit specified on any development approval;
- (b) provide and maintain a current site plan that shows camp sites and all facilities;
- (c) ensure that any changes or alterations to the approved plans with the local government for the operation of the camping ground receives prior approval from the local government and that such requests for approval be submitted in the appropriate format.
- (d) provide and maintain an adequate supply of water to the camping ground; and
- (e) supply and maintain an adequate supply of potable water for cooking, drinking, cleaning and personal hygiene;
- (f) ensure every outlet within the camping ground that receives non-potable water displays a permanent, prominent and legible sign “UNSUITABLE FOR DRINKING”;
- (g) provide appropriate facilities for collection, storage and disposal of waste to the satisfaction of an authorised person;
- (h) not locate or permit an accommodation to be located at any place within the camping ground other than on a site approved by the local government;
- (i) at all times keep the camping ground, its buildings, sanitary conveniences and other facilities in a clean, sanitary and safe conditions to the satisfaction of an authorised person;
- (j) unless an accommodation is fitted with a sanitary convenience, as a minimum standard provide for the exclusive use of the occupants separate sanitary conveniences for each sex in accordance with the table below:

**Table A**

No. of Sites	No. of water closets and pans for females	No. of water closets and pans for males	Length of urinals for males
Up to 40	1 for every 7 sites or part thereof	1 for every 10 sites or part thereof	0.6 m for every 20 sites or part thereof
Over 40	6 plus an additional 1 for every 15 sites	4 plus an additional 1 for every 15 sites	0.6 m for every 20 sites or part thereof

	or part thereof in excess of 40 sites	or part thereof in excess of 40 sites	
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- (k) in any case where 10 or more water closet fixtures are provided, ensure that at least 1 such water closet fixture and its compartment or cubicle is constructed, equipped and provided with access in accordance with AS1428, Code of Practice for Design Rules for Access by the Disabled (or other equivalent Australian Standard);
- (l) ensure all sanitary conveniences are constructed so as to ensure privacy to the satisfaction of an authorised person;
- (m) unless an accommodation is fitted with ablutionary facilities, provide for the exclusive use of the occupants separate ablutionary facilities as per Table B above;
- (n) ensure a shower or bath is installed—
  - (i) with separate drainage points for the discharge of water into the drainage system; and
  - (ii) in a separate compartment or cubicle which is constructed so as to ensure privacy to the satisfaction of an authorised person;
- (o) provide for the exclusive use of the occupants, laundry facilities in the ratio of 1 laundry tub and 1 clothes washing machine and 1 clothes hoist, or suitable length of clothes line, for every 20 sites or part thereof;
- (p) provide sewerage or a drainage system in conformity with the requirements of the local government for the carrying off and disposal of all wastes from every water closet fixture, urinal, ablutionary facility, laundry facility, camp kitchen and camp site;
- (q) provide an on-site manager, available at all times the camping ground is operating, and have provision for emergency contact;
- (r) provide the following kitchen facilities to enable occupants to prepare a substantial meal—
  - (i) one hand wash basin with hot and cold water delivered through a common outlet in each kitchen;
  - (ii) refrigerator space which is sufficient to meet the reasonable needs of the maximum potential number of occupants at the camping ground;
  - (iii) vermin proof dry food storage space which is sufficient to meet the reasonable needs of the maximum potential number of occupants at the camping ground; and
  - (iv) washing up sinks or dishwashers which are sufficient to meet the reasonable needs of the maximum potential number of occupants at the camping ground;

- (s) keep an up-to-date register of all persons accommodated at the camping ground. Such register must have the occupants forwarding contact details as well as name, address and site number;
- (t) ensure that each camp site is identified by a number displayed on or near the site; comply with all requirements contained within the current fire safety report from Queensland Fire and Rescue Services;
- (u) if a swimming pool is provided for guests, keep such records as required by an authorised person;
- (v) not alter or change the configuration of persons accommodated or amenities and facilities provided e.g. laundry, kitchen, showers, toilets, waste, without the prior written approval of the local government. Such requests for approval are to be submitted in the approved format.
- (w) provide, at a distance not more than 10 m from any camp site, a waste water disposal point which is—
  - (i) provided with a tap; and
  - (ii) provided with an impervious paved area measuring not less than 1m x 1m and graded to a central drainage inlet which is connected to a sewerage or drainage system; and
- (x) maintain to the satisfaction of an authorised person buffer zones between accommodation sites and roads, external boundaries, or facilities on the camping ground;
- (y) provide overhead and internal lighting in the camping ground to the satisfaction of an authorised person for specified hours; and
- (z) maintain the site in such a manner and to the satisfaction of an authorised person so as not to inhibit the access, egress and transit through the camping ground of the emergency services and their vehicles, having regard to the minimum turning circles and height clearances of overhead structures.
- (aa) implement a Water Management Plan (WMP) for the private water supply of the business. The WMP must include the following—
  - (i) a description of the water distribution system - e.g. water source, pumps, storage, treatment, and pipelines;
  - (ii) operational procedures for the water distribution system - e.g. inspection and maintenance of pumps, filters and other associated equipment;
  - (iii) identify hazards - e.g. flood areas, contaminated sites, animal holding/grazing areas, wastewater system, septic tank location;
  - (iv) document the water supply use for the business - e.g. drinking, food preparation, cleaning and sanitation, clothes washing and irrigation;

- (v) records in association with the management and supply of potable water - e.g. chemical and microbiological testing, servicing and maintenance logs, deliveries from carted water suppliers;
- (vi) contingency plans for system failures or insufficient water supply - e.g. warning signs, bottled water, boil water procedures; and
- (vii) emergency contacts - e.g. Queensland Health, the local government's Environmental Health Officer or person occupying an equivalent position, plumber, electrician.

## 6. Conditions that may be imposed on approvals

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) ensure a notice advising of the conditions is displayed at each public entrance to the camping ground to which the conditions apply;
- (b) provide at a distance of not more than 10 metres from any camp site, a waste water disposal facility which includes a tap and an impervious paved area of no less than 1 m<sup>2</sup> graded to a central drainage inlet and connected to a sewage or drainage system;
- (c) where bedding is supplied—
  - (i) ensure the bedding is provided in a clean and sanitary condition;
  - (ii) change and replace bedding whenever occupation of the accommodation changes;
- (d) such other conditions as an authorised person considers appropriate.
- (e) for a premises not connected to a town water supply, the approval holder must provide the local government with documentation to demonstrate the private water supply used for any of the accommodation activities conducted on the premises is potable. The documented evidence must be consistent with the potable water parameters listed in Table B, and must be provided to the local government upon request—

**Table B**

Potable water parameters (100 mL sample)	NH&MRC (2011) Health Guidelines
<i>E.coli</i>	The NH&MRC (2011) Guideline is 0 CFU/100mL
pH	The NH&MRC (2011) Guideline is pH 6.5 – 8.5
Turbidity	The NH&MRC (2011) Guideline is < 1 NTU, or The NH&MRC (2011) Guideline is < 5 NTU (where there is no disinfection)

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 14    Operation of cane railways**

### **Section 11**

**1.    Prescribed activity**

Operation of cane railways.

**2.    Activities that do not require approval under the Authorising local law**

Nil.

**3.    Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a)    any such document, information and materials identified within the relevant approved application form.

**4.    Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a)    the cane railway must be able in the opinion of an authorised person to be—
  - (i)    constructed and operated so as not to cause any inconvenience, hindrance or damage to any person using the roads or bridges upon over or under which such cane railway is constructed;
  - (ii)   constructed so as not to damage such roads or bridges; and
  - (iii)  operated and adequately guarded so as protect the safety of any vehicle or pedestrian traffic; and
- (b)    that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

**5.    Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on approvals—

- (a)    the approval must include—
  - (i)    the standards and method of construction including best practices for stormwater, erosion and sediment control during construction and operation;
  - (ii)   requirements for safety precautions, signs, warning devices and guard rails;
  - (iii)  the standards and methods of operation of any cane railway;
  - (iv)   the standards and methods of maintenance of any cane railway;
  - (v)   requirements for the construction of any grids;



- (vi) drainage works;
  - (vii) speed of operation;
  - (viii) weight and nature of cane railway;
  - (ix) maintenance of and repairs to roads or bridges adjoining or in the vicinity of the cane railway; and
  - (x) access for trucks; and
- (b) the approval holder, its contractors or agents are required to—
- (i) take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
  - (ii) indemnify the local government against claims for person injury (including death) and damage to property (including economic loss) arising by, through or in connection with the construction, operation or maintenance of the cane railway; and
  - (iii) comply with all reasonable directions of an authorised person within the time specified by the authorised person.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 15    Operation of caravan parks**

### **Section 11**

#### **1.    Prescribed activity**

Operation of caravan parks.

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

Nil.

#### **3.    Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a)    any such document, information and materials identified within the relevant, approved application form. For example—
  - (i)    a site plan drawn at a scale of 1:200 showing—
    - A.    the immediate area of the proposed caravan park;
    - B.    the location within the local government area;
    - C.    the sites for the parking of caravans;
    - D.    the locations of the roads, buildings and structures situated on the caravan park;
    - E.    the position of all water points;
    - F.    the position of all refuse containers;
    - G.    the position of all sanitary, ablution and laundry buildings;
    - H.    the position of all effluent and sullage water drainage lines and final disposal area or areas; and
    - I.    the nature and position of fire fighting facilities;
- (b)    details of the proposed administration and management of the caravan park;
- (c)    the name, address and contact details of the proposed resident manager of the caravan park; and
- (d)    the maximum number of persons who can be accommodated in the caravan park.

#### **4.    Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person the application is consistent with the provisions of local government's Planning Scheme and any development approval issued for the site; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## 5. Conditions that must be imposed on approvals

The following conditions are conditions that must be imposed on an approval—

- (a) ensure that the maximum number people accommodated at the caravan park does not exceed the limit specified on the approval;
- (b) maintain all facilities in the caravan park to a good standard of hygiene and safety to the satisfaction of an authorised person;
- (c) provide and maintain a current site plan that identifies all caravan sites and facilities;
- (d) comply with all requirements contained within the current fire safety report from Queensland Fire and Rescue Services;
- (e) ensure that each caravan site is identified by a number displayed on or near the site;
- (f) provide and maintain an adequate supply of water to the caravan park;
- (g) provide and maintain an adequate supply of potable water for drinking, cooking, cleaning and personal hygiene;
- (h) for a premises not connected to a town water supply, the approval holder must provide the local government with documentation to demonstrate the private water supply used for any of the accommodation activities conducted on the premises is potable. The documented evidence must be consistent with the potable water parameters listed in Table A, and must be provided to the local government upon request—

**Table A**

Potable water parameters (100 mL sample)	NH&MRC (2011) Health Guidelines
<i>E.coli</i>	The NH&MRC (2011) Guideline is 0 CFU/100mL
pH	The NH&MRC (2011) Guideline is pH 6.5 – 8.5
Turbidity	The NH&MRC (2011) Guideline is < 1 NTU, or The NH&MRC (2011) Guideline is < 5 NTU (where there is no disinfection)

- (i) ensure every outlet within the caravan park that receives non-potable water displays a permanent, prominent and legible sign "UNSUITABLE FOR DRINKING";
- (j) implement a Water Management Plan (WMP) for the private water supply of the business. The WMP must include the following—
  - (i) a description of the water distribution system - e.g. water source, pumps, storage, treatment, pipelines;
  - (ii) operational procedures for the water distribution system - e.g. inspection and maintenance of pumps, filters and other associated equipment;
  - (iii) identify hazards - e.g. flood areas, contaminated sites, animal holding/grazing areas, wastewater system, septic tank location;
  - (iv) document the water supply use for the business - e.g. drinking, food preparation, cleaning and sanitation, clothes washing and irrigation;
  - (v) records in association with the management and supply of potable water - e.g. chemical and microbiological testing, servicing and maintenance logs, deliveries from carted water suppliers;
  - (vi) contingency plans for system failures or insufficient water supply - e.g. warning signs, bottled water, boil water procedures; and
  - (vii) emergency contacts - e.g. Queensland Health, the local government's Environmental Health Officer or person occupying an equivalent position, plumber, electrician;
- (k) provide appropriate facilities for collection, storage and disposal of waste to the satisfaction of an authorised person;
- (l) not locate or permit accommodation at any place within the caravan park other than on a site approved by the local government;
- (m) at all times keep the caravan park, its buildings, sanitary conveniences and other facilities in a clean, sanitary and safe condition to the satisfaction of an authorised person;
- (n) unless an accommodation is fitted with a sanitary convenience, as a minimum standard provide for the exclusive use of the occupants separate sanitary conveniences for each sex in accordance with the Table B below;

**Table B**

No. of Sites	No. of water closets and pans for females	No. of water closets and pans	Length of urinals	of for
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		<b>for males</b>	<b>males</b>
Up to 40	1 for every 7 sites or part thereof	1 for every 10 sites or part thereof	0.6 m for every 20 sites or part thereof
Over 40	6 plus an additional 1 for every 15 sites or part thereof in excess of 40 sites	4 plus an additional 1 for every 15 sites or part thereof in excess of 40 sites	0.6 m for every 20 sites or part thereof

- (o) in any case where 10 or more water closet fixtures are provided, ensure that at least 1 such water closet fixture and its compartment or cubicle is constructed, equipped and provided with access in accordance with AS1428, Code of Practice for Design Rules for Access by the Disabled (or other equivalent Australian Standard);
- (p) ensure all sanitary conveniences are constructed to ensure privacy to the satisfaction of an authorised person;
- (q) unless an accommodation is fitted with ablutionary facilities, provide for the exclusive use of the occupants separate ablutionary facilities, as per Table B above;
- (r) ensure a shower or bath facilities is installed—
  - (i) with separate drainage points for the discharge of water into the drainage system; and
  - (ii) in a separate compartment or cubicle which is constructed to ensure privacy to the satisfaction of an authorised person;
- (s) provide for the exclusive use of the occupants, laundry facilities in the ratio of 1 laundry tub and 1 clothes washing machine and 1 clothes hoist, or an equivalent length of clothes line, for every 20 sites or part thereof;
- (t) provide sewerage or a drainage system in conformity with the requirements of the local government for the carrying off and disposal of all wastes from every water closet fixture, urinal, ablutionary facility, laundry facility, camp kitchen and caravan or other accommodation site;
- (u) provide, at a distance not more than 10 m from any site, a waste water disposal point which is—
  - (i) provided with a tap; and
  - (ii) provided with an impervious paved area measuring not less than 1 m x 1 m and graded to a central drainage inlet which is connected to sewerage or drainage system;
- (v) provide an on-site manager, available at all times the caravan park is operating, and have provision for emergency contact;
- (w) provide the following kitchen facilities at the caravan park to enable occupants to prepare a substantial meal—

- (i) one hand wash basin with hot and cold water delivered through a common outlet in each kitchen;
  - (ii) refrigerator space which is sufficient to meet the reasonable needs of the maximum potential number of occupants at the caravan park;
  - (iii) vermin proof dry food storage space which is sufficient to meet the reasonable needs of the maximum potential number of occupants at the caravan park; and
  - (iv) washing up sinks or dishwashers which are sufficient to meet the reasonable needs of the maximum potential number of occupants at the caravan park;
- (x) keep an up-to-date register of all persons accommodated at the caravan park. Such register must have the occupants forwarding contact details as well as name, address and site number;
- (y) ensure all sites are clearly numbered;
- (z) provide ground anchor points designed to withstand wind loads in accordance with Structural design actions, Part 2 Wind Actions (AS/NZS 1170:2:2011 or other equivalent Australian Standard) to enable tie-down of caravans, mobile homes, temporary buildings or any other accommodation;
- (aa) not alter or change the configuration of persons accommodated or amenities and facilities provided e.g. laundry, kitchen, showers, toilets or waste, without the prior written approval of the local government in the approved format.
- (a) if a swimming pool is provided for guests, keep such records as may be required by an authorised person;
- (b) maintain to the satisfaction of an authorised person buffer zones between accommodation sites and roads, external boundaries, or facilities on the caravan park;
- (c) provide overhead and internal lighting in the caravan park to the satisfaction of an authorised person for specified hours; and
- (d) maintain the site in such a manner and to the satisfaction of an authorised officer so as not to inhibit the access, egress and transit through the caravan park of the emergency services and their vehicles, having regard to the minimum turning circles and height clearances of overhead structures.

## 6. Conditions that may be imposed on approvals

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) where bedding is supplied—
- (i) keep bedding clean and in a sanitary condition; and
  - (ii) change and replace with clean bed linen whenever there is a change of occupation of the relevant accommodation site;

- (b) ensure a notice advising of the conditions is displayed at each public entrance to the caravan park to which the conditions apply;
- (c) such other conditions as are considered appropriate by an authorised person; and
- (d) obtain any appropriate documents or other permits etc. associated with the operation of the caravan park be made available to an authorised person upon request.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 16 Operation of cemeteries**

### **Section 11**

#### **1. Prescribed activity**

Operation of cemeteries

#### **2. Activities that do not require approval under the Authorising local law**

Local government owned or operated cemeteries.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and material identified within the relevant approved application form. For example—
  - (i) a drawing showing the design and dimensions of the proposed cemetery;
  - (ii) details of the materials out of which the cemetery is (or is to be) constructed and other structural details of the cemetery;
  - (iii) details of the location of the cemetery;
  - (iv) if the applicant is not the owner of the land on which the cemetery / crematorium is located—the written consent of the owner;
  - (v) a site plan drawn at a scale of 1:200 and showing the immediate area of the proposed cemetery and proposed burial plots, columbarium niches, walls or any associated structures, plots and layout; and
  - (vi) details of the proposed administration and management of the cemetery.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person the application is consistent with the provisions of local government's Planning Scheme and any development approval issued for the site;
- (b) any other criteria prescribed under relevant legislation or local laws;
- (c) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on an approval—



- (a) the approval holder, its contractors or agents are required to—
- (i) keep a publicly available register containing the following information about burials and cremations at the cemetery—
    - A. sex of deceased;
    - B. date of death;
    - C. age at time of death;
    - D. cause of death;
    - E. Date of burial or cremation;
    - F. location of burial site—grave number;
    - G. last known address; and
    - H. next of kin;
  - (ii) comply with the local government's policies about matters such as the exhumation or disturbance of human remains; and
  - (iii) maintain the memorials and other buildings and structures in the cemetery to the satisfaction of an authorised person.
- (b) the approval must state—
- (i) the hours when the cemetery may be open to the public;
  - (ii) the hours when burials and cremations may be conducted in the cemetery;
  - (iii) the size and position of grave sites; and
  - (iv) minimum periods of leases of grave sites.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 17    Operation of public swimming pools**

### **Section 11**

#### **1.    Prescribed activity**

Operation of public swimming pools.

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

Local government owned or operated swimming pools. Pools located at bed and breakfast accommodation or duplex dwellings.

#### **3.    Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a)    any such document, information and materials identified within the relevant approved application form. For example—
  - (i)    the address of the swimming pool, including real property description;
  - (ii)   the dimensions and capacity of the pool;
  - (iii)   pool filtration unit details; pool pump details;
  - (iv)   pool chlorination equipment details;
  - (v)   resuscitation notice details;
  - (vi)   fencing and access to the swimming pool;
  - (vii)   hours of operation;
  - (viii) details of backwash water discharge;
  - (ix)   plans of the site showing the immediately adjoining properties and also the position, width and name of the street or road from which the property has access and upon which it abuts; and
  - (x)   details of how the swimming pool will be adequately supervised when open to the public including the names and a copy of a life saving qualification and blue card for each proposed supervisor.

#### **4.    Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a)    equipment for chlorination, filtration and recirculation of swimming pool water is adequate to protect public health;
- (b)    maintenance, management and supervision of the swimming pool will be adequate to protect public health and safety and prevent nuisance;
- (c)    consistency with the development approval; and

- (d) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on an approval—

- (a) the approval holder, its contractors or agents are required to—
  - (i) ensure that biological contaminants are kept within acceptable levels by means of regular testing;
  - (ii) keep appropriate records as required by an authorised person of all testing and have it readily available for local government officers to view upon inspection;
  - (iii) install special equipment for filtering, purifying and recirculating the water to the satisfaction of an authorised person;
  - (iv) advise the local government in writing of any intention to empty a swimming pool, unless instruction has been received from the local government to do so;
  - (v) allow an authorised person access to the premises stated in the approval at any reasonable time to inspect a swimming pool and associated equipment;
  - (vi) allow an authorised person to take samples of water from a swimming pool and have them analysed;
  - (vii) maintain and operate the pool to ensure that the water quality in the pool complies with the Queensland Health Guidelines, as amended from time to time.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the approval holder, its contractors or agents are required to—
  - (i) provide attendance and supervision at the swimming pool at all times, or at specified times by a person with appropriate qualifications and experience;
  - (ii) provide dressing rooms and facilities for showering and sanitation;
  - (iii) comply with the Queensland Health Swimming and Spa Pool Water Quality Guidelines 2004 minimum chemical criteria to minimise the public health risks to bathers to acceptable level;
  - (iv) carry out tests at a frequency as determined by an authorised person
  - (v) provide appropriate equipment for—
    - A. emergency medical treatment and first aid; and

- B. rescue of persons in difficulty; and
- (vi) erect and display of notices providing information about basic life saving, resuscitation and first aid techniques; and warning about possible danger.

**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 18    Operation of shared facility accommodation**

### **Section 11**

#### **1.    Prescribed activity**

Operation of shared facility accommodation.

Example—

Hostel

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

Nil.

#### **3.    Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a)    any such document, information and materials, identified within the relevant approved application form. For example—
  - (i)    details of the facilities that are to be shared by persons for whom accommodation is provided;
  - (ii)   a site plan of the allotment upon which the shared facility accommodation premises is located;
  - (iii)   the maximum number of persons which will reside at the accommodation at any given time;
  - (iv)   where applicable, the most recent building work carried out in respect of the premises for which approval was obtained under the *Building Act 1975*;
  - (v)   a statement as to the number of sleeping rooms in the premises, information to identify which rooms are the sleeping rooms and the number of beds in each sleeping room;
  - (vi)   details of when the premises were last treated for vermin and insect pests; and
  - (vii)   a floor plan of the premises.

#### **4.    Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a)    whether the approval includes a pest management plan, incorporating the—
  - (i)    prevention of introduction of pests;
  - (ii)   maintenance required to prevent harbourage of pests;
  - (iii)   procedures to monitor the detection of the presence of pests;

- (iv) intervention strategies when pests are detected; and
- (v) record keeping pertaining to the plan;
- (b) whether the premises will be suitable and convenient for operation as accommodation premises and will provide a proper standard of hygiene, safety and comfort in the opinion of an authorised person; and
- (c) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on approvals—

- (a) the approval holder and operator must—
  - (i) comply with all applicable Australian Standards with respect to shared facility accommodation;
  - (ii) ensure that the accommodation premises is kept in a clean and sanitary condition to the satisfaction of an authorised person;
  - (iii) ensure that the accommodation premises is maintained in a good state of repair and working order to the satisfaction of an authorised person;
  - (iv) ensure that all fixtures, equipment, fittings and furniture is kept in a good state of repair and working order to the satisfaction of an authorised person;
  - (v) reside, or delegate an approved representative to reside, on the land at all times;
  - (vi) keep a register which includes the following details—
    - A. the name and address of each occupant;
    - B. the date of each occupant's arrival at and departure from the accommodation premises; and
    - C. the number of the bedroom and bed allocated to each occupant;
  - (vii) keep a record of all fire safety management plans;
  - (viii) keep a record of pest control;
  - (ix) keep appropriate records for any swimming pool as required by and to the satisfaction of an authorised person;
  - (x) keep an up-to-date site plan that identifies all rooms, bed allocation and communal facilities;
  - (xi) ensure that all records and site plans are maintained and made available for perusal by an authorised person on request, and kept at the office at all times while the office is open in a fireproof safe located

at the accommodation premises when the office is not open and saved and backed up electronically off site;

- (xii) not make any changes or alterations to the accommodation premises without prior approval by local government with such application for approval to be submitted in writing in the approved format;
- (xiii) establish and maintain a clearly designated office;
- (xiv) ensure that occupants can contact emergency services at all times;
- (xv) provide shared or communal areas and facilities and maintain such areas and facilities in a good condition to the satisfaction of an authorised person;
- (xvi) provide a set of clean sheets or clean sheet sleeping envelopes to each occupant on arrival at the accommodation premises;
- (xvii) ensure all light fittings and other ceiling and wall projections (including ceiling and wall fans) are provided with safety guards or positioned so as not to be a danger to any occupants of a bedroom in the accommodation premises to the satisfaction of an authorised person;
- (xviii) ensure all rooms are clearly numbered;
- (xix) provide and maintain an adequate supply of potable water for drinking, cooking, cleaning and personal hygiene;
- (xx) for a premises not connected to a town water supply, provide the local government with documentation to demonstrate the private water supply used for any of the accommodation activities conducted on the premises is potable. The documented evidence must be consistent with the potable water parameters listed in Table A, and must be provided to the local government upon request—

**Table A**

Potable water parameters (100 mL sample)	NH&MRC (2011) Health Guidelines
<i>E.coli</i>	The NH&MRC (2011) Guideline is 0 CFU100mL
pH	The NH&MRC (2011) Guideline is pH 6.5 – 8.5
Turbidity	The NH&MRC (2011) Guideline is < 1 NTU, or The NH&MRC (2011) Guideline is < 5 NTU (where there is no disinfection)

- (xxi) implement a Water Management Plan (WMP) for the private water supply of the business. The WMP must include the following—
- A. a description of the water distribution system - e.g. water source, pumps, storage, treatment, pipelines;
  - B. operational procedures for the water distribution system - e.g. inspection and maintenance of pumps, filters and other associated equipment;
  - C. identify hazards - e.g. flood areas, contaminated sites, animal holding/grazing areas, wastewater system, septic tank location;
  - D. document the water supply use for the business - e.g. drinking, food preparation, cleaning and sanitation, clothes washing and irrigation;
  - E. records in association with the management and supply of potable water - e.g. chemical and microbiological testing, servicing and maintenance logs, deliveries from carted water suppliers;
  - F. contingency plans for system failures or insufficient water supply - e.g. warning signs, bottled water, boil water procedures; and
  - G. emergency contacts - e.g. Queensland Health, the local government's Environmental Health Officer or person occupying an equivalent position, plumber, electrician.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the approval holder may be required to—
- (i) provide kitchen, clothes washing, clothes drying, bathroom, rooms, shower and toilet facilities and maintain such facilities in a good condition to the satisfaction of an authorised person;
  - (ii) provide furniture, fittings, equipment and chattels and maintain such items in a good condition to the satisfaction of an authorised person;
  - (iii) ensure that no cooking or facilities for cooking are allowed in any bedroom of the accommodation premises;



- (iv) ensure that sleeping bags are not used to sleep on any bed in the accommodation premises;
  - (v) provide a secure, lockable storage area for the purpose of storing occupants' packs and luggage;
  - (vi) ensure compliance with AS/NZ 4220:2010 Bunk beds and other elevated beds, or any subsequent standard;
  - (vii) ensure that in any bunk, the distance between the surface of—
    - A. the lower bed and the base of the upper bed is at least 87 cm; and
    - B. the upper bed and the ceiling is at least 100 cm;
  - (viii) provide adequate under cover dining room seating for a minimum of 25% of the maximum potential number of occupants at the accommodation premises;
  - (ix) towels and bed linen supplied shall be replaced with clean towels and bed linen before a change of occupancy, or replaced every third day thereafter until occupancy has ceased; and
  - (x) provide the following kitchen facilities at the accommodation premises to enable occupants to prepare a substantial meal—
    - A. one hand wash basin with hot and cold water delivered through a common outlet in each kitchen;
    - B. refrigerator space which is sufficient to meet the reasonable needs of the maximum potential number of occupants at the accommodation premises;
    - C. vermin proof dry food storage space which is sufficient to meet the reasonable needs of the maximum potential number of occupants at the accommodation premises; and
    - D. washing up sinks or dishwashers which are sufficient to meet the reasonable needs of the maximum potential number of occupants at the accommodation premises.
- (b) the approval may state—
- (i) the approved use of the rooms; and
  - (ii) the number of beds that may be placed and the number of persons who may sleep —
    - A. in a specified room in the premises; or
    - B. in the premises as a whole;
- (c) a notice advising of the conditions must be displayed at each public entrance to the shared facility accommodation to which the conditions apply; and

- (d) such other conditions as are considered appropriate by an authorised person, acting reasonably.

**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 19    Operation of temporary entertainment events**

### **Section 11**

#### **1.    Prescribed activity**

Operation of temporary entertainment events.

Example—

Music festival.

#### **2.    Activities that do not require approval under the Authorising local law**

Nil.

#### **3.    Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a)    the additional documents and materials that must accompany an application for an approval are—
  - (i)    any such document, information and materials identified within the relevant approved application form. For example—
    - A.    the details of the proposed event including the type and location of the event;
    - B.    the number of persons invited to or likely to attend the event;
    - C.    a copy of a waste management strategy making provision for the satisfactory collection, storage and removal of all waste generated by the proposed event;
    - D.    confirmation that the applicant has consulted with adjoining land holders to the event and persons in the vicinity of the event who may be affected by the event including noise emanating from the event and the comments received from that consultation;
    - E.    details of the proposed shelter and shape to protect against environmental conditions;
    - F.    confirmation of the ability of the general public to access and use the site concurrently with the proposed event;
    - G.    details of the quality and condition of equipment to be used in the activity;
    - H.    details of how the event will be accessed and in particular any impact upon roads or the use of roads;
    - I.    location of any proposed parking to be used by attendees, including temporary parking;

- J. if the business or activity is to operate from a vehicle—a full description of that vehicle and its registration number; and

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person—
  - (i) the operation of the temporary entertainment venue does not unreasonably detract from the established amenity in the vicinity of the temporary entertainment venue; and
  - (ii) the premises are suitable and convenient for use as a temporary entertainment venue taking into account the type of activity proposed, the numbers of persons expected or likely to attend the premises, the location and appearance of the premises and the means of entry and exit for persons and, where applicable, vehicles;
- (b) the premises comply with the environmental, health and safety standards;
- (c) the use of the temporary entertainment venue complies with the local government's Planning Scheme;
- (d) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles; and
- (e) the application for an approval must be made at least 3 months prior to the event.

#### **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on an approval—

- (a) the temporary entertainment venue must—
  - (i) not generate (or be likely to generate) noise, dust, excessive light or other adverse effects outside the temporary entertainment venue to any significant degree in the opinion of an authorised person (unless such matters may be effectively abated by control measures) to the satisfaction of an authorised person;
  - (ii) provide a sufficient number of sanitary conveniences for both sexes to the satisfaction of an authorised person;
  - (iii) be able to collect and dispose of any refuse generated during the operation and conduct of the activity;
  - (iv) only operate on the dates and times specified on the approval;
  - (v) provide safe pedestrian and vehicular access to and from the site to the satisfaction of an authorised person;
  - (vi) provide appropriate access for emergency vehicles into the site at all times including access to the First Aid Station;

- (vii) the First Aid Station must be attended by a qualified First Aid Officer at all times during the event; and
- (viii) ensure that adequate waste receptacles are placed around the venue to meet the reasonable needs of attendees to the satisfaction of an authorised person; Clean-up of waste must be carried out within 24 hours of the event;
- (b) the event must be conducted generally in accordance with the approved activity specifications, facts and circumstances as set out in the application submitted to the local government;
- (c) the approval holder is to take specific measures to protect the safety of persons who may be involved in, or affected by, the use or activity authorised under the approval. This may include the use of approved safety barricading and signage regarding any fireworks display;
- (d) where the local government incurs costs or expenses in rectifying any damage caused or contributed to by the approval holder or by the conduct of the approved use or activity, the approval holder will pay the amount of those costs or expenses to the local government;
- (e) the approval holder will use the venue for the use / activity stated on the approval and for no other use / activity. The approval does not permit the approval holder to solicit for business or hire equipment on the areas under the control of the local government;
- (f) the approval holder will ensure that no glass or glass receptacles will be used at the venue on the date required;
- (g) all electrical cords, fittings, switches and other electrical equipment will comply with the appropriate Australian Standards and display a current electrical test tag;
- (h) the approval holder is responsible for the security of the venue and the security and safety of any property of the local government in or around the venue;
- (i) the approval holder is to carry the approval during the use or activities and is to produce the approval for inspection by an authorised person;
- (j) the approval holder is required to obtain any other necessary approval, lease, licence or permit under any other Local Law, Act or Regulations that is required for the use or activities and such an approval, lease, licence or permit must remain valid for the period for which it is granted under this section;
- (k) the approval holder must take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy; and
- (l) the approval holder must indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the approval holder or operator of the temporary entertainment venue may be required to—
  - (i) conduct a letter drop to residents in the vicinity of the property pursuant to a map attached to the approval (500 metre radius or some other distance determined by an authorised person). The letter must detail the nature of the event, date, hours of operation and contact details of the event organiser;
  - (ii) collect and dispose of any refuse generated during the operation of the activity;
  - (iii) ensure that food shall only be sold from licensed food premises and temporary food stalls are approved by local government's Public Health Unit.
  - (iv) ensure that a sufficient number of security officers are present at all times during the event for crowd control purposes;
  - (v) provide an adequate number of toilets to meet the reasonable needs of all attendees and staff to the satisfaction of an authorised person;
  - (vi) ensure that all toilets are to be maintained in a sanitary state during the event to the satisfaction of an authorised person;
  - (vii) ensure that pyrotechnics displays are carried out by an individual or corporation with the appropriate fireworks licence issued by the relevant statutory body or government department. A current public liability policy must also cover the approval holder, operator and local government in the sum determined by the local government;
  - (viii) ensure that the stage, including lighting and sound towers, are erected by suitably qualified persons;
  - (ix) ensure that all temporary electrical work is carried out in accordance with relevant Australian Standards or Industry Codes of Practice and a copy of any required certification is to be forwarded to the local government; and
  - (x) provide an approved traffic management plan prepared in accordance with all applicable laws.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 20 Undertaking regulated activities regarding human remains— (a) disturbance of human remains buried outside a cemetery**

### **Section 11**

#### **1. Prescribed activity**

Undertaking regulated activities regarding human remains— (a) disturbance of human remains buried outside a cemetery.

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) a written statement of reasons for the proposed exhumation;
  - (ii) an explanation of the applicant's relationship (if any) to the deceased;
  - (iii) written confirmation from a recognised undertaker that he or she is prepared to carry out the exhumation;
  - (iv) written consent to the proposed exhumation by the nearest living relative to the deceased;
  - (v) a certified copy of the death certificate;
  - (vi) in the case of exhumation for the purposes of reinterment—details of the new burial place where reinterment is to take place; and
  - (vii) in the case of exhumation for the purposes of cremation—a completed declaration in accordance with the provisions of the *Cremations Act 2003* and the written approval of Queensland Health.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether the human remains have been buried for not more than 3 days or not less than 12 months; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on approvals—

- (a) the disturbance of the human remains must only be carried out by a recognised undertaker.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the local government may—
  - (i) require the approval holder, its contractors or agents to—
    - A. give notice to the local government of the disturbance of human remains to enable an authorised person to enter the land and inspect the grave;
    - B. remove all markers or means of identification on or around the grave if the human remains are removed from the grave and dispose of appropriately; and
    - C. provide the local government with confirmation of the disturbance of human remains within 14 days of the event;
  - (ii) stipulate the day on which the disturbance of human remains may be performed; and
  - (iii) stipulate the hours between which the disturbance of human remains may be performed.

## **7. Term of approval**

Not applicable.



## **Schedule 21 Undertaking regulated activities regarding human remains— (b) burial or disposal of human remains outside a cemetery**

Section 11

### **1. Prescribed activity**

Undertaking regulated activities regarding human remains— (b) burial or disposal of human remains outside a cemetery.

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

Nil.

### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) details of the burial site or other place in which the remains are to be buried or placed;
  - (ii) details of when and how the remains are to be disposed of; and
  - (iii) the written consent of the owner of, and anyone else with a registered interest in, the land on which the remains are to be buried or placed.

### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person there is a special family, personal or historical association between the deceased person and the place at which it is sought to bury the body of that person; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

### **5. Conditions that must be imposed on approvals**

The following conditions are conditions that must be imposed on an approval—

- (a) the approval holder, its contractors or agents are required to give notice to the local government of the preparation of the grave to enable an authorised person to enter the land and inspect the grave before the burial; and
- (b) the local government may—
  - (i) stipulate the day on which the burial may be performed; and
  - (ii) stipulate the hours between which the burial may be performed; and

- (iii) regulate the manner of the preparation of the grave.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the approval holder, its contractors or agents may be required to supply the Global Positioning System (GPS) coordinates of the grave to the local government, so that the details of the deceased person can be placed on the property record; and
- (b) the local government may require the approval holder, its contractors or agents to erect a marker or means of identification on or around the grave and stipulate the information required to be recorded on it.

## **7. Term of approval**

Not applicable.

## **Schedule 22 Undertaking regulated activities regarding human remains— (c) disturbance of human remains in a local government cemetery**

### **Section 11**

#### **1. Prescribed activity**

Undertaking regulated activities regarding human remains— (c) disturbance of human remains in a local government cemetery

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) a written statement of reasons for the proposed exhumation;
  - (ii) an explanation of the applicant's relationship (if any) to the deceased;
  - (iii) written confirmation from a recognised undertaker that he or she is prepared to carry out the exhumation;
  - (iv) written consent to the proposed exhumation by the nearest living relative to the deceased;
  - (v) a certified copy of the death certificate;
  - (vi) in the case of exhumation for the purposes of reinterment—details of the new burial place where reinterment is to take place; and
  - (vii) in the case of exhumation for the purposes of cremation—a completed declaration in accordance with the provisions of the *Cremations Act 2003* and the written approval of Queensland Health.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether the human remains have been buried for not more than 3 days or not less than 12 months; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) the approval holder, its contractors or agents are required to—
  - (i) remove any monuments on the existing grave and dispose of appropriately in the opinion of an authorised person;
  - (ii) ensure that the coffin, body, ashes or other remains disinterred are removed under the supervision and to the satisfaction of the local government;
  - (iii) ensure that the grave is opened and closed by the local government; and
  - (iv) ensure that exhumation to be carried out by a recognised undertaker.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such conditions that an authorised person considers appropriate. For example—

- (a) the local government may—
  - (i) regulate the manner of preparation of the grave;
  - (ii) stipulate the day on which the disturbance of human remains may be performed; and
  - (iii) stipulate the hours between which the disturbance of human remains may be performed.

## **7. Term of approval**

Not applicable.

## **Schedule 23 Undertaking regulated activities on local government controlled areas and roads— (a) driving or leading of animals to cross a road**

### **Section 11**

#### **1. Prescribed activity**

Undertaking regulated activities on local government controlled areas and roads— (a) driving or leading of animals to cross a road.

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

The following activities do not require approval under the authorising local law—

- (a) leading of horses across a road by a member of a horse or pony club;
- (b) where no more than 2 animals are being led by a single person; or
- (c) where the animals are being led or driven pursuant to an approval to operate commercial recreation activity.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) details of how the applicant plans to carry out the activity and the regularity and duration of the activity;
  - (ii) details of the location where the activity will be carried out by way of plan or drawing and showing the location of any warning notices for the safety of road users; and
  - (iii) details of the type and number, or approximate number of animals that will be involved.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person, the leading of animals would not unduly interfere with the proper use of the road, or create a safety hazard for users of the road; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) restrict the times of day that animals may be led across the road;

- (b) restrict the number of animals that may be driven or led across the road;
- (c) require compliance with safety requirements specified by an authorised person; and
- (d) require the approval holder to exhibit specified warning notices and to take other precautions specified by an authorised person for the safety of users of the road or area.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such conditions that an authorised person considers appropriate. For example—

- (a) the approval holder, its contractors or agents may be required to—
  - (i) take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy; and
  - (ii) indemnify the local government against all claims and liability, including claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity.

## **7. Term of approval**

The term of approval is the term stated in the approval.

## **Schedule 24 Undertaking regulated activities on local government controlled areas and roads— (b) depositing or encroachment of goods or materials**

### Section 11

#### **1. Prescribed activity**

Undertaking regulated activities on local government controlled areas and roads— (b) depositing or encroachment of goods or materials.

Example—

Construction or placing of hoarding, installation of scaffolding, and construction of awnings over footpaths; depositing of construction material such as bricks, timber, containers, skips etc.

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for approval—

- (a) any such document, information and materials identified within the relevant approved application form.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person the activity—
  - (i) significantly detracts from the capacity of the road to provide a vehicular and where relevant pedestrian thoroughfare;
  - (ii) constitutes a nuisance or a danger to any person or property;
  - (iii) obstructs access from the footway to kerbside parking;
  - (iv) adversely effects the amenity of the area or the environment; and
  - (v) adversely affects the existing services located in, along, over or adjacent to a road; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) the location of such works or activity;
- (b) hours of operation;
- (c) the approval holder, its contactors or agents are required to—
  - (i) specify the location of such works or activities and the hours of operation;
  - (ii) ensure unobstructed movement of vehicles and pedestrians;
  - (iii) take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
  - (iv) indemnify the local government against all claims and liability, including claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the works or activity;
  - (v) observe standards specified by the local government in the carrying out of the works or activity;
  - (vi) ensure safety of pedestrians and vehicles including but not limited to the safe temporary diversion of traffic, erection of warning lights and barricades to the satisfaction of an authorised person;
  - (vii) specify a deadline for completion of the works or ceasing of the activity; and
  - (viii) reinstate the road to the satisfaction of an authorised person following completion of the works or ceasing of the activity.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such conditions that an authorised person considers appropriate. For example—

- (a) the approval holder, its contactors or agents may be required to lodge security for performance of any requirement under this local law or any condition of approval.

## **7. Term of approval**

The term of approval is the period stated on the approval.



## **Schedule 25 Undertaking regulated activities on local government controlled areas and roads— (c) holding of a public place activity prescribed by subordinate local law**

### **Section 11**

#### **1. Prescribed activity**

Undertaking regulated activities on local government controlled areas and roads— (c) holding of a public place activity prescribed by subordinate local law, excluding the operation of a temporary entertainment event.

Example—

The following are public place activities that are prescribed activities that are regulated under section 11—

- (a) distribution of business advertising publications—
  - (i) if a business publication is distributed in a public place, the following persons are taken to have distributed the business advertising publication any person who actually distributes the business advertising publication;
- (b) any operator or person in control of a business, commercial, trade activity or premises publicised by the distribution of the business advertising publication, touting or soliciting—
  - (i) if touting is conducted in a public place, the following persons are taken to have touted—
    - A. any person who actually touts; and
    - B. any operator or person in control of a business, commercial, trade activity or premises publicised by the touting;
- (c) activities or conduct including—
  - (i) commercial filming and photography for which a Development Application is not required under the local government's Planning Scheme;
  - (ii) any fundraising activity including a street stall, cake stall, sausage sizzle, car wash or similar held on no more than 1 consecutive day;
  - (iii) busking;
  - (iv) organised social or community events that involve amplified music and/or the erection or inflation of a temporary structure which is either greater than 10m<sup>2</sup> in area or greater than 3m in height;
  - (v) an invitation-only ceremony, party or celebration attended by 50 or more people;

- (vi) the occupation and use of a particular part of a park or reserved by a sporting association or recreational group on a regular or recurring basis;
- (vii) commercial low use activity, for example fitness activity;
- (viii) research and scientific investigation;
- (ix) life saving competition or training or other aquatic activity held on more than 2 consecutive days;
- (x) public meeting, public demonstration or public address;<sup>3</sup>
- (xi) public education information and interest display or events;
- (xii) use of aquatic equipment including ships and motorised water craft in a bathing reserve;
- (xiii) helicopter or light aircraft landings on Council controlled areas; and
- (xiv) use of ultralight hang gliders, paragliders or similar.

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

An approval under the authorising local law is not required for a cake stall, car wash, raffle stall or similar fundraiser where—

- (a) the activity is on a footpath adjacent to a road, other than on a median strip;
- (b) the activity involves no furniture other than 1 table with a maximum diagonal length of 2 metres and 2 chairs;
- (c) there is a 2 metre unobstructed pedestrian access maintained at all times;
- (d) there is no handling or sale of unpackaged food; and
- (e) there is no sale of live animals.

## **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form.

## **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person—
  - (i) the activity will not unduly interfere with the usual use and enjoyment of the area or road;

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<sup>3</sup> Subject to section 5 of the *Peaceful Assembly Act 1992* (Qld).

- (ii) that the operation of the activity can be lawfully conducted on the site;
- (iii) the operation of the activity does not unreasonably detract from the established amenity in the vicinity of the public place;
- (iv) the premises are suitable and convenient for use for the prescribed activity taking into account the type of activity proposed, the numbers of persons expected or likely to attend the premises, the location and appearance of the premises and the means of entry and exit for persons and, where applicable, vehicles;
- (v) the activity complies with the environmental, health and safety standards;
- (vi) the activity complies with the local government's Planning Scheme;
- (vii) the activity will not generate significant noise, dust or light pollution, or other significantly adverse effects on the surrounding neighbourhood;
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles; and
- (c) any other condition the local government in its sole discretion, acting reasonably, deems appropriate.

## **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) conduct the activity only on the days and times, and at the specific locations or areas, specified in the approval;
- (b) display the approval in the way stated in the approval and produce the approval for inspection on demand by an authorised person;
- (c) comply with measures specified in the approval to protect the safety of persons who may be involved in, or affected by, the activities authorised by the approval;
- (d) comply with measures specified in the approval to ensure that the activities authorised by the approval do not cause a nuisance to other users of the public place or adjoining landholders;
- (e) maintain a defined access point for emergency vehicles at all times;
- (f) pay any rental specified in the approval to the local government;
- (g) maintain the area where the activity takes place in clean, tidy and orderly condition;
- (h) if the activity involves use of a footpath—maintain a clear unobstructed pedestrian corridor of not less than 2 metres or, in the case of high usage footpaths, the distance greater than 2 metres stipulated in the approval;
- (i) comply with relevant workplace health and safety requirements;

- (j) take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
- (k) indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity;
- (l) the approval holder is to take specific measures to protect the safety of persons who may be involved in, or affected by, the use or activity authorised under the approval;
- (m) the approval holder is required to remove any rubbish created by the use or activity, and to ensure that the area used is kept in the same condition as before the use or activity commenced;
- (n) where the local government incurs costs or expenses in rectifying any damage caused or contributed to by the approval holder or by the conduct of the approved use or activity, the approval holder will pay the amount of those costs or expenses to the local government;
- (o) the approval holder will use the venue for the use or activity stated on the approval and for no other use or activity;
- (p) the use or activity authorised under the approval is restricted to the specified days and times;
- (q) the approval holder will ensure that no glass or glass receptacles will be used at the venue on the date required;
- (r) must comply with the appropriate Australian Standards and display a current electrical test tag;
- (s) the approval holder is responsible for the security of the venue and the security and safety of any property of the local government in or around the venue;
- (t) for events or activities on foreshores, the booking is for a maximum period of 2 hours, unless otherwise stated by the local government in the approval;
- (u) for events or activities at Little Cove—
  - (i) the equipment and structures at Little Cove are limited to 30 single seats, 1 table and 1 aisle runner;
  - (ii) no amplified music is permitted; and
  - (iii) the booking is for a maximum period of 2 hours, unless otherwise stated by the local government in the approval;
  - (iv) the amenity of residents is not to be disturbed or adversely impacted upon whether by noise or any other manner;
  - (v) site set up and pack down is not to commence before 7.00 am on weekdays and 9.00 am on weekends;

- (vi) all amplified music is to cease by 10.00 pm and packing up of equipment on parks, reserves and foreshores is to be completed by 11.00 pm.
  - (vii) the approval holder must ensure all noise standards under local laws or other laws are complied with;
  - (viii) the approval holder is required to obtain any other necessary approval, lease, licence or permit under any other local law, Act or Regulation that is required for the use or activities;
  - (ix) the approval holder must produce the approval for inspection on demand by an authorised person; and
  - (x) the local government reserves the right to cancel any road, park, reserve, foreshore or sports field booking at any time for any reason including safety aspects of the location. If a cancellation occurs, the local government will endeavour to inform the approval holder and a refund of any fees paid may be negotiated with the local government.
- (v) For an approval to carry out a formal or organised sporting or recreation activity—
- (i) the event must be conducted generally in accordance with the approved activity specifications, facts and circumstances as set out in the application submitted to the local government;
  - (ii) the use or activity authorised under the approval is restricted to the specified days and times;
  - (iii) the approval holder is to ensure that the use or activity authorised under the approval does not cause a nuisance;
  - (iv) the approval holder is to take specific measures to protect the safety of persons who may be involved in, or affected by, the use or activity authorised under the approval. This may include the use of approved safety barricading and signage;
  - (v) the approval holder is required to remove any rubbish created by the use or activity, and to ensure that the area used is kept in the same condition as before the use or activity commenced;
  - (vi) the approval holder must ensure the first aid station is attended by a qualified first aid officer during the operation and conduct of the activity;
  - (viii) the approval holder must ensure access points and or routes for emergency vehicles are clearly identified and unobstructed during the operation and conduct of the activity;
  - (ix) where the local government incurs costs or expenses in rectifying any damage caused or contributed to by the approval holder or by the conduct of the approved use or activity, the approval holder will pay the amount of those costs or expenses to the local government;

- (x) all electrical cords, fittings, switches and other electrical equipment will comply with the appropriate Australian Standards and display a current electrical test tag;
- (xi) the approval holder is to carry the approval during the use or activities and is to produce the approval for inspection on demand by an authorised person;
- (xii) the approval holder is required to obtain any other necessary approval, lease, licence or permit under any other Local Law, Act or Regulations that is required for the use or activities;
- (xiii) the approval holder must take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy; and
- (xiv) the approval holder must indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such conditions that an authorised person, acting reasonably, considers appropriate.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 26 Bringing or driving motor vehicles onto local government controlled areas**

### **Section 11**

#### **1. Prescribed activity**

Bringing a motor vehicle onto or driving a motor vehicle on a place that is—

- (a) within a local government controlled area; and
- (b) not within a motor vehicle access area.

(Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018, section 6(2)).

Example—

Bringing a vehicle into a park (other than on a road) for a social or community event.

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

Access to a local government controlled area by an authorised contractor for the purposes of repairing or maintaining a local government facility.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) the make, model and registration number of the motor vehicle to be driven;
  - (ii) the date and time and duration of bringing the motor vehicle onto the area;
  - (iii) the parts of the area where the motor vehicle will be driven; and
  - (iv) full details of the reasons for bringing the prohibited vehicle onto the area.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether the vehicle access is required for—
  - (i) construction, repair and maintenance work within the local government controlled area;
  - (ii) access to a temporary entertainment venue for which the applicant has received approval under another local law;

- (iii) the purposes of commercial use of the local government controlled area for which the applicant has received approval under another local law; and
  - (iv) holding a celebration, ceremony or competition for which the applicant has received approval under another local law.
- (b) whether access by the vehicle will—
  - (i) unduly interfere with the usual use and enjoyment of the area;
  - (ii) impact on the natural resources and native wildlife of the area;
  - (iii) cause damage to the area; and
  - (iv) generate significant noise or dust or other significantly adverse effects on the surrounding neighbourhood or other users of the area; and
- (c) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) the approval will be valid only for the dates specified in the approval;
- (b) the approval will be valid only for the specific vehicle or type of vehicle specified in the approval;
- (c) the approval is not transferable;
- (d) the approval holder will strictly comply with any speed limits specified in the approval;
- (e) the approval holder will comply with any restrictions specified in the approval regarding of the parts of the local government controlled area that may be accessed by vehicle and notwithstanding any contrary restrictions in the area;
- (f) the approval must be displayed on the dashboard of the vehicle while it is within the local government controlled area;
- (g) the approval holder must ensure the safety of other users of the local government controlled area arising from the carrying out of the approved activity;
- (h) the approval holder must give at least 24 hours notice of the vehicle access to affected neighbours of the area; and
- (i) the approval holder will be liable to pay to the local government the cost of rectifying any significant damage caused by the use of the vehicle in the area to the satisfaction of an authorised person.



**6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate.

**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 27    Bringing or driving prohibited vehicles onto motor vehicle access areas**

Section 11

Intentionally left blank

## **Schedule 28 Use of bathing reserves for training, competitions etc.**

### **Section 11**

#### **1. Prescribed activity**

To—

- (a) set apart a bathing reserve or a part of a bathing reserve for life-saving training on an exclusive basis; or
- (b) use any part of a bathing reserve for the conduct of a surfing competition, a life-saving competition or another aquatic activity. (*Local Law No. 6 (Bathing Reserves) 2018*, section 10(1)).

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) details of the activity proposed by the applicant;
  - (ii) details of any adverse environmental impact the proposed activity is likely to have on the bathing reserve;
  - (iii) details of any adverse impact the proposed activity is likely to have on the area surrounding the bathing reserve;
  - (iv) details of how and when existing facilities in the bathing reserve will be used for the purposes of the activity proposed in the application;
  - (v) details of measures to be taken by the applicant to ensure that the proposed activity is not likely to have an adverse impact on the safety of persons who participate in the activity or the general public;
  - (vi) details of all equipment the applicant proposes to use; and
  - (vii) details of the commencement and duration of the proposed activity;
  - (viii) a site plan of the area of the competition or activity, including car parks; and
  - (ix) if the activity involves fireworks—
    - A. a fireworks site plan identifying location and safety distances; and

- B. a current copy of the insurance policy (minimum of \$20,000,000) and shotfirer's licence for the fireworks display company.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person—
  - (i) the activity is appropriate in the bathing reserve; and
  - (ii) the facilities in the bathing reserve are adequate for the activity proposed in the application; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) the approval holder must take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
- (b) the approval holder must indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity;
- (c) where applicable, a Certificate of Company Registration must be submitted to local government within 14 days from the date the approval is granted;
- (d) the activity must only be carried out in the location specified in the approval;
- (e) the approval does not provide the approval holder with any exclusive rights to undertake the activity at the approved sites;
- (f) the activity must only be conducted during the hours specified in the approval;
- (g) only approved equipment is to be used with the activity;
- (h) all reasonable and practicable steps are to be used to ensure that staff and customers access the approved activity area by the designated access and egress points; and
- (i) the approval holder must comply with all reasonable directions given by the local government or an authorised person regarding the use of any roads, jetties, foreshores or other means of accessing the approved activity area.

#### **6. Conditions that may be imposed on approvals**

For all applications, the conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate.

**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 29      Use of Moorings**

### **Section 11**

#### **1.      Prescribed activity**

Mooring a ship in a boat harbour.

Example—

Mooring a ship to a local government managed pile mooring in the Port Douglas Boat Harbour.

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

Nil

#### **3.      Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such documents, information and materials identified within the relevant approved application form. For example—
  - (i) full details of the location of the mooring;
  - (ii) full details of the ship to be moored including registered owner and boat licence;
  - (iii) the proposed start date and end date for the mooring under the approval.

#### **4.      Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) that the proposed activity complies with all other relevant legislation, regulations, standards and local laws; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5.      Conditions that must be imposed on approvals**

The following conditions must be imposed on an approval—

- (a) the approval holder must:
  - (i) be the registered owner of the ship;
  - (ii) notify the local government in writing of any change to the approval holder's address and contact telephone number, or changes to the ship's registration or insurance details within 48 hours of the change;

- (iii) ensure that the ship is maintained in a safe condition at all times, and that it does not adversely affect the safety or amenity of any other user of the moorings, any other ship, or any other property;
  - (iv) properly secure, in the opinion of an authorised person, all lines, rigging, halyards and loose fittings on the ship;
  - (v) comply with Maritime Safety Queensland's Extreme Weather Event Contingency Plan – Port Douglas;
  - (vi) adhere to relevant safety standards and the local government's policies as applicable and amended from time to time;
  - (vii) take out public liability insurance in an amount of at least \$20,000,000 where directed to do so by the local government or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
  - (viii) indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising directly or indirectly from or in any way associated with the mooring of the approval holder's ship, or the approval holder's use of the mooring, except to such extent that the local government's own negligence has caused or contributed to the same;
  - (ix) give the local government written notice of any damage, loss or injury to the mooring, any person, ship or property located in the boat harbour caused or contributed to by the approval holder, the approval holder's ship, or any agent or invitee of the approval holder, within 48 hours of the damage occurring; and
  - (x) immediately remove the ship from the mooring on the termination, suspension or cancellation of the approval.
- (b) The approval holder must not:
- (i) cause, permit or suffer any boom, spar or other projection to be rigged out of its stowed position so that it extends for a distance in excess of 1 metre from the side of the ship;
  - (ii) interfere with any fitting or appliance for any other purpose other than that for which such fitting or appliance is provided;
  - (iii) operate, manoeuvre, moor, anchor or sail a ship so as to create a danger, obstacle, impediment or inconvenience to others;
  - (iv) double moor or double up ships on a mooring;
  - (v) tie up or fasten ships to trees, markers, light poles, signage or anything other than an approved mooring;
  - (vi) discharge ship toilets, sinks and showers into the boat harbour;
  - (vii) carry out major boat maintenance, repairs, sanding, grinding, painting or refitting whilst a ship is moored in the boat harbour;

- (viii) not sub-let the mooring;
  - (ix) comply with all reasonable directions of an authorised person in the time specified by the authorised person; or
  - (x) allow any activity or thing on or near the mooring which may be illegal, a nuisance, disturbance or annoyance to any person;
- (c) only the named ship is authorised to be moored at the mooring under the approval;
  - (d) the registration number, if applicable, and the current registration label of the ship is to be clearly displayed on the ship at all times;
  - (e) the approval may not be transferred to third party in relation to another ship;
  - (f) the local government may approve the transfer of the approval in the event of a change of ownership of the ship, to the new owner of the ship. Any such application for transfer shall be lodged with the local government by the approval holder within 28 days of registration of the change of ownership of the ship;
  - (g) the local government may approve the transfer of the approval in the event a ship to which a mooring approval relates is sold or disposed of and the approval holder acquires another ship. Any such application for transfer shall be lodged with the local government by the approval holder within 28 days of the sale or disposal, must name the new ship and only be granted on condition that the mooring is of suitable dimensions for the new ship;
  - (h) if the approval holder proposes to vacate the mooring for a period exceeding 28 days, the approval holder shall notify the local government in writing of the period during which the mooring will be vacant. If the local government deems it appropriate, the local government may grant approval to another person to use the mooring for the intervening time period;
  - (i) The local government gives no warranty expressed or implied as to the adequacy or safety of the mooring. The approval holder uses the mooring at their own risk and further, the local government does not warrant that the mooring facility is safe in heavy, cyclonic, flood, tidal surge or other extreme weather conditions;
  - (j) if a moored ship is damaged or sinks, the approval holder is responsible for removing/salvaging the ship and for the clean up of any debris, spillage of fuel or other liquids from the ship;
  - (k) the approval holder will comply with all lawful directions of an authorised person, police officer or harbour master which may include notification to remove the ship in the event of emergency, moorings maintenance or dredging operations;
  - (l) the local government will not be liable for any cost or expense incurred by the approval holder complying with a direction of an authorised person to move a ship. Such costs or expenses may include the cost of alternative mooring, berthing or anchorage arrangements for the duration of any emergency, maintenance or dredging operations; and



- (m) the approval holder must ensure the amenity of the surroundings and other occupiers is not adversely impacted by noise including, but not limited to excessively noisy running engines, motors and/or generators. Noise levels from ships are not to exceed those levels which apply to a residential area

**6. Conditions that may be imposed on approvals**

For all approvals, the conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate.

**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 30     Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee**

### **Section 11**

#### **1.     Prescribed activity**

Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee (Transport Operations (Road Use Management) Act 1995, section 103(4)(a)(ii)).

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

Nil.

#### **3.     Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a)     any such document, information and materials identified within the relevant approved application form. For example—
  - (i)     location where the parking permit will apply and the reason why a permit is required;
  - (ii)    period of time for which a permit is sought; and
  - (iii)   details about the vehicle, such as registration number, vehicle make and type.

#### **4.     Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a)     whether the approval—
  - (i)     is for a designated parking space where parking is restricted to permit parking;
  - (ii)    is for a regulated parking area contrary to an indication by an official parking sign;
  - (iii)   is needed because access to nearby premises is restricted or difficult;
  - (iv)    relates to parking if building or construction work is being conducted or proposed at nearby premises; and
  - (v)    relates to parking that is needed for a special event, festival or public assembly; and
- (b)     that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) the holder of an approval or the owner of the vehicle must return the identification label to the local government within 3 days after the expiration or revocation of the approval; and
- (b) the approval holder must display the identification label prominently on the left hand side front of the vehicle affixed in close proximity to the vehicle registration label.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the vehicle specified in the approval is used within local government area wholly or substantially for business or commercial purposes;
- (b) the approval is valid within the local government area only;
- (c) the local government may amend any condition of the approval subject to reasonable notification to the approval holder at any such time it is deemed necessary in the opinion of an authorised person;
- (d) Parking bay approval—
  - (i) the approval holder is authorised to park only in the numbered bay to which they have been allocated;
  - (ii) the approval allows 24 hour, 7 days a week access to the parking bay;
  - (iii) cancellation of a reserved bay must be made in writing at least one month prior to cancellation. The identification label must be destroyed by the approval holder within 3 days after the cancellation; and
  - (iv) the approval may specify a designated area for the permit holder to park within;
- (e) Business parking approval—
  - (i) a vehicle displaying a business permit may park in a metered or pay and display or regulated bays within the local government area only;
  - (ii) parking in a loading zone, no standing zone, no stopping zone, no parking zone, bus zone, taxi zone, emergency vehicle zones or disabled bays is not permitted;
  - (iii) business permit does not guarantee the availability of parking bays when a vehicle is moved out of a parking bays; and
  - (iv) a vehicle displaying a business permit must not park adjacent or in close proximity to a business of a similar nature for no longer than a 30 minute period of any given day;

(f) Residential parking approval—

- (i) a vehicle displaying a residential permit may park in a metered or pay and display, or regulated bays within the local government area only;
- (ii) parking in a loading zone, no standing zone, no stopping zone, no parking zone, bus zone, taxi zone, emergency vehicle zones or disabled bays is not permitted; and
- (iii) residential permit will not guarantee the availability of parking bays when a vehicle is moved out of a parking bays.

**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 31     Parking in a loading zone by displaying a commercial vehicle identification label**

### **Section 11**

#### **1.     Prescribed activity**

Parking in a loading zone by displaying a commercial vehicle identification label (Transport Operations (Road Use Management) Act 1995, section 103(5)).

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

Nil.

#### **3.     Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) full details of the proposed alteration or improvement;
  - (ii) full details of building or other work to be carried out under the approval;
  - (iii) the proposed commencement date and completion date for the construction of the building or other work to be carried out under the approval;
  - (iv) details of any impact upon traffic or pedestrian movement, and how any impacts will be managed or addressed;
  - (v) details regarding compliance with relevant standards such as Australian Standards or industry codes of practice; and
  - (vi) if the applicant is not the owner of land adjoining the proposed site for the works, the adjoining land holder's consent.

#### **4.     Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether the approval is required for demonstrated business purposes; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5.     Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) a vehicle displaying a commercial vehicle identification label may park in a commercial loading zone for the purpose of loading or unloading for up to a maximum of 20 minutes unless otherwise stated;
- (b) when not parking in a loading zone, a commercial vehicle must comply with all applicable parking requirements;
- (c) the vehicle identification label must be affixed securely to the inside of the windscreen so it is clearly visible to a person outside the vehicle; and
- (d) the holder of a commercial vehicle approval must return the identification label to the local government within 3 days after expiration or revocation of the approval.

**6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that authorised person considers appropriate.

**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 32 Carrying out works on a road or interfering with a road or its operation**

### Section 11

#### **1. Prescribed activity**

Carrying out works on a road or interfering with a road or its operation (Local Government Act 2009, section 75(2)).

Example—

Deposit of material on a road, repair of a driveway, footpaths, kerb and channel or other works on a road including that which may require for example traffic/pedestrian traffic management plan, or the placing of skip bins on the verge or road.

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) full details of the proposed interference, alteration or improvement;
  - (ii) full details of interference, building or other work to be carried out under the approval;
  - (iii) the proposed commencement date and completion date for the interference, construction of the building or other work to be carried out under the approval;
  - (iv) details of any impact upon traffic or pedestrian movement, and how any impacts will be managed or addressed;
  - (v) details regarding compliance with relevant standards such as Australian standards or industry codes of practice; and
  - (vi) if the applicant is not the owner of land adjoining the proposed site for the works, the adjoining land holder's consent.

#### **4. Additional criteria for the granting of approval**

The following criteria are additional criteria for the granting of an approval—

- (a) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles; and

#### **5. Conditions that must be imposed on approvals**

The following conditions are the conditions that must be imposed on an approval—

- (a) the interference, works or activity must not in the opinion of an authorised person significantly detract from the capacity of the road to provide a vehicular and, where relevant, pedestrian thoroughfare;
- (b) the interference, works or activity must not in the opinion of an authorised person significantly cause a nuisance or danger to any person or property;
- (c) the interference, works or activity must not in the opinion of an authorised person significantly obstruct access from the footway to kerbside parking;
- (d) the interference, works or activity must not in the opinion of an authorised person adversely effect the amenity of the area or the environment; and
- (e) the interference, works or activity must not in the opinion of an authorised person adversely effect existing services located in, on, over or adjacent to a road.

#### **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such conditions that an authorised person considers appropriate. For example—

- (a) location of such interference, works or activity;
- (b) measure to ensure unobstructed movement of vehicles and pedestrians;
- (c) duration or hours of operation;
- (d) the approval holder must take out public liability insurance in an amount of at least \$20,000,000 where required to do so by the local government or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
- (e) the approval holder must indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity;
- (f) lodgement of security for performance in amount determined by an authorised person;
- (g) specification of a deadline for completion of the works or ceasing of the activity;
- (h) standards to be observed in the carrying out of the works or activity;
- (i) reinstatement of the road to the satisfaction of an authorised person following completion of the works or ceasing of an activity; and
- (j) requirements to ensure safety of pedestrians and vehicles including but not limited to the safe temporary diversion of traffic, erection of warning lights and barricades to the satisfaction of an authorised person.



**7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 33 Installation and operation of gates and grids**

### Section 11

#### **1. Prescribed activity**

Installing a gate or a grid, or a gate and a grid, across a road.

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 approval under the authorising local law**

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) if the installation of a grate or a grid, or a gate and a grid is proposed—
  - (i) a plan detailing the design of the proposed gate or grid, or gate and grid, including all dimensions, alignments and structural elements;
  - (ii) a plan identifying the location within the road of the proposed gate or grid, or gate and grid; and
  - (iii) particulars of all warning or similar signage proposed to be erected by the applicant.
- (b) if a gate or grid, or a gate and grid, are installed across a road—
  - (i) a plan detailing the design of the gate or grid, or gate and grid, including all dimensions, alignments and structural elements; and
  - (ii) a plan identifying the location within the road of the gate or grid, or the gate and the grid; and
  - (iii) details of all warning or similar signage erected about the gate or grid, or the gate and the grid.
- (c) if the gate or grid, or the gate and the grid, are proposed to be installed across a road—
  - (i) details of the time when the prescribed activity will be undertaken;
  - (ii) the proposed term of the approval;
  - (iii) the impact, if any, of the prescribed activity on pedestrian or vehicular traffic; and
  - (iv) the materials, equipment and vehicles to be used in the undertaking of the prescribed activity.

#### **4. Additional criteria for the granting of approval**

The following criteria are additional criteria for the granting of an approval—

- (a) the prescribed activity must not result in—
  - (i) harm to human health or safety, including the safety of vehicular or pedestrian traffic;
  - (ii) property damage or loss of amenity;
  - (iii) nuisance;
  - (iv) unreasonable obstruction of vehicular or pedestrian traffic;
  - (v) unreasonable prejudice to the proper maintenance of a road;
  - (vi) environmental harm; or
  - (vii) environmental nuisance; or
  - (viii) adversely affect the amenity of the area in which the prescribed activity is to be undertaken.

#### **5. Conditions that must be imposed on approvals**

No conditions prescribed.

#### **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) the approval holder is to take specified measures to—
  - (i) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity;
  - (ii) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
  - (iii) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic.
- (b) 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—
  - (i) require compliance with specified safety requirements;
  - (ii) regulate the time within which the installation of the gate or the grid, or the gate and the grid, must be carried out;
  - (iii) specify standards with which the installation of the gate or the grid, or the gate and the grid, must comply;

- (iv) require the approval holder to—
- A. carry out specified additional work such as earthwork and drainage work;
  - B. take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
  - C. indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity;
  - D. 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;
  - E. maintain structures erected or installed or vegetation planed, under the approval, in good condition;
  - F. clear and maintain the road in the vicinity of the gate or the grid, or the gate and the grid, (including the destruction of plans and vegetation);
  - G. remove a gate, grid or structure erected or installed, under the approval, at the end of a stated period;
  - H. remove a gate, grid or structure erected or installed under the approval, if the gate, grid or structure—
    - I. is not effective for its intended purpose;
    - II. is causing a nuisance, or poses a risk of a nuisance; or
    - III. constitutes an actual, or potential safety hazard;
  - I. 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;
  - J. maintain the road, for a distance of 10 metres 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—
    - I. so that vehicular and pedestrian traffic is not impeded or obstructed; and
    - II. to prevent or minimise the risk of personal injury or damage to property;
  - K. exhibit specified signage warning about the conduct of the prescribed activity on the road; and

- L. take specified measure 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.
- (c) 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—
  - (i) require compliance with specified safety requirements;
  - (ii) require the approval holder to—
    - A. carry out specified work such as earthworks and drainage work;
    - B. take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy;
    - C. indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in consequence or arising out of the activity; maintain the gate or the grid, or the gate and the grid, in accordance with the standard plans and specifications;
    - D. maintain structures erected or installed, or vegetation planed, under the approval, in good condition;
    - E. clear and maintain the road in the vicinity of the gate or grid, or the gate and the grid (including the destruction of plants and vegetation);
    - F. remove a gate, grid or structure identified in the approval, at the end of a stated period;
    - G. remove a gate, grid or structure identified in the approval if the gate, grid or structure—
      - I. is not effective for its intended purpose;
      - II. is causing a nuisance, or poses a risk of a nuisance; or
      - III. constitutes an actual, or potential safety hazard;
    - H. 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;
    - I. maintain the road, for a distance of 10 metres 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—

- I. so that vehicular and pedestrian traffic is not impeded or obstructed; and
- II. to prevent or minimise the risk of personal injury or damage to property; and
- III. exhibit specific signage warning about the conduct of the prescribed activity on the road.

## 7. Term of approval

The term of approval is the period stated on the approval.

## 8. 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
The structural adequacy of the design of the gird to accommodate anticipated vehicle loadings.		A professional engineer who is registered under the <i>Professional Engineers Act 2002</i> .

## **Schedule 34      Operation of a pet shop, cattery or kennel**

### **Section 11**

#### **1.      Prescribed activity**

Operation of a pet shop, cattery or kennel.

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

Intentionally left blank.

#### **3.      Documents and materials that must accompany applications for approval**

The additional documents and materials that must accompany an application for an approval are—

- (a)      any such document, information and materials identified within the relevant approved application form. For example—
  - (i)      the address of the pet shop;
  - (ii)     the number and type of animals proposed to be kept and sold;
  - (iii)    the type of proposed animal housing giving consideration to the type, breed and number of animals it is to contain and if not yet constructed, proof of all relevant approvals for construction; and
  - (iv)    confirmation that the premises where the animals are to be kept has appropriate fencing or structures to keep the animals contained, taking into account their breed and nature.

#### **4.      Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a)      the physical suitability for the site of the proposed prescribed activity;
- (b)      that the enclosures in which the animals are to be kept are structurally suitable;
- (c)      that the animals are not likely to cause undue nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
- (d)      that the animals will not have a significant detrimental effect on the amenity of the surrounding area;
- (e)      that the animals will not have a significant detrimental effect on the local environment; and
- (f)      that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

## 5. Standard conditions to be imposed on approvals

The standard conditions to be imposed on an approval are that the approval holder must—

- (a) operate the pet shop so as not to cause a nuisance or disturbance to adjoining properties or properties in the vicinity of the pet shop;
- (b) keep the animals in approved enclosures so as to prevent escape from the enclosure and to prevent harm or injury to the environment or persons or other animals;
- (c) ensure that the animal enclosures are maintained in a clean and tidy state;
- (d) keep the animals in a manner that complies with any standards of hygiene specified in the approval;
- (e) ensure that the animals are protected from the adverse impacts of natural and artificial original, environmental conditions, other animals and interference from humans;
- (f) provide sufficient space for the animals to prevent overcrowding and to allow them to stand and move around freely;
- (g) provide sufficient quantities of appropriate food and water to maintain the animals in good health;
- (h) ensure the animals are protected from disease, distress, injury and excess heat;
- (i) ensure that the animals are provided with prompt veterinary or other appropriate treatment in the event of disease, distress or injury;
- (j) keep the premises clean and hygienic including vermin and pest control of the premises;
- (k) ensure that all structures and enclosures are treated, sprayed or dusted with insecticide or disinfectant to the manufacturer's instructions for the purpose of fly, insect and disease control;
- (l) ensure that all animals are removed from any structure or enclosure before the structure or enclosure is treated or sprayed with insecticide or disinfectant;
- (m) ensure that all waste waters from the washing down of floors, surfaces, enclosures and drain waste waters are disposed of in an industrial type grease trap or into adequate subsurface disposal trenches or such other method for the disposal of waste waters as is approved by and authorised person;
- (n) disposal of all manure and offensive matter daily, by wrapping in newspaper and placing it into a fly-proof covered receptacle;
- (o) store all feed in fly and vermin proof receptacles;



- (p) ensure that all local laws relating to animals offered for sale are complied with; and
- (q) ensure that animals are not kept in display cases or in a confined area overnight.

## **6. Conditions that may be imposed on approvals**

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised officer considers appropriate.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 35 Undertaking Animal Breeding**

### **Section 11**

#### **1. Prescribed activity**

Undertaking breeding of cats and dogs.

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

Nil.

#### **3. Documents and materials that must accompany applications for approval**

The additional documents and materials that must accompany an application for an approval are—

- (a) any such document, information and materials identified within the relevant approved application form. For example—
  - (i) premises at which breeding to take place.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) the physical suitability for the site of the proposed prescribed activity;
- (b) that the enclosures in which the animals are to be kept are structurally suitable;
- (c) that the animals are not likely to cause undue nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
- (d) that the animals will not have a significant detrimental effect on the amenity of the surrounding area;
- (e) that the animals will not have a significant detrimental effect on the local environment; and
- (f) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Standard conditions to be imposed on approvals**

The standard conditions to be imposed on an approval are that the approval holder must—

- (a) do not cause a nuisance or disturbance to adjoining properties or properties in the vicinity of the premises;
- (b) ensure that animal enclosures are maintained in a clean and tidy state;
- (c) keep the animals in a manner that complies with any standards of hygiene specified in the approval;

- (d) ensure that the animals are protected from the adverse impacts of natural and artificial original, environmental conditions, other animals and interference from humans;
- (e) provide sufficient space for the animals to prevent overcrowding and to allow them to stand and move around freely;
- (f) provide sufficient quantities of appropriate food and water to maintain the animals in good health;
- (g) ensure the animals are protected from disease, distress, injury and excess heat;
- (h) ensure that the animals are provided with prompt veterinary or other appropriate treatment in the event of disease, distress or injury;
- (i) keep the premises clean and hygienic including vermin and pest control of the premises;
- (j) ensure that all structures and enclosures are treated, sprayed or dusted with insecticide or disinfectant to the manufacturer's instructions for the purpose of fly, insect and disease control;
- (k) ensure that all animals are removed from any structure or enclosure before the structure or enclosure is treated or sprayed with insecticide or disinfectant;
- (l) ensure that all waste waters from the washing down of floors, surfaces, enclosures and drain waste waters are disposed of in an industrial type grease trap or into adequate subsurface disposal trenches or such other method for the disposal of waste waters as is approved by and authorised person;
- (m) dispose of all manure and offensive matter daily, by wrapping in newspaper and placing it into a fly-proof covered receptacle;
- (n) store all feed in fly and vermin proof receptacles; and
- (o) ensure that all local laws relating to animals offered for sale are complied with.

## 6. Conditions that may be imposed on approvals

For all applications, conditions that will ordinarily be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) for the breeding of dogs—
  - (i) a maximum of 2 adult breeding dogs to be kept at the approved location;
  - (ii) be appropriately vaccinated and receive worm treatment; and
  - (iii) approvals to be renewed on the 1st day of July each year.

## **7. Term of approval**

The term of approval is the period stated on the approval.

## **Schedule 36 Commercial Filming and Photography**

### **Section 11**

#### **1. Prescribed activity**

Commercial filming & photography whether on Council controlled areas and roads or private property

Examples—

Commercial filming includes advertisements, feature films, television productions for commercial networks, documentaries and tourism promotions. Commercial photography includes images for magazines, postcards, commercial websites, promotional material and books.

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

Commercial Filming activities that require Development Approval under the Douglas Shire Planning Scheme.

#### **3. Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval—

- (a) any such document, information and materials identified within the relevant approved application form.

#### **4. Additional criteria for the granting of approval**

The following are additional criteria for the granting of an approval—

- (a) whether in the opinion of an authorised person the proposed activity would—
  - (i) adversely affect the amenity of the area or road and/or the environment;
  - (ii) adversely affect existing services located in, on or over an area or road; or
  - (iii) be in conflict with or not in accordance with any local government policy relating to the activity at the time of the application; and
- (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles.

#### **5. Conditions that must be imposed on approvals**

The following conditions must be imposed on approvals—

- (a) the approval holder, its contractors or agents must—
  - (i) conduct the activity on the days and hours specified on the approval;
  - (ii) adhere to relevant safety standards and the local government's policies as applicable and amended from time to time;

- (iii) provide to any persons undertaking the activity, all necessary or appropriate safety equipment, warnings and instruction; and
  - (iv) comply with all reasonable directions of an authorised person in the time specified by the authorised person;
  - (v) carry out the activity in accordance with any standards of the local government applicable at the time of the approval;
  - (vi) obtain and comply with any permits or approvals required under any other laws or by a government department;
  - (vii) comply with all reasonable directions of an authorised person within the time specified by the authorised person;
  - (viii) when filming on roads, not compromise road safety or unduly disrupt traffic.
- (b) the approval holder must take out public liability insurance in an amount of at least \$20,000,000 or in accordance with the local government's current policy and endorse the local government as an interested party on the policy; and
- (c) the approval holder must indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the works or activity.

## **6. Conditions that may be imposed on approvals**

For all approvals, the conditions that may be imposed on an approval are such other conditions that an authorised person considers appropriate. For example—

- (a) obtain and comply with any permits or approvals required by under any other laws or by a Government Department;
- (b) permit access to local government staff or contractors at all times to inspect or service facilities;
- (c) display the approval in the ways stated in the approval and produce the approval for inspection on demand by an authorised person;
- (d) comply with measures specified in the approval to protect the safety of persons who may be involved in, or affected by the activities authorised by the approval;
- (e) comply with measures specified in the approval to ensure that the activities authorised by the approval do not cause a nuisance and that the amenity of residents is not to be disturbed or adversely impacted upon whether by noise in or any other manner;
- (f) maintain a defined access point for emergency vehicles at all times;
- (g) provide adequate crowd control and security measures, where required;
- (h) ensure all areas used are left in a clean and tidy condition;

- (i) at least 7 days prior to the commencement of the activity, the responsible person for the production must notify any person that may be affected by the operation of the film production of the locations, dates and times, nature and scale of the activity by 1 or more of the following means—
  - (i) placing a public notice in a newspaper circulating generally in the areas that may be affected by the operation of the film production; or
  - (ii) conducting a letterbox drop in the areas that may be affected by the operation of the film production; or
  - (iii) placing a written notice in a location specified by the local government;
- (j) provide adequate car parking for all persons involved in the operation of the film production;
- (k) when filming on roads, do not compromise road safety or unduly disrupt traffic. In all instances the necessary approvals are to be obtained from bodies such as Queensland Department of Transport and Main Roads, Queensland Police etc.;
- (l) not use vehicles, aircraft, vessels and non-filming equipment on foreshores, parks and reserves, without the approval of the local government;
- (m) if the operation of the film production involves the use of animals—
  - (i) all animals kept on premises must be housed or displayed in a suitable enclosure; and
  - (ii) be kept in accordance with the Animal Care and Protection Act 2001;
- (n) not adversely affect the environment, its flora or fauna in any manner;
- (o) keep the local government fully informed in writing of any alterations to the filming schedule;
- (p) provide an adequate number of portable chemical-type toilets for the use of the filming crew and extras should insufficient facilities be available on site;
- (q) provide waste containers sufficient to accommodate the collection and storage of all waste generated as part of the operation of the film production in the manner and locations specified by the local government;
- (r) all waste generated as part of the operation of the film production must be disposed of in accordance with the *Waste Reduction & Recycling Act 2011* and *Local Law No. 3 (Community and Environmental Management) 2018*;
- (s) pay in advance all fees which are to be assessed in accordance with the rates specified by local government (refer to the local government's current schedule of fees and charges);
- (t) provide any specified security or cash bond, as required by the local government, prior to the commencement of the operation of the film production;

- (u) should the approval holder fail to observe any of the conditions of the approval or cause damage which necessitates remedial or reinstatement works to be performed by the local government, the costs of the works undertaken are to be met by the applicant;
- (v) the provisions of local government's local laws relating to Parks, Reserves and Foreshores are to be observed at all times;
- (w) the approval or conditions of the approval may be altered, amended or revoked by the local government at any time and for any reason; and
- (x) any other condition the local government in its sole discretion, acting reasonably, deems appropriate.

## **7. Term of approval**

The term of approval is the period stated on the approval.





**Draft 3.1**

**Douglas Shire Council  
Subordinate Local Law No. 2  
(Animal Management) 2018**

# Douglas Shire Council Subordinate Local Law No. 2 (Animal Management) 2018

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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) 2018*.

### 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) 2018*, 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;
  - (b) requirements for keeping animals, including minimum standards, mandatory desexing, proper enclosures, and identification;
  - (c) the control of animals in public places;
  - (d) matters regarding the impounding of animals and the sale or disposal of impounded animals;
  - (e) the conditions to be complied with by persons who offer animals, or a particular species of animals, 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) 2018* (the **authorising local law**).

### 4 Definitions

- (1) The Dictionary in Schedule 1 defines particular words used in this subordinate local law.
- (2) Any words defined in the authorising local law have, for the purposes of this subordinate local law, the meaning given to them in the authorising local law.

## Part 2 Keeping of animals

### 5 Circumstances in which keeping animals prohibited—authorising local law, s 5(1)

- (1) For section 5(1) of the authorising local law, keeping an animal or animals mentioned in column 1 of Schedule 2 is prohibited in the circumstances described in column 2 of Schedule 2.
- (2) The prohibition specified pursuant to subsection (1) does not apply to existing animals currently being kept on the specified allotments.

## **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 3 requires approval in the circumstances described in column 2 of Schedule 3.

## **7 Animals that must be desexed—authorising local law, s 7(1)**

For section 7 of the authorising local law, an animal of the species or breed mentioned in column 1 of Schedule 4 must be desexed once it reaches the age specified in column 2 of Schedule 4 except in the circumstances described in column 3 of Schedule 4.

## **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 all animals are set out in Schedule 5.
- (2) For section 8(1) of the authorising local law, column 2 of Schedule 6 sets out the additional minimum standards for keeping an animal of the species or breed mentioned in column 1 of Schedule 6.

## **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 areas shown in the local government's Animals in Prohibited Public Places Register, which is available for public inspection, at the local government's public office or online at [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au), are designated pursuant to this subordinate local law as areas where animals are not permitted in public places.

## **11 Dog off-leash areas—authorising local law, s 11(1)**

For section 11(1) of the authorising local law, the areas shown in the local government's Dog Off-Leash Area Register, which is available for public inspection, at the local government's public office or online at [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au), are designated pursuant to this subordinate local law as areas where a dog is not required to be on a leash in public.

## **12 Animal faeces in public places—authorising local law, s 13**

For section 13 of the authorising local law, the following animals are prescribed as animals whose faeces must be removed from a public place and disposed of in a sanitary way—

- (a) dogs;

- (b) cats;
- (c) horses;
- (d) cattle;
- (e) goats;
- (f) donkeys;
- (g) camels;
- (h) sheep; and
- (i) any other animal faeces that an authorised person may, acting reasonably, direct an owner or responsible person for the animal to remove.

**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 7 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of Schedule 7.

**14 Criteria for declared dangerous animals—authorising local law, s 18(1)**

For section 18(1) of the authorising local law, the criteria an authorised person must consider in declaring an animal other than a dog as a declared dangerous animal are set out on Schedule 8.

## **Part 4                      Seizure, impounding or destruction of animals**

**15 Animals that may be disposed of without auction or tender—authorising local law, s 31(1)(b)**

For section 31(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 without destroying it are the following—

- (a) dogs;
- (b) cats;
- (c) horses;
- (d) cattle;
- (e) poultry;
- (f) birds;
- (g) goats;
- (h) pigs; and
- (i) sheep.

## 16 Register of impounded animals—authorising local law, s 32(3)

For section 33(3) of the authorising local law, the register of impounded animals will be kept at the local government's public offices.

## Part 5 Miscellaneous

## 17 Conditions regarding sale of animals—authorising local law, s 41(1)

For the purposes of section 41(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of Schedule 9 must comply with the conditions set out in column 2 of Schedule 9.

## 18 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, the following animals are excluded from the application of the authorising local law—

- (a) a guide dog;
- (b) an assistance dog (other than a guide dog) provided the dog—

- (i) is under effective control;
- (ii) is not a regulated dog;
- (iii) is not a dog that is on heat; and
- (iv) is wearing a jacket and tag identifying it as an assistance dog;

*Examples of evidence that may be required to establish that a dog is an assistance dog (other than a guide dog)—*

- i. the person has a disability and the nature of that disability;*
  - ii. the dog provides assistance to the person to alleviate the effect of that disability and the nature of that assistance;*
  - iii. the dog has been trained to assist the person to alleviate the effect of that disability; and*
  - iv. that training includes training to comply with the standards of hygiene and behaviour comparable to those apply to guide dogs.*
- (c) dogs owned by the Queensland Police Service or an employee, contractor or agent of the Queensland Police Service and under the control of a competent handler;
  - (d) a security dog under the control of a competent handler and being used in connection with the business or an organisation approved by the local government to carry out security services; or
  - (e) any animals that are regulated or managed under other state legislation.

## 19 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, the following are declared dangerous animal—

- (a) an animal that—
- (i) has attacked a person or an animal;
  - (ii) has caused a person to believe that the person or an animal will be attacked or worried;
  - (iii) is likely, in the opinion of an authorised person, to cause a person to believe that the person or an animal will be attacked or worried;
  - (iv) has been trained to attack for the purpose of guarding either persons or property;
  - (v) has been declared a dangerous dog by another local government; or
  - (vi) the animal has been declared dangerous by another local government.

## **20 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 registered with the local government, 5 days; or
- (b) if the animal is not registered with the local government, 3 days,

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.



## Schedule 1 Dictionary

### Section 4

***birds*** means all birds other than noisy birds, special birds, poultry and roosters

***Conversation Planning Area*** has the meaning defined in the Planning Scheme.

***guard dogs*** means a dog specifically trained to guard persons or property.

***miniature goat*** means a goat specifically bred for domestic pet purposes and which is recognised as a breed of miniature goat by the Miniature Goat Breeders Association of Australia Inc. or such other association recognised by the local government, including the Australian Miniature Goat, the Pygmy Goat and the Nigerian Dwarf Goat.

***miniature horse*** means a horse not exceeding 86 centimetres in height upon maturity.

***noisy bird*** means a cacophonous bird such as a galah, cockatoo, or peacock or such other bird that, in the reasonable opinion of an authorised person is a noisy bird, but does not include a rooster.

***poultry*** includes any species of fowl including goose, duck, turkey, guinea fowl, pheasant or quail and also pheasants.

***recognised breeders association*** means an association for persons who conduct animal breeding recognised by the local government.

***special birds*** means emus and ostriches.

## Schedule 2 Prohibition on keeping animals

### Section 5

Column One Species or breed or animals	Column Two Circumstances in which keeping of animal or animals is prohibited
Cows, bulls, horses (other than stallions and miniature horses), donkeys, and other animals of similar size	On any allotment less than 2,000 m <sup>2</sup>
Dogs	<p>Any of the following breeds or a dog of mixed breed with at least one element of the following breeds anywhere in the local government area—</p> <ul style="list-style-type: none"> <li>(a) American Pit Bull Terrier or Pit Bull Terrier;</li> <li>(b) Dogo Argentino;</li> <li>(c) Filo Brasileiro;</li> <li>(d) Japanese Tosa;</li> <li>(e) Perro de Presa Canario or Presa Canario; and</li> <li>(f) any other breed as may be determined by the local government by resolution,</li> </ul> <p>unless the dog is registered with the local government and a restricted dog permit has been issued and is current under the <i>Animal Management (Cats &amp; Dogs) Act 2008</i>.</p> <p>Note: Assistance dogs are not prohibited in a Conservation Zone, but will require a permit.</p>
Goats (other than miniature goats) & Sheep	<p>On any allotment less than 800 m<sup>2</sup></p> <p>More than 2 goats on an allotment of 2,000 m<sup>2</sup> or more and less than 4,000 m<sup>2</sup></p> <p>More than 4 goats on an allotment of 4,000 m<sup>2</sup> or more and less than 10,000 m<sup>2</sup></p>
Miniature goats	On any allotment less than 800 m <sup>2</sup>

<b>Column One Species or breed or animals</b>	<b>Column Two Circumstances in which keeping of animal or animals is prohibited</b>
Miniature horses	On any allotment less than 2000 m <sup>2</sup>
Noisy Birds	On any allotment less than 800 m <sup>2</sup> More than 2 noisy birds on any allotment more than 800 m <sup>2</sup> and less than 10,000 m <sup>2</sup>
Pigs	On any allotment less than 10,000 m <sup>2</sup> On any allotment located in a Conservation Zone
Poultry (other than roosters)	On any allotment less than 450 m <sup>2</sup>
Rams	On any allotment less than 10,000 m <sup>2</sup>
Roosters	On any allotment less than 10,000 m <sup>2</sup>
Special Birds	On any allotment less than 20,000 m <sup>2</sup>
Stallion	On any allotment less than 10,000 m <sup>2</sup>

## Schedule 3 Requirement for approval to keep animal

### Section 6

Column One Species or breed or animals	Column Two Circumstances in which keeping of animals requires approval
Birds	More than 10 birds on an allotment less than 800 m <sup>2</sup> More than 30 birds on an allotment less than 4,500 m <sup>2</sup>
Bulls, Horses, Donkeys, Cows, /and other animals of similar size	More than 1 on an allotment of more than 2,000 m <sup>2</sup> and less than 10,000 m <sup>2</sup>
Cats	More than 2 cats over the age of 12 weeks on any allotment outside a Conservation Zone Any cat over the age of 12 weeks on any allotment located in a Conservation Zone
Dogs	More than 1 dog over the age of 12 weeks on an allotment less than 450 m <sup>2</sup> More than 2 dogs over the age of 12 weeks on any allotment of more than 450m <sup>2</sup> More than 4 dogs over the age of 12 weeks on any Rural Productive land <sup>1</sup> The keeping of any assistance dog The keeping of more than 1 dog on any allotment located in a Conservation Zone
Goats	More than 2 goats on an allotment of more than 2,000 m <sup>2</sup> and less than 4,000 m <sup>2</sup>
Miniature Goats	More than 2 miniature goats on any allotment of more than 800 m <sup>2</sup> and less than 2000 m <sup>2</sup>

<sup>1</sup> Rural Productive land as defined in the Revenue Statement.

<b>Column One</b> <b>Species or breed or animals</b>	<b>Column Two</b> <b>Circumstances in which keeping of animals requires approval</b>
Miniature Horses	More than 4 miniature horses on any allotment of more than 2000 m <sup>2</sup> and less than 10,000 m <sup>2</sup>
Noisy Bird	More than 1 noisy bird on an allotment of more than 800 m <sup>2</sup> and less than 10,000 m <sup>2</sup>
Pigeons	1 or more on any allotment
Pigs	More than 4 pigs on an allotment more than 10,000 m <sup>2</sup>
Poultry	More than 6 poultry on any allotment of more than 450 m <sup>2</sup> and less than 800 m <sup>2</sup>  More than 9 poultry on an allotment of more than 800 m <sup>2</sup> and less than 2,000 m <sup>2</sup>  More than 12 poultry on an allotment of more than 2,000 m <sup>2</sup> and less than 10,000 m <sup>2</sup>
Sheep	More than 4 sheep on an allotment of more than 2000 m <sup>2</sup> and less than 10,000 m <sup>2</sup>
Stallions	1 or more on any allotment

## Schedule 4      Animals that must be desexed

### Section 7(1)

Column One Species or breed or animals	Column Two Age at which animal must be desexed	Column 3 Exceptions
Cats	16 weeks	<ol style="list-style-type: none"> <li>1. There is a signed veterinary surgeon certificate for the cat stating that desexing is likely to be a serious risk to the health of the cat.</li> <li>2. The owner or responsible person for the cat— <ol style="list-style-type: none"> <li>(a) is the owner or operator of a pound or shelter;</li> <li>(b) is a member of a recognised breeders association and the person intends to breed from the cat;</li> <li>(c) is a member of a registered show association and the person intends to show or exhibit the cat; or</li> <li>(d) holds an animal breeder approval with respect to the cat.</li> </ol> </li> </ol>

Column One Species or breed or animals	Column Two Age at which animal must be desexed	Column 3 Exceptions
Dogs	26 weeks	<ol style="list-style-type: none"> <li>1. There is a signed veterinary surgeon certificate for the dog stating that desexing is likely to be a serious risk to the health of the dog.</li> <li>2. The owner or responsible person for the dog— <ol style="list-style-type: none"> <li>(a) is a member of a recognised breeder association and the person intends to breed from the dog;</li> <li>(b) is a member of a registered show association and the person intends to show or exhibit the dog;</li> <li>(c) holds an animal breeder approval with respect to the dog; or</li> <li>(d) <ol style="list-style-type: none"> <li>i. is the owner or operator of a pound or shelter; and</li> <li>ii. the dog is currently being looked after on a temporary basis by foster carers; and</li> <li>iii. the dog is not transferred to a new owner unless and until it is de-sexed.</li> </ol> </li> </ol> </li> </ol>

<b>Column One Species or breed or animals</b>	<b>Column Two Age at which animal must be desexed</b>	<b>Column 3 Exceptions</b>
		<ol style="list-style-type: none"><li>3. The dog was registered with the local government prior to the commencement of this local law and ownership of the dog has not changed.</li><li>4. The dog is over the age of 8 years of age.</li></ol>



## Schedule 5 Minimum standards for keeping animals generally

### Section 8

#### 1. All animals—

- (a) any land, enclosure or building in which an animal is kept must be maintained so as not to cause a public health risk as defined by the *Public Health Act 2005*;
- (b) any land adjoining a road and on which an animal is kept must be adequately fenced to the satisfaction of an authorised person so as to prevent animals escaping from the land onto the road;
- (c) an enclosure in which an animal is kept must be maintained to the satisfaction of an authorised person in a clean and sanitary condition, in good repair and appearance, and free from flies, rats, other vermin and nuisance odours;
- (d) an enclosure in which an animal is kept must be built and maintained in such a way as to prevent the animal from escaping;
- (e) an enclosure must provide adequate space in the opinion of the authorised person for any animal to be kept therein;
- (f) the keeper of the animal must thoroughly clean the enclosure every day of faeces, uneaten food and any offensive matter produced by any animals kept on the premises. Such faeces, uneaten food and other offensive matter must be stored in a water-proof receptacle that prevents access to flies and vermin and does not allow the emission of nuisance odours;
- (g) all receptacles, used for the storage of faeces, uneaten food and any offensive matter produced by any animals, are to be covered at all times and their contents must be removed at least weekly or more often if directed by an authorised person and then disposed of in such a manner so as not to be a nuisance or injurious or prejudicial to health;
- (h) the keeper of an animal must provide and maintain impervious rat-proof receptacles and other impervious rat-proof storeroom facilities for the storage of feed to the satisfaction of the authorised person;
- (i) the keeper of an animal must provide the animal with and ensure the animal has access to adequate shelter from sun, wind and rain to the satisfaction of an authorised person;
- (j) the keeper of an animal must provide the animal with, in the opinion of an authorised person, an appropriate quantity and quality of food and an appropriate quantity of clean drinking water to maintain an animal in good health; and
- (k) an enclosure in which an animal is kept must be effectively treated with insecticide at least twice a year to the satisfaction of an authorised person.

#### 2. Nuisance—

- (a) An animal must not be kept so that so that it does not in the opinion of an authorised person cause a nuisance or is injurious or prejudicial to health, including a nuisance from a dog or any animal that creates a noise which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or social well-being of a reasonable person.

## Schedule 6 Minimum standards for keeping particular animals

Section 8(2)

Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
Horse, Cattle, Donkey, Sheep, Goat and other animals of a similar size	<p>(1) If a stable is constructed—</p> <ul style="list-style-type: none"> <li>(a) a covered receptacle for manure or other offensive matter must be kept in the stable; and</li> <li>(b) the inside face of all external walls and all faces of interior walls of a stable must be lime washed or painted at least once in every year; and</li> <li>(c) the interior of a stable must be sprayed at least once in every 3 months with a germicidal spray; and</li> <li>(d) any part of a stable (except a stable used exclusively for milk cows) must not be within a distance of 130 metres of a dairy produce premises or milking shed; and</li> <li>(e) the stable must be constructed in accordance with provisions of the <i>Building Act 1975</i> and any applicable codes as defined by that Act; and</li> <li>(f) any part of a stable must not be situated— <ul style="list-style-type: none"> <li>(i) 10m from an adjoining boundary of an allotment 2,000m<sup>2</sup> or more; and</li> <li>(ii) 1m from any dwelling; and</li> <li>(iii) 15m from any structure which food for human consumption is processed or stored; and</li> <li>(iv) 6m from a roadway</li> </ul> </li> </ul> <p>(2) The keeper must not deposit manure in any way that may pollute or be likely to pollute water which is used or is likely to be used for human consumption or for dairy purposes.</p>
Poultry	<p>(1) Fowl houses, fowl pens and runs are not to be situated—</p> <ul style="list-style-type: none"> <li>(a) within 10m of a dwelling or place where food is kept processed or stored; and</li> <li>(b) within 5m of any property boundary or a road.</li> </ul> <p>Poultry food must be stored in a vermin proof receptacle.</p>

<b>Column 1</b> <b>Species or</b> <b>breed of animal</b>	<b>Column 2</b> <b>Minimum standards for keeping animals</b>
Pig	<p>(1) The interior of the enclosure where pigs are kept must be sprayed at least once every 3 months with a germicidal spray.</p> <p>(2) any part of a sty or other enclosure in which a pig is kept must not be situated—</p> <ul style="list-style-type: none"><li>(a) 10m from an adjoining boundary; and</li><li>(b) 15m from any dwelling; and</li><li>(c) 15m from any structure which food for human consumption is processed or stored; and</li><li>(d) 6m from a roadway; and</li><li>(e) 20m from any watercourse, well or bore.</li></ul>

## Schedule 7 Requirements for proper enclosures for animals

### Section 13

Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
All Animals	<p>(1) The keeper of an animal must maintain at all times a proper enclosure to keep the animal on the subject land and prevent the animal from wandering or escaping from the land; and</p> <p>(2) In the opinion of an authorised person, a fence of a suitable height and construction method and materials to prevent an animal from escaping over, through or under the fence.</p> <p>(3) To the reasonable satisfaction of an authorised person the enclosure—</p> <ul style="list-style-type: none"> <li>(a) must be suitably fenced to contain the animal;</li> <li>(b) must be of a size appropriate to the species and breed of the animal to be enclosed;</li> <li>(c) may be constructed such that parts of a building or structure can form part of the enclosure in lieu of fencing, provided the building or structure does not have openings through which the animal can escape; and</li> <li>(d) must contain adequate shelter for all animals kept in the enclosure.</li> </ul> <p>(4) The enclosure's gates must be closed and latched except when in actual immediate use.</p> <p>(5) For the purpose of paragraph 1, "suitably fenced" means a fence constructed of strong materials and designed in such a way to prevent the animal from—</p> <ul style="list-style-type: none"> <li>(a) escaping over, under, through or around the fence;</li> <li>(b) protruding over, under, through or around the fence;</li> <li>(c) threatening to attack a person or animal over, under, through or around the fence; and</li> <li>(d) attacking a person or animal over, under, through or around the fence.</li> </ul> <p>(6) Keeping an animal on a leash or tether does not constitute</p>

Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
	a proper enclosure.
Dogs	<p>(1) If the dog is a climber, the fence or enclosure must be constructed in such a way as to prevent the dog from climbing over the fence.</p> <p>(2) If the dog is a digger, a barrier must be installed directly below the fence or enclosure which is adequate to prevent the dog digging its way out.</p>
Guard dogs	<p>(1) The enclosure must—</p> <ul style="list-style-type: none"> <li>(a) be constructed to a standard approved by an authorised person; and</li> <li>(b) clearly display a warning sign, approved by an authorised person to the entrance to the property where a the guard dog is being kept. The sign must prominently and permanently display in lettering not less than 50 milometers in height on a background of a type and colour to ensure that the lettering is readily legible— <i>"Beware – Guard dog (or dogs) on premises."</i></li> </ul> <p>(2) The guard dog must be confined in a secure enclosure at all times when the public has access to the property where the dog is being kept.</p>
Noisy birds	<p>(1) The cages/enclosures must—</p> <ul style="list-style-type: none"> <li>(a) not be sited within 25 metres of any residence on adjoining premises;</li> <li>(b) be sited at least 2 metres from the boundary of any adjoining premises;</li> <li>(c) not, in combination with all buildings on the allotment, exceed 50% of the area of the allotment; and</li> <li>(d) be located at the rear of the premises behind the residence (if any) situated on the premises.</li> </ul>
Poultry (other than rooster)	<p>(1) The enclosure must—</p> <ul style="list-style-type: none"> <li>(a) be sited no closer than 2 metres from the property boundary;</li> <li>(b) be located at the rear of the premises behind the residence (if any) situated on the premises;</li> <li>(c) be constructed to prevent any such bird from</li> </ul>

Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
	<p>being within 10 metres of any dwelling (except any dwelling on the premises); and</p> <p>(d) be constructed to prevent any such bird from being within 10 metres of any premises used for the manufacture, preparation or storage of food for human consumption (other than a domestic kitchen used solely for domestic purposes by the owner or of responsible person for the birds).</p>
Rooster	<p>(1) The enclosure must not be sited closer than 25 metres from the property boundaries.</p> <p>(2) The enclosure must be constructed to prevent any such bird from going within 10 metres of any dwelling (except any dwelling on the premises).</p> <p>(3) The enclosure must also be constructed to prevent any such bird from going within 10 metres of any premises (other than a domestic kitchen used solely for domestic purposes by the owner of the birds) used for the manufacture, preparation or storage of food for human consumption.</p>

## **Schedule 8      Criteria for declared dangerous animals**

### **Section 14**

The following criteria are the criteria an authorised person must consider in declaring an animal, other than a dog, as a dangerous animal—

- (a) whether the animal has attacked a person or an animal;
- (b) whether in the opinion of an authorised person the animal is likely to attack or worry a person or an animal;
- (c) whether the animal has been trained or is used to attack for the purpose of guarding either persons or property; and
- (d) whether the animal has been declared as a dangerous animal by another local government.



## Schedule 9 Conditions for sale of animals

### Section 17

Column 1 Species or breed of animal	Column 2 Conditions that must be complied with when offering animal for sale
Dog or Cat	<p>(1) A person selling a dog or cat must—</p> <ul style="list-style-type: none"> <li>(a) be a breeder licensed under any relevant State legislation applying to the breeding of dogs or cats; or</li> <li>(b) be a breeder licensed with a relevant breeding association; and</li> <li>(c) have an approval to breed pursuant to section 5 of <i>Local Law No. 1</i> and Schedule 34 of <i>Subordinate Local Law No. 1</i>.</li> </ul> <p>(2) The animal must be desexed if it is 26 weeks or 16 weeks of age or older for dogs and cats respectively, unless—</p> <ul style="list-style-type: none"> <li>(a) with respect to dogs; <ul style="list-style-type: none"> <li>(i) the transferee / purchaser of the animal is a member of a recognised breeders association for the purposes of breeding or showing dogs; or</li> <li>(ii) it is an assistance dog; or</li> </ul> </li> <li>(b) with respect to cats, the transferee / purchaser is a member of a recognised breeders association for the purposes of breeding or showing cats.</li> </ul>



**Douglas Shire Council  
Subordinate Local Law No. 3  
(Community and Environmental  
Management) 2018**

**DRAFT 3.1**

# Douglas Shire Council Subordinate Local Law No. 3 (Community and Environmental Management) 2018

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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) 2018*.

### 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 Environment Management) 2018*, 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;
  - (b) prohibition of lighting or maintaining certain fires;
  - (c) declaration of fire hazards;
  - (d) declaration of community safety hazards;
  - (e) prescribed requirements for owners of land containing community safety hazards;
  - (f) requirements regarding storage, removal, and disposal of waste; and
  - (g) 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) 2018* (the **authorising local law**).

### 4 Definitions

- (1) The Dictionary in Schedule 1 also defines particular words used in this subordinate local law.
- (2) Any words defined in the authorising local law have for the purpose of this subordinate local law the meaning given to them in the authorising local law.

## Part 2 Declared local pets

### 5 Declaration of local pests—authorising local law, s 6(1)

- (1) For section 6(1) of the authorising local law, the animal or plant prescribed in column 1 of Schedule 2 is a declared pest in the corresponding part of the local government's area mentioned in column 2 of Schedule 2.
- (2) The Douglas Shire Biosecurity Plan incorporating the Pest Plant and Animal Register is available for inspection and purchase at each public office of the local government.

## **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 3 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 3.

## **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 two (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; or
  - (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 4 is declared to be prohibited in the corresponding part of the local government's area mentioned in column 1 of schedule 4.
- (3) For the avoidance of doubt, a Traditional Smoking Ceremony undertaken by a Traditional Owner of the land on which the ceremony is performed is not a prohibited fire.

### **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;
- (b) a large accumulation of grass clippings that is in the opinion of an authorised person liable to spontaneous combustion; or
- (c) dry vegetation that could be easily ignited or other flammable materials.

<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 Rescue Service 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) barbed wire fencing adjoining a public park or reserve or located in an urban area;
- (b) electric fences adjoining public land;
- (c) an unfenced dam adjacent to a public park or reserve;
- (d) disused machinery or machinery parts;
- (e) broken down or several rusted vehicles, or vehicle parts;
- (f) accumulation of bottles, containers or packaging;
- (g) refuse or scrap metal;
- (h) fish frames, scraping, carcasses and/or guts;
- (i) objects that are unsecured or inadequately secured and are likely in the opinion of an authorised person to be carried away in high winds with possible risk of personal injury or property damage; and
- (j) vegetation on premises which:
  - (i) is located on land adjoining a local government controlled area or road; and
  - (ii) is dangerous or attracts vermin; or
  - (iii) has caused, or is, in the opinion of an authorised person, likely to cause:
    - A. personal injury to a person using the area or road;
    - B. damage to property located on the area or road; or
    - C. 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 5 must meet the requirements prescribed in the corresponding part of column 2 of schedule 5.

## Part 6 Waste Management

### 11 Owner or occupier of premises to supply waste containers—authorising local law, s 23

- (a) For section 23(2) of the authorising local law, if the local government supplies a 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.

- (b) However, subsection (a) does not prevent the local government from supplying a waste container to premises without cost to the owner or occupier of the premises.

## **Part 7 Noise standards**

### **12 Prescribed noise standards—authorising local law, s 39(2)**

- (a) For section 39(2) of the authorising local law, the noise standard in column 2 of Schedule 8 is prescribed for the section of the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3 stated in column 1 of Schedule 7.
- (b) For section 39(2) of the authorising local law, the noise standard in column 2 of Schedule 8 applies in the corresponding part of the local government's area mentioned in column 3 of Schedule 7.



## Schedule 1      Dictionary

**generator** means an engine that converts mechanical energy into electricity to serve as a power source.

**north of the Daintree River** means the area which is located on the northern side of the Daintree River within Council's local government area.

**Pest Plant and Animal Register** has the meaning given to that term in section 5(2).

**Traditional Owner** means an Aboriginal person who is a member of a local descent group having certain rights and responsibilities in relation to an area of land.

**Traditional Smoking Ceremony** involves the smouldering of native plants to produce smoke which is believed to have cleansing properties and the ability to ward off bad spirits.

## Schedule 2 Declared local pests

Section 5

<b>Column 1</b> <b>Applicable part of local government's area</b>	<b>Column 2</b> <b>Declared local pest</b>
Entire local government area	All plants and animals listed in local government Douglas Shire Biosecurity Plan incorporating the Pest Plant and Animal Register.

## Schedule 3      Persons exempted from offence of introducing etc. declared local pest

Section 6

Column 1 Exempt person	Column 2 Declared local pest
Employees of an organisation using a declared local pest as part of an education or scientific program.	All declared local pests.

## Schedule 4 Prohibited fires

Section 7(2)

Column 1 Applicable part of local government's area	Column 2 Prohibited fire
Entire local government area	A person must not light or maintain a fire in the open air (including the use of an incinerator) within 100 metres of a residence except for the purposes of cooking.
Entire local government area	A fire that causes smoke or other products of combustion and is likely in the opinion of an authorised person to cause irritation, annoyance or distress to others.
Entire local government area	A fire that in the opinion of an authorised person exposes property to the risk of damage or destruction by fire.

## Schedule 5 Prescribed requirements for community safety hazards

### Section 10

Column 1 Community safety hazard	Column 2 Prescribed requirements to be met by owner of land
Barbed wire fencing	<p>(a) Barbed wire fencing must not be installed along a boundary adjoining a public park or residential property; and</p> <p>(b) Barbed wire to be used in urban areas only in a security fence with the barbed wire to be more than 2 metres above the ground.</p>
Electric fencing	<p>(a) Electric fencing must only be used in rural areas;</p> <p>(b) Electric fencing must be installed, operated and maintained in accordance with AS/NZS 3014:2003 (or other equivalent Australian Standard); and</p> <p>(c) Electric security fencing must be installed, operated and maintained in accordance with AS/NZS 3016:2002 (or other equivalent Australian Standard).</p>
<p>Disused machinery</p> <p>Broken down machinery parts</p> <p>Severely rusted vehicles</p> <p>Accumulations of bottles, containers or packaging</p> <p>Refuse or scrap metal</p>	<p>(a) Must be stored in a structure or way considered appropriate by an authorised person; and</p> <p>(b) Any objects which are in the opinion of an authorised person unsightly are to be screened from public view.</p>
Objects that are unsecured or inadequately secured and likely in the opinion of an authorised person to be carried away in high winds with possible risk of personal injury or property damage	<p>(a) Objects or materials to be safely secured to the satisfaction of an authorised person; or</p> <p>(b) Objects or materials to be stored in an area where they are not subject to movement by high winds.</p>
Smoke from outdoor cooking ovens	Must not in the opinion of an authorised person cause a nuisance to another person.

## Schedule 6 Prescribed noise standards

Section 16

<b>Column 1</b> <b>Section of the</b> <b><i>Environmental</i></b> <b><i>Protection Act 1994,</i></b> <b>chapter 8, part 3B,</b> <b>division 3</b>	<b>Column 2</b> <b>Prescribed noise standard</b>	<b>Column 3</b> <b>Applicable</b> <b>part of local</b> <b>government's</b> <b>area</b>
440S Regulated devices	<ol style="list-style-type: none"> <li>(1) This provision applies to generators used or operated on premises north of the Daintree River that are without access to mains power.</li> <li>(2) An owner, occupier or person in control of the premises must not use, or permit the use of the generator on any day—                         <ol style="list-style-type: none"> <li>(a) between 10 pm and 7 am, if it makes an audible noise;</li> <li>(b) between 7 am and 7 pm, if it makes a noise of more than 5dB(A) above the background level; or</li> <li>(c) between 7 pm and 10 pm, if it makes a noise of more than 3dB(A) above the background level.</li> </ol> </li> <li>(3) Subsection (2)(a), (b) and (c) do not apply to a noise made at an educational institution, that is not more than 5 dB(A) above the background level.</li> </ol>	North of the Daintree River



**Draft 3.1**

**Douglas Shire Council  
Subordinate Local Law No. 4  
(Local Government Controlled Areas,  
Facilities and Roads) 2018**

# **Douglas Shire Council Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018**

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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) 2018*.

### 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) 2018* 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) 2018* (the **authorising local law**).

### 4 Definitions – the dictionary

- (a) The Dictionary in Schedule 1 defines particular words used in this subordinate local law.
- (b) Other particular words have the same meaning as in the authorising 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 2 are declared to be prohibited in the corresponding local government controlled area or road (or part thereof) mentioned in column 1 of Schedule 2.
- (2) For section 5(1)(b) of the authorising local law, the activities prescribed in column 2 of schedule 3 are declared to be restricted in the corresponding local government controlled area or road (or part thereof) mentioned in column 1 of schedule 3, to the extent described in column 3 of schedule 3.

### 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 4 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 4 are declared to be prohibited vehicles in the corresponding specified motor vehicle access area in column 1 of schedule 4.

**8 Opening hours for local government controlled areas and facilities—authorising local law, s 7(1)**

For section 7(1) of the authorising local law, the opening hours for a local government controlled area or facility are the hours specified by an official sign approved by the local government and placed at each public entrance to the area or facility. If there is no defined public entrance to the area, signs must be installed so that they clearly visible, in the opinion of an authorised person, to members of the public using the area.

**9 Permanent closure of local government controlled area—authorising local law, s 8(3)**

The local government controlled areas described in schedule 6 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 8(2) of the authorising local law are as follows—

- (a) the fence must be, in the opinion of an authorised person, of adequate height, strength and nature and be constructed of appropriate materials for the purposes of restraining the types of animal contained in the area adjacent to the fence.

## Schedule 1 Dictionary

**Act** means an Act of the Queensland Parliament.

**camp** means to occupy or sleep in or to attempt to sleep in a tent or motor vehicle, or otherwise in, on or under a facility, or on the ground and camping has the corresponding meaning.

**Cemeteries Register** means the Douglas Shire Council Register of Cemeteries.

**commercial waste** has the meaning given to that term in *Local Law No. 3 (Community and Environmental Management) 2018*.

**domestic waste** has the meaning given to that term in *Local Law No. 3 (Community and Environmental Management) 2018*.

**exercise rights of occupation or use** means a person must not unlawfully, do any of the following—

- (a) occupy or live on it;
- (b) enclose it;
- (c) build, place or maintain any structure, improvement, work or thing on it;
- (d) clear, dig up or cultivate it; or
- (e) depasture stock or cause stock to be depastured on it.

**facility** means any building, structure, car parking area, pedestrian access, vehicle access, fence, picnic shelter, toilet block, playground equipment, park bench, pond, waterfall, fountain, monument, amenities or grounds or any other fixture or fitting and includes an electric power point.

**Foreshores Register** means the Douglas Shire Council Register of Foreshores .

**Libraries Register** means the Douglas Shire Council Register of Libraries .

**Parks and Reserves Register** means the Douglas Shire Council Register of Parks and Reserves .

**tent** means a structure or erection constructed or covered wholly or in part with canvas, calico or other material and includes a shelter used or capable of being used as a temporary abode or sleeping place.

**vehicle** has the meaning in the TORUM Act.

**TORUM Act** means the *Transport Operation Road Use Management Act 1994*.

## Schedule 2 Prohibited activities for local government controlled areas or roads

Section 5(1)

Column 1 Local government controlled area or road	Column 2 Prohibited activity
All local government controlled areas or roads	<p>Advertise or display a vehicle including a trailer, caravan, boat, motor bike for sale.</p> <p>Park, stand, leave or store an unregistered vehicle, trailer, caravan, boat or motor bike.</p> <p>Stand, leave or store a vessel, trailer or caravan that is not being towed by a vehicle.</p> <p>Park a vehicle with the primary purpose of displaying an advertising device or advertising that the vehicle itself is for sale.</p> <p>Undertake repairs of any vehicle including a trailer, caravan, boat or motor bike other than in the case of an emergency.</p> <p>Camp, occupy or reside on or sleep overnight, unless within an approved or designated camping area.</p> <p>Deposit or dispose of domestic waste or commercial waste in waste receptacles located in or upon local government controlled areas.</p> <p>Removal of items and materials, for example vegetation, sand, dirt, shells.</p> <p>Interfere with, cause damage to or destroy—</p> <ul style="list-style-type: none"> <li>(a) any property owned by the local government including signage and recreational equipment; or</li> <li>(b) any landscaping or vegetation.</li> </ul>
Port Douglas Boat Harbour	<p>Interfere with any fitting or appliance for any other purpose other than that for which such fitting or appliance is provided.</p> <p>Unload any fish from a fishing vessel unless at a fish receivable area or areas approved by local government for that purpose.</p> <p>Carry or use a loaded spear gun or apparatus of</p>

<b>Column 1</b> <b>Local government controlled area or road</b>	<b>Column 2</b> <b>Prohibited activity</b>
	<p>a similar nature.</p> <p>Mooring or anchoring of vessels that are not seaworthy; derelict; or in a state of disrepair.</p> <p>Operating a vessel so that it causes wave wash or exceeds a maximum speed of 4 knots.</p> <p>The bottom scraping of vessels.</p> <p>The discharge of polluted bilge water or effluent from manual and automatic bilge pumps into the harbour.</p> <p>The storage and transportation of fuels, oils or other flammable and combustible goods or substances.</p> <p>The refuelling of vessels other than at locations approved for that purpose by the local government.</p> <p>The excessive running of engines, motors and generators.</p> <p>Not securely mooring or anchoring a boat using mooring or anchor lines that are in the opinion of an authorised person adequate and good and serviceable condition.</p> <p>Not complying with the directions of an authorised person, police officer or harbour master.</p> <p>Land or take off a sea or float plane unless in an emergency.</p> <p>Remove, displace or interfere with any board, plate or tablet or associated fastenings for a local government notice.</p> <p>Wilfully break, destroy or damage any erection, beacon, tree, plant, seat or thing.</p> <p>Write upon, mark, or deface any building or erection, mooring, tree, plant, seat or thing.</p>
<p>All public pools owned by the local government</p>	<p>Entering or remaining when in a state of intoxication or under the influence of alcohol or any drug whatsoever.</p>

<b>Column 1</b> <b>Local government controlled area or road</b>	<b>Column 2</b> <b>Prohibited activity</b>
	<p>Fouling or polluting.</p> <p>Bringing in the opinion of an authorised person dangerous aquatic equipment or things.</p> <p>Using aquatic equipment that in the opinion of an authorised person causes a risk to the safety of others.</p> <p>Swimming when there is no life guard on duty.</p> <p>Disobeying lawful direction to leave the area.</p> <p>Bringing bottles or other glassware into the area</p>
<p>All parks and reserves that are listed in the Parks and Reserves Register</p>	<p>Damage or interfere with native wildlife or vegetation.</p> <p>Damage or interfere with local government facilities, notices or equipment.</p> <p>Exercise rights of occupation or use.</p> <p>Use a vehicle except where indicated.</p> <p>Carrying out domestic tasks, including ablutions, cooking and washing.</p> <p>Bring animals except where indicated.</p>
<p>All foreshores in the local government area listed in the Foreshores Register</p>	<p>Commit any act that would or would likely in the opinion of an authorised person injure, displace, pollute, foul, deface or disorder any part of the foreshore or anything constructed or provided thereon, and appertaining thereto, so as to cause waste, loss or inconvenience to local government.</p> <p>Damage, mutilate, defile, interfere with or destroy any local government building or structure.</p>
<p>All local government owned or controlled jetties, barge loading ramps and boat ramps</p>	<p>Use of boat ramps for a purpose other than launching or retrieving a vessel.</p> <p>Place anchor or moor a vessel in the approach fairway or so as to obstruct or impede the</p>

<b>Column 1</b> <b>Local government controlled area or road</b>	<b>Column 2</b> <b>Prohibited activity</b>
	<p>approach of a vessel to a jetty, barge loading ramp or boat ramp.</p> <p>Not comply with the requirements of any official sign erected by Council at or on any jetty, barge loading ramp or boat ramp.</p> <p>Charging for the use of any jetty, barge loading ramp or boat ramp.</p> <p>Apply a vertical load to the jetty in excess of the maximum specified on an official sign.</p> <p>Obstruct or impede in the opinion of an authorised person the use of a jetty, barge loading ramp or boat ramp by another person or vehicle.</p> <p>Drive, park or stand any vehicle except for the purpose of conveying goods along the jetty, boat ramp or barge loading ramp.</p> <p>Carry out maintenance or repairs to a vessel or a vehicle on a boat ramp, barge loading ramp or in the approach fairway to a boat ramp unless it is an emergency.</p> <p>Enter a jetty, barge loading ramp or boat ramp when it is closed.</p> <p>Obstruct or impede in the opinion of an authorised person the use of others of any jetty, barge loading ramp or boat ramp.</p> <p>Extinguish, diminish or increase any light illuminating from jetty, barge loading ramp or boat ramp.</p> <p>Break, destroy, damage, deface, disfigure, interfere with or write upon any jetty, barge loading ramp or boat ramp or any notice relating thereto.</p> <p>Ride any animal onto a jetty, barge loading ramp or boat ramp.</p> <p>Fish from a jetty, barge loading ramp or boat ramp in a manner that in the opinion of an authorised person impedes or obstructs vessel, vehicular or pedestrian traffic on the jetty, barge</p>

<b>Column 1</b> <b>Local government controlled area or road</b>	<b>Column 2</b> <b>Prohibited activity</b>
	<p>loading ramp or boat ramp.</p> <p>Place anything other than a moored or fastened vessel alongside or near a jetty, barge loading ramp or boat ramp which may in the opinion of an authorised person obstruct or interfere with the access to and proper berthing of vessels.</p> <p>Light a fire.</p> <p>Solicit or canvas boat tickets, goods, foodstuffs, chattels, or any other thing.</p> <p>Erect or maintain a sign, notice board or other fixtures for the purposes of exhibition of bills or notices.</p> <p>Exhibit on, affix to or maintain a bill or a notice.</p> <p>Clean/scale fish or marine life except in an area designated for that purpose</p> <p>Dispose of fish or marine life remains in a non-designated receptacle.</p> <p>Moor or fasten a vessel to any part of a jetty, barge loading ramp or boat ramp except from a bollard or other fastening appliance provided for that purpose.</p> <p>Moor or fasten a vessel to steps or a landing place for cargo or passengers that in the opinion of an authorised person impedes the use by a person or obstructs other vessels.</p> <p>Permit a vessel to lie alongside a jetty not properly moored or fastened in the opinion of an authorised person.</p> <p>Habitation at a jetty, barge loading ramp or boat ramp.</p> <p>Use, employ or permit any vessel for delivery of fuel to vessels on the jetty unless approved under other legislation or permits.</p>
<p>Local government operated caravan parks</p>	<p>Reside in or carry out domestic tasks in a caravan that in the opinion of an authorised person is dilapidated, unsightly or overcrowded</p>



<b>Column 1</b> <b>Local government controlled area or road</b>	<b>Column 2</b> <b>Prohibited activity</b>
	<p>or unfit for use</p> <p>Park a caravan or erect in a tent in a place that is not allotted by caravan park manager.</p> <p>Let or hire a caravan, cabin or tent to another person without written local government approval.</p> <p>Take or bring an animal unless otherwise signed.</p> <p>Use hand washing facilities for purposes other than their intended use.</p> <p>Lay down floor covering on the ground surface</p> <p>Injure, destroy or remove a tree, shrub or plant.</p> <p>Dig a hole or trench.</p>
<p>Cemeteries that are listed in the Cemeteries Register</p>	<p>Depasture any animal.</p> <p>Sell or buy an article or a thing.</p> <p>Distribute or put up any handbill, card, circular or advertisement.</p> <p>Damage or interfere with local government infrastructure</p> <p>Damage any tree, shrub or plant.</p> <p>Take part in any meeting other than of a religious or commemorative nature.</p> <p>Disturb or interfere with a funeral service.</p> <p>Discharge a firearm except at a military funeral or other recognised type of funeral service ordinarily involving such discharge.</p> <p>Damage or interfere with any grave, vault or memorial with any flowers or tokens placed thereon.</p> <p>Drive any vehicle otherwise than upon a designated roadway.</p> <p>Bring in any animal (other than an assistance</p>

<b>Column 1</b> <b>Local government controlled area or road</b>	<b>Column 2</b> <b>Prohibited activity</b>
	dog).
Local Government Libraries listed in the Libraries Register	Disobey a lawful direction to leave a library.  Wilfully damage, interfere with or misuse a library resource
All local government owned or operated public conveniences	Damage, mutilate, defile, interfere with or destroy any local government building, structure or equipment.  Deposit or leave any refuse or rubbish.  Sleep or inhabit.  Deposit in a bowl, pan or urinal any cigarette, cloth, grass, earth, metal, plastic, unsuitable paper or wood.
All local government owned or operated bridges and culverts	Drive a vehicle if the combined weight of the vehicle exceeds the load limit identified on signage adjacent to the bridge.  Dive or jump.  Throw or drop an object.  Obstruct or interfere with in the opinion of an authorised person the bridge or culvert.
All roads	Damage a road.  Obstruct the effective illumination of a road or a footway with a tree or vegetation.  Obstruct clear vision by vehicular and pedestrian traffic with a tree or vegetation.  Create a potential danger in the opinion of an authorised person to public safety for road users.  Camp.  Carry out domestic tasks, including ablutions, cooking and washing.  Doors or gates leading to buildings must not project upon a road or footway when opened.

## Schedule 3 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
All local government controlled areas	Any activity that may in the opinion of an authorised person obstruct the safe movement of users of the land, or which has the potential to damage or interfere with the land or infrastructure in the area including planting of trees	Permitted only with the written authorisation of the Chief Executive Officer
	Discharge of fireworks	Permitted only with the written authorisation of the Chief Executive Officer
	Installing a gate or a grid, or a gate and a grid across a road	Permitted only with the written authorisation of the Chief Executive Officer
	Being a responsible person for a gate or a grid, or a gate and a grid, installed across a road	Permitted only with the written authorisation of the Chief Executive Officer
Port Douglas Boat Harbour	Swim, dive or undertake any underwater activity	Permitted only with the written authorisation of the Chief Executive Officer
Daintree River Pontoon	Berth any craft to the pontoon	Permitted only with the written authorisation of the Chief Executive Officer

<b>Column 1</b>  <b>Local government controlled area or road</b>	<b>Column 2</b>  <b>Restricted activity</b>	<b>Column 3</b>  <b>Extent of restriction</b>
<p>All cemeteries that are listed in the Cemeteries Register</p>	<p>Any activity that may in the opinion of an authorised person obstruct the safe movement of users of the cemetery or which has the potential to damage or interfere with the cemetery's infrastructure including planting of trees, vegetation and installation of adornments</p>	<p>Permitted only with the written authorisation of the Chief Executive Officer</p>
<p>All parks and reserves that are listed in the Parks and Reserves Register</p>	<p>Any activity that may in the opinion of an authorised person obstruct the safe movement of users of the park or reserve or which has the potential to damage or interfere with the park or reserve's infrastructure</p> <p>Fly model aircraft or drones</p> <p>Bring any bottle or other glassware into the park or reserve</p>	<p>Permitted only with the written authorisation of the Chief Executive Officer</p>
<p>All local government owned or controlled jetties, barge loading ramps and boat ramps</p>	<p>Any activity that may obstruct the safe movement of users of the jetties, barge loading ramps and boat ramps or which has the potential to damage the jetties, barge loading ramps and boat ramps' infrastructure</p> <p>Use of a jetty by a commercial vessel for any purpose</p> <p>Moor or fasten a private vessel to a jetty for any purpose other than the time that is reasonably required in the opinion of an authorised person for embarking or disembarking of passengers or crew or loading or unloading cargo, stores or goods</p> <p>Moor, fasten or berth a vessel for any period exceeding one (1) hour</p>	<p>Permitted only with the written authorisation of the Chief Executive Officer</p>

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Local government controlled area or road</b>	<b>Restricted activity</b>	<b>Extent of restriction</b>
All footpaths	Driving, riding, leading wheeling or standing any goods, vehicle, vessel, animal or other thing in, or across a footpath but does not apply to ingress or egress from adjoining properties; or walking a domestic animal	Permitted only with the written authorisation of the Chief Executive Officer
All local government owned bridges	Any activity that may in the opinion of an authorised person obstruct the safe movement of users of the bridge or which has the potential to damage or interfere with the bridge's infrastructure  Drive a vehicle	Permitted only with the written authorisation of the Chief Executive Officer  Permitted only in accordance with the posted Load Limit sign
All roads	Any activity that may in the opinion of an authorised person obstruct the safe movement of users of the road, or which has the potential to damage or interfere with the road or infrastructure in the area including planting of trees  Depasturing or agistment of animals	Permitted only with the written authorisation of the Chief Executive Officer  Permitted only with the written authorisation of the Chief Executive Officer

## **Schedule 4      Motor vehicle access areas in local government controlled areas and facilities**

Sections 6 and 7

<b>Column 1</b> <b>Motor vehicle access areas</b>	<b>Column 2</b> <b>Prohibited vehicles</b>
None prescribed	

## **Schedule 5      Opening hours for local government controlled areas and facilities**

Section 8

<b>Column 1</b>	<b>Column 2</b>
<b>Local government controlled area</b>	<b>Opening hours</b>
All local government controlled areas and facilities	In accordance with official signage approved and erected by the local government at or near the area.

## **Schedule 6      Permanent closure of local government controlled areas**

Section 9

Nil.





## **Draft 3.1**

# **Douglas Shire Council Subordinate Local Law No. 5 (Parking) 2018**

# Douglas Shire Council Subordinate Local Law No. 5 (Parking) 2018

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 5 (Parking) 2018*.

### 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) 2018*, 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;
  - (b) the persons who may be issued with a permit to park a vehicle contrary to an indication on an official traffic sign;
  - (c) the vehicles that can be issued with commercial vehicle identification labels; 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 Douglas Shire Council *Local Law No. 5 (Parking) 2018* (the **authorising local law**).

### 4 Definitions

- (1) The Dictionary in Schedule 1 defines particular words used in this subordinate local law.
- (2) Other particular words have the same meaning as in the authorising local law.

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

### 5 Declaration of traffic areas—Authorising local law, s 5

- (1) For section 5(1) of the authorising local law, the whole local government area is declared to be a traffic area.
- (2) For section 5(2) of the authorising local law the boundaries of the traffic area are the boundaries of the local government area.

### 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 indicated by hatching in the map 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 indicated by bold lines circumscribing the hatched areas on the map in Schedule 2.

## **Part 3                      Parking contrary to parking restriction**

### **7      Parking permits issued by local government—Authorising local law, s 7(2)**

For section 7(2) of the authorising local law, the following persons may be issued with a parking permit mentioned in section 7(1) of the authorising local law—

- (a) persons who have been granted approval under another local law for the commercial use of a local government controlled area, where the permit is necessary to undertake the commercial use;
- (b) a person engaged in tourism-related business;
- (c) school bus operators;
- (d) local government employees, contractors or agents for the purpose of carrying out work for or on behalf of local government;
- (e) residents of a road for which a permit is required;
- (f) contractors or workers requiring a permit to park on a road to undertake work on an adjoining site;
- (g) official news media journalists, camera operators, or persons in some other way engaged in a news gathering capacity for a magazine, newspaper, radio or television broadcast; and
- (h) any other person who in the opinion of an authorised person has reasonable grounds to warrant the issue of a parking permit.

### **8      Commercial vehicle identification labels—Authorising local law, s 8(2)**

For section 8(2) of the authorising local law, the vehicles that may be issued with a commercial vehicle identification label are any motor vehicles constructed, fitted or equipped for the carriage of persons which is used for carrying on a business that requires the regular use of loading zones.

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

### **9      Infringement notice penalty amounts—Authorising local law, s 9**

For section 9 of the authorising local law, the infringement notice penalty amount for an offence mentioned in columns 1 and 2 of Schedule 3 is the corresponding amount stated in column 3 of Schedule 3.

## Schedule 1 Dictionary

### Section 4

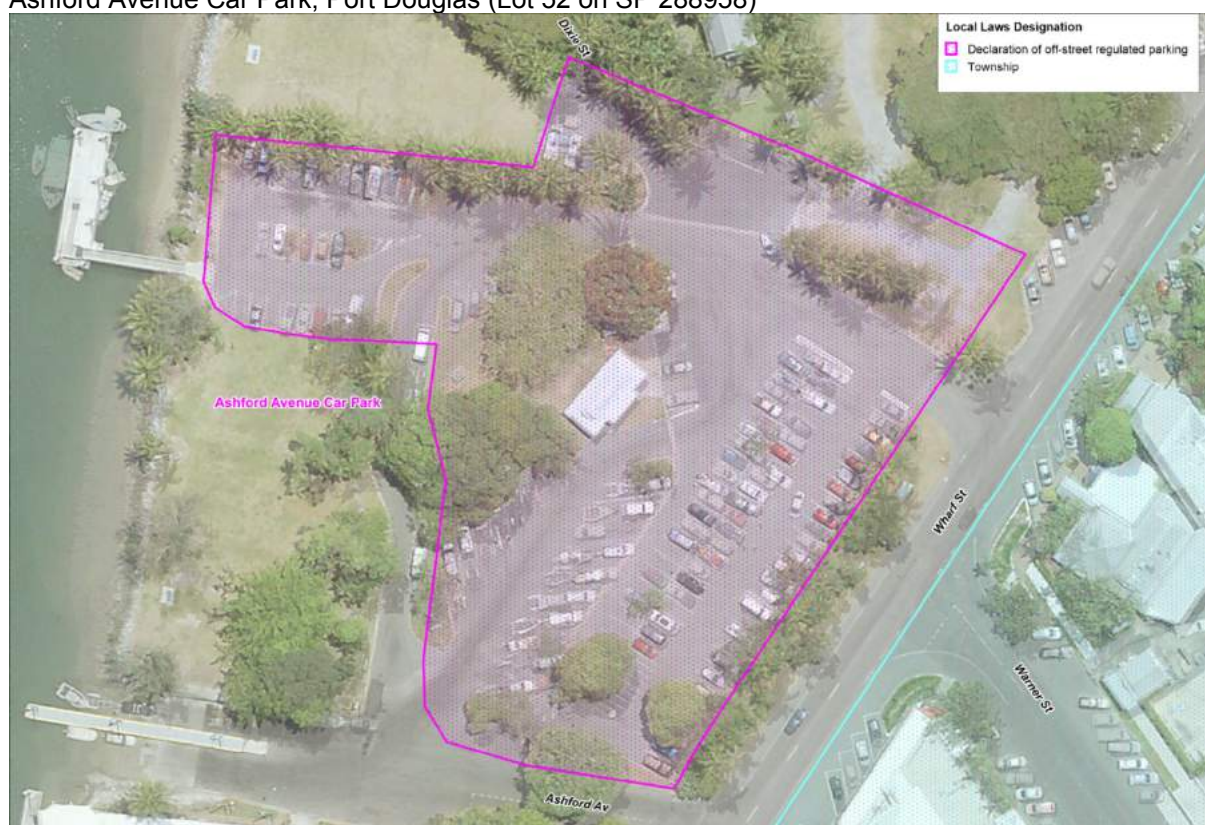
***tourism-related business*** means a vehicle used, in the opinion of an authorised person, to transport tourists or promote tourism.

## Schedule 2 Declaration of off-street regulated parked areas

### Section 6

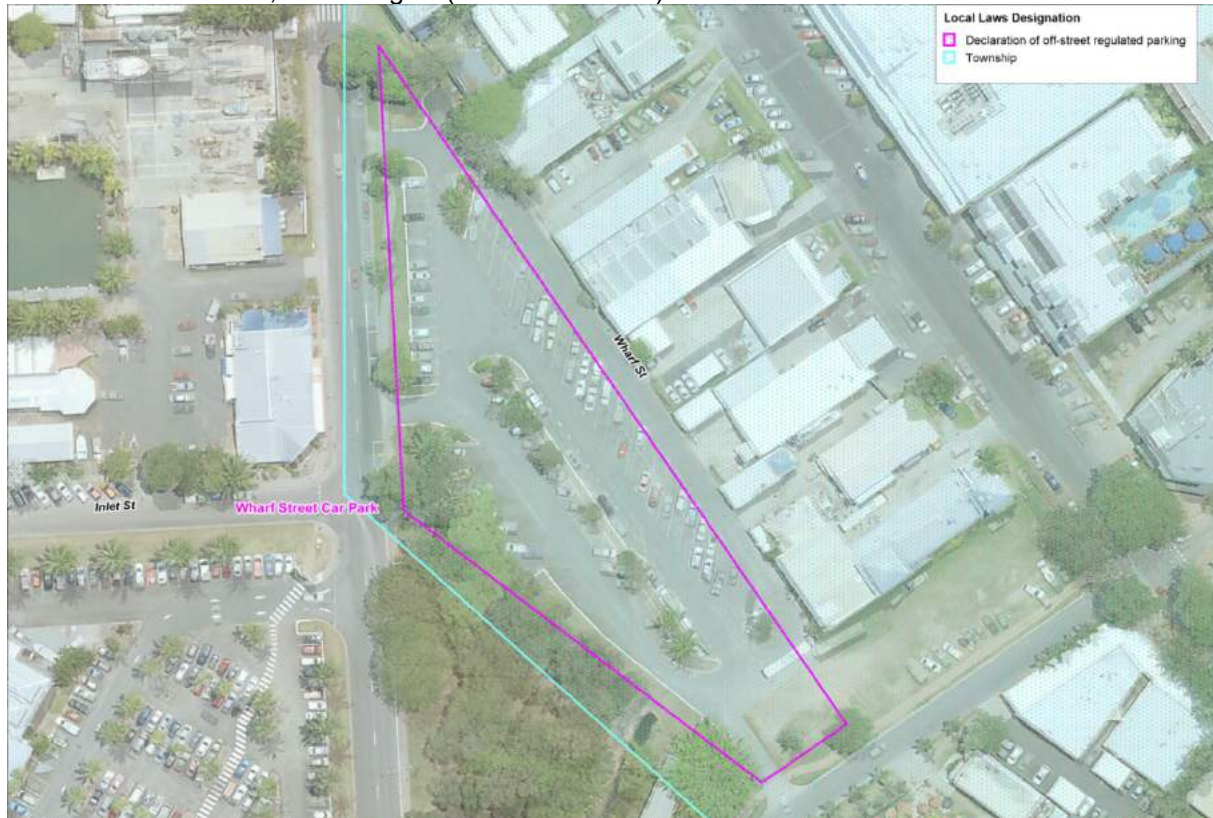
### Port Douglas off-street regulated parking areas

Ashford Avenue Car Park, Port Douglas (Lot 52 on SP 288958)





Wharf Street Car Park, Port Douglas (Lot 12 on SR787)



Jalun Park Car Park, Esplanade, Port Douglas (Lot 141 on SR530)





Port Douglas Harbour Car Park, Wharf Street, Port Douglas (Lot 96 on SP134234 and Lot 2 on SP262338)



Port Douglas Harbour Car Park (Yacht Club) Wharf Street, Port Douglas (Lot 96 on SP134234 and Lot 2 on SP262338)

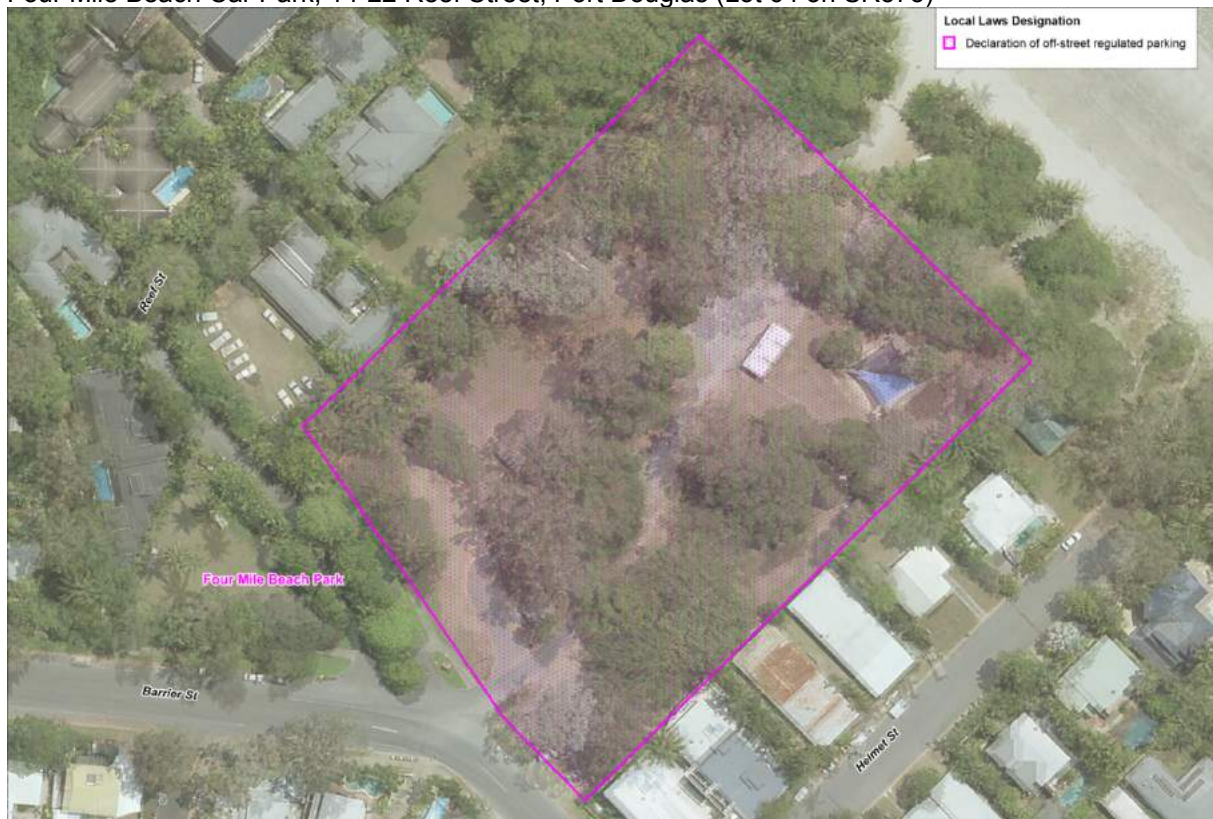


Escape Street Car Park, 3 Escape Street, Port Douglas (Lot 48 on RP 747344)





Four Mile Beach Car Park, 14-22 Reef Street, Port Douglas (Lot 64 on SR573)



## Schedule 3      Infringement notice penalty amounts for certain minor traffic offences

### Section 9

<b>Column 1</b> <i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i>	<b>Column 2</b> <b>Minor Traffic Offence</b>	<b>Column 3</b> <b>Infringement notice penalty amount</b>
167	Stopping on a length of road or in an area to which no stopping sign applies.	0.8 Penalty Units
168(1)	Stopping on a length of road or in an area to which no parking sign applies.	0.8 Penalty Units
169	Stopping at the side of a road marked with a continuous yellow edge line.	0.8 Penalty Units
170(1)	Stopping in an intersection.	0.8 Penalty Units
170(2)	Stopping on a road within 20m from the nearest point of an intersecting road at an intersection with traffic lights.	0.8 Penalty Units
170(4)	Stopping on a road within 10m from the nearest point of an intersecting road at an intersection without traffic lights.	0.8 Penalty Units
171(1)(a)	Stopping on a children's crossing.	0.8 Penalty Units
171(1)(b)	Stopping on the road within 20m before the children's crossing or 10m after the crossing.	0.8 Penalty Units
172(1)	Stopping on a pedestrian crossing that is not an intersection, or on the road within 20m before the crossing and 10m after the crossing.	0.8 Penalty Units
173(1)	Stopping on a marked foot crossing that is not an intersection, or on the road within 10m before the traffic lights pole nearest to the driver at the crossing and 3m after the crossing.	0.8 Penalty Units
174(2)	Stopping on a bicycle crossing or on the road within 10m before the traffic lights nearest to	0.8 Penalty Units

<b>Column 1</b> <b>Transport Operations</b> <b>(Road Use</b> <b>Management – Road</b> <b>Rules) Regulation</b> <b>2009 provision</b>	<b>Column 2</b> <b>Minor Traffic Offence</b>	<b>Column 3</b> <b>Infringement</b> <b>notice penalty</b> <b>amount</b>
	the driver at the crossing, and 3m after the crossing.	
175(1)	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.	0.8 Penalty Units
176(1)	Stopping on a length of road other than a road-related area, to which a clearway sign applies.	0.8 Penalty Units
179(1)	Stopping in a loading zone.	0.8 Penalty Units
179(2)	Stopping continuously in a loading zone by a bus, truck or motor vehicle displaying a commercial vehicle identification label for longer than 30 minutes or such other time as indicated on the loading zone sign applying to the loading zone.	0.8 Penalty Units
179(2A)	Stopping continuously in a loading zone by a motor vehicle that is dropping off, or picking up goods, for longer than 20 minutes.	0.8 Penalty Units
179(2B)	Stopping continuously in a loading zone by a motor vehicle that is dropping off, or picking up, passengers for longer than 2 minutes.	0.8 Penalty Units
180(1)	Stopping in a truck zone.	0.8 Penalty Units
181(1)	Stopping in a works zone.	0.8 Penalty Units
182(1)	Stopping in a taxi zone.	0.8 Penalty Units
183(1)	Stopping in a bus zone.	1 Penalty Unit
185(1)	Stopping in a permit zone unless the driver's vehicle displays a current permit.	0.8 Penalty Units
186(1)	Stopping in a mail zone.	0.8 Penalty Units

<b>Column 1</b> <b><i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i></b>	<b>Column 2</b> <b>Minor Traffic Offence</b>	<b>Column 3</b> <b>Infringement notice penalty amount</b>
187(1)	Stopping in a bus lane, transit lane, or truck lane.	0.8 Penalty Units
187(2)	Stopping in a tram lane, tramway or on tram tracks.	0.8 Penalty Units
188	Stopping in a shared zone.	0.8 Penalty Units
189(1)	Stopping on a road if puts any part of vehicle between a vehicle parked on the road and centre of road.	0.8 Penalty Units
190(1)	Stopping in a safety zone or on a road within 10m before or after a safety zone.	0.8 Penalty Units
191	Stopping on a road near an obstruction on the road in a position that obstructs traffic on the road.	0.8 Penalty Units
192(1)	Stopping on a bridge, causeway, ramp or similar structure.	0.8 Penalty Units
192(2)	Stopping in a tunnel or underpass.	0.8 Penalty Units
193(1)	Stopping on or near a crest or curve on a length of road that is not in a built-up area.	0.8 Penalty Units
194(1)	Stopping within 1m of a fire hydrant, fire hydrant indicator or fire plug indicator.	0.8 Penalty Units
195(1)	Stopping at a bus stop, or on the road, within 20m before a sign on the road that indicates the bus stop, and 10m after the sign.	0.8 Penalty Units
196(1)	Stopping at a tram stop or on the road within 20m before a sign that indicates a tram stop.	0.8 Penalty Units
197(1)	Stopping on a bicycle path, footpath, shared path or dividing strip or nature strip adjacent to a length of road in a built-up area.	0.4 Penalty Units

<b>Column 1</b> <b>Transport Operations</b> <b>(Road Use</b> <b>Management – Road</b> <b>Rules) Regulation</b> <b>2009 provision</b>	<b>Column 2</b> <b>Minor Traffic Offence</b>	<b>Column 3</b> <b>Infringement</b> <b>notice penalty</b> <b>amount</b>
198(1)	Stopping on a road in a position that obstructs access by vehicles or pedestrians to or from a footpath ramp or a similar way of access to a footpath or a bicycle path or passage way.	0.4 Penalty Units
198(2)	Stopping on or across a driveway or other way of access for vehicles travelling to or from adjacent land.	0.4 Penalty Units
199	Stopping on a road within 3m of a public post box.	0.8 Penalty Units
200(1)	Stopping a heavy vehicle, or long vehicle, on a length of road that is not in a built up area, except on the shoulder of the road.	0.8 Penalty Units
200(2)	Stopping a heavy vehicle, or long vehicle on a length of road in a built-up area for longer than 1 hour.	0.8 Penalty Units
201	Stopping on a length of road to which a bicycle parking sign applies.	0.4 Penalty Units
202	Stopping on a length of road to which a motorbike parking sign applies	0.4 Penalty Units
203(1)	Stopping in a parking area for people with disabilities.	1.5 Penalty Units
205	Parking continuously on a length of road, or in an area, to which a permissive parking sign applies for longer than—  (a) the period indicated by information on or with the sign; or  (b) if the vehicle displays a current parking permit for people with disabilities – the period stated in the permit.	0.4 Penalty Units
208(1)	Parallel parking on a road – failing to properly position the vehicle (except in a median strip	0.4 Penalty Units

<b>Column 1</b> <b><i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i></b>	<b>Column 2</b> <b>Minor Traffic Offence</b>	<b>Column 3</b> <b>Infringement notice penalty amount</b>
	parking area).	
208A	Parking in a road-related area – failing to properly position the vehicle (except in a median strip parking area).	0.4 Penalty Units
210(1)	Angle parking in a parking area on the side of the road or in a median strip area to which a parking control sign or road marking applies – failing to properly position the vehicle.	0.4 Penalty Units
211(2)	Parking a vehicle not completely within a parking bay.	0.4 Penalty Units
211(3)	If a vehicle is too wide or long to fit completely within a single parking bay, not parking the vehicle within the number of parking bays needed to park the vehicle.	0.4 Penalty Units
212(1)	Entering or leaving a median strip parking area in a different direction to the direction that is indicated on a traffic control device.	0.8 Penalty Units
212(2)	Failing to enter or leave a median strip parking area forwards where there is no information on or with a traffic control device that indicates the driver must enter or leave in a particular direction.	0.8 Penalty Units
Part 12	Any other parking offences (not otherwise provided for) in Part 12.	0.4 Penalty Units



**Draft 3.1**

**Douglas Shire Council  
Subordinate Local Law No. 6  
(Bathing Reserves) 2018**

# Douglas Shire Council Subordinate Local Law No. 6 (Bathing Reserves) 2018

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 6 (Bathing Reserves) 2017*.

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

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 6 (Bathing Reserves) 2017*, which provides for the orderly management and regulation of activities within bathing reserves placed under the local government's control.
- (2) The purpose is to be achieved by providing for—
  - (a) the regulation of the use of aquatic equipment within bathing reserves; and
  - (b) the appointment and powers of authorised persons to manage and enforce the regulation of conduct within bathing reserves.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 6 (Bathing Reserves) 2017* (the **authorising local law**).

### 4 Definitions

- (1) The Dictionary in Schedule 1 defines particular words used in this subordinate local law.
- (2) Other particular words have the same meaning as in the authorising local law.

## Part 2 Use of aquatic equipment in bathing reserves

### 5 Prohibition or restriction of aquatic equipment—authorising local law, s 12(1)

- (1) For section 12(1) of the authorising local law, the equipment mentioned in column 2 of Schedule 2 is prohibited in the corresponding bathing reserve or part of a bathing reserve mentioned in column 1 of Schedule 2.
- (2) For section 12(1) of the authorising local law, the equipment mentioned in column 2 of Schedule 3 is restricted in the corresponding bathing reserve or part of a bathing reserve mentioned in column 1 of Schedule 3, to the extent described in column 3 of Schedule 3.

## Part 3 Behaviour in bathing reserves

### 6 Prohibited equipment—authorising local law, s 15(3)

For section 15(3) of the authorising local law, the following equipment is prohibited equipment—

- (a) a vehicle;
- (b) glassware.

## **7 Circumstances where prohibited equipment permitted—authorising local law, s 15(2)**

For section 15(2) of the authorising local law, section 15(1) of the authorising local law does not apply in the following circumstances—

- (a) where life saving equipment is used by members of a life-saving patrol for surveillance of the bathing area and to assist persons in distress;
- (b) where prohibited equipment is used during a competition or event approved in writing by local government; or
- (c) approval is given under another local law.

## **8 Restriction on particular animals in bathing reserves—authorising local law, s 17**

For section 17 of the authorising local law, the animals mentioned in column 2 of Schedule 4 are restricted in the corresponding bathing reserve or part of a bathing reserve mentioned in column 1 of Schedule 4, to the extent described in column 3 of Schedule 4.

# **Part 4 Authorised persons**

## **9 Appointment of authorised persons—authorising local law, s 26(1)(a)**

For section 26(1)(a) of the authorising local law, the following persons are authorised persons for the local law—

- (a) the senior lifeguard from a recognised life-saving club assigned by the club or Surf Life Saving Queensland to patrol a bathing reserve or part of a bathing reserve, at a particular time.

## **10 Limitation of authorised persons' powers—authorising local law, s 27**

For section 27 of the authorising local law, the powers of an authorised person appointed under section 9 of this subordinate local law are limited as follows—

- (a) an authorised person may only exercise the powers of an authorised person in the part of the bathing reserve assigned to the life-saving club under section 19 of the authorising local law and during the times that the person is part of a life-saving patrol.

## **11 Conditions of office for authorised persons—authorising local law, s 28(1)**

For section 28(1) of the authorising local law, an authorised person identified under section 8 of this subordinate local law holds office on the following conditions—

Such conditions as may be prescribed in the instrument of appointment

## **Schedule 1      Dictionary**

### **Section 4**

See Dictionary in Schedule 1 of *Local Law No. 6 (Bathing Reserves) 2018*.

## **Schedule 2      Prohibited aquatic equipment for bathing reserves or parts of bathing reserves**

Section 5(1)

<b>Column 1</b> <b>Bathing reserve or part of bathing reserve</b>	<b>Column 2</b> <b>Prohibited aquatic equipment</b>
Intentionally left blank	Intentionally left blank

## Schedule 3      Restricted aquatic equipment for bathing reserves or parts of bathing reserves

Section 5(2)

Column 1 Bathing reserve or part of bathing reserve	Column 2 Restricted aquatic equipment	Column 3 Extent of restriction
All bathing reserves within the local government area.	<p>Ship (less than 6 metres long)</p> <p>Jet ski</p> <p>Another device, whether motorised or not for use on or in the water to carry a person or thing across or through the water or for recreational use in the water (less than 6 metres long)</p>	<p>Another device, whether motorised or not for use on or in the water to carry a person or thing across or through the water or for recreational use in the water greater than 6 metres will require an approval from the local government.</p> <p>Lifesavers on duty where aquatic equipment is used by the general public, permitted only if—</p> <p>(a) the owner or operator does not live on the ship or other device, whether temporarily intermittently or permanently, in the water; and</p> <p>(b) the following safety measures are in place—</p> <ul style="list-style-type: none"> <li>• it is operated safely; and</li> <li>• not taken within 50 metres of people in the water, or anchored ship.</li> </ul>

## **Schedule 4      Restricted animals in bathing reserves or parts of bathing reserves**

Section 8

<b>Column 1</b> <b>Bathing reserve or part of bathing reserve</b>	<b>Column 2</b> <b>Restricted animal(s)</b>	<b>Column 3</b> <b>Extent of restriction</b>
Four Mile Beach Bathing Reserve	Horses, camels and donkeys	Permitted only with the written permission of the Chief Executive Officer



**Draft**

**Douglas Shire Council  
Register of Cemetery Reserves 2018**

<b>Name/Description</b>	<b>Suburb</b>	<b>Lot and Plan</b>
Port Douglas Cemetery	PORT DOUGLAS	Lot 142 on CP886634
Mossman Cemetery	MOSSMAN	Lot 10 on RP723874





**Draft**

**Douglas Shire Council  
Register of Parks and Reserves 2018**

<b>Name/Description</b>	<b>Suburb</b>
Crown Park	PORT DOUGLAS
Endeavour Street Park	PORT DOUGLAS
Escape Street Park	PORT DOUGLAS
Fourmile Beach Access South End	PORT DOUGLAS
Island Point Lookout	PORT DOUGLAS
Jalun Park	PORT DOUGLAS
Nautilus Street Park	PORT DOUGLAS
Reef Park	PORT DOUGLAS
Reynolds Park	PORT DOUGLAS
Jalunbu Park (Surf Club)	PORT DOUGLAS
Hutchings Park	PORT DOUGLAS
Port Douglas Sporting Complex	PORT DOUGLAS
Rex Smeal Park	PORT DOUGLAS
Market Park	PORT DOUGLAS
ANZAC Park	PORT DOUGLAS
Dixie Park	PORT DOUGLAS
Little Cove	PORT DOUGLAS
Bill Reese Park & Rotary Park	MOSSMAN
Coronation Park	MOSSMAN
David Jack Park	MOSSMAN
George Davis Park	MOSSMAN
Jack Park	MOSSMAN
North Mossman Park	MOSSMAN
Shepherd Valley Park	MOSSMAN
Cassowary Soccer Grounds	CASSOWARY
Jim Holdsworth Park	COOYA BEACH
Lou Prince Park	COOYA BEACH
Newell Beach Esplanade	NEWELL BEACH
Newell Beach Park	NEWELL BEACH
Jimal Park (The Fire Spirit)	NEWELL BEACH
Phil Lunn Park	NEWELL BEACH
Rocky Point Park	ROCKY POINT
New Wonga Esplanade	WONGA BEACH
Park	WONGA BEACH
Wonga Community Park	WONGA BEACH
Bells Park	WONGA BEACH
New Wonga Esplanade Park	WONGA BEACH
Snapper Island Drive Park	WONGA BEACH
Wonga Community Park	WONGA BEACH
Daintree Jetty Park	DAINTREE
Daintree Sports Oval	DAINTREE
Daintree Environmental Park	DAINTREE

Pioneers Park	DAINTREE
Park	FOREST CREEK
Park	STEWART CREEK VALLEY
Cape Tribulation Road Park	THORNTON BEACH
Park	THORNTON BEACH
Thornton Beach Reserve	THORNTON BEACH
Cape Tribulation Beach Esplanade	CAPE TRIBULATION
Cape Kimberley Beach Esplanade	CAPE KIMBERLEY
Pretty Beach Esplanade	PRETTY BEACH
Oak Beach Esplanade	OAK BEACH
Pebbly Beach Esplanade	PEBBLY BEACH
Emmagen Creek Beach Esplanade	CAPE TRIBULATION
Cow Bay Beach Esplanade	COW BAY
Four Mile Beach	PORT DOUGLAS
Cooya Beach	COOYA BEACH
Newell Beach	NEWELL BEACH
Wonga Beach	WONGA BEACH
Myall Beach	CAPE TRIBULATION
Wangetti Beach	WANGETTI



**Draft**

**Douglas Shire Council  
Register of Dog Off-Leash Areas 2018**

Map Number	Area Description	Address and Property Description
1	Southern end of Four Mile Beach, south of the Cowrie Street beach entrance	Beach esplanade
2	Part of Hutchins Park, Oriole Street, Port Douglas	Oriole Street, Port Douglas Part of Lot 99 on SP175728
4	Northern end of Newell Beach including the foreshore area to the end of Marine Parade, north of Phillip Street.	Beach esplanade including the foreshore area to the end of Marine Parade
5	Northern end of Cooya Beach, north of the public toilet block.	Beach esplanade
6	**For future use**Northern section of Lou Prince Park located on Cooya Beach Road, Cooya Beach	Part of 21-29 Cooya Beach Road, Cooya Beach  Part of Lot 903 on SP199682
7	Beach esplanade north of Giblin Street, but south of Vixies Road, Wonga Beach	Beach esplanade
8	South of Buchanan Creek Rd car park area, southern section of Cow Bay Beach	Beach esplanade
9	Diwan Reserve, behind Douglas Shire Council Depot	Part of 69R Tea Tree Road, Diwan  Part of Lot 45 on RP739764
10	**For future use** Foxton Avenue, Mossman, Northern section of George Davis Park, north of the fitness equipment to the edge of the proposed Botanic Gardens	Foxton Avenue, Mossman  Part of Lot 30 on SP121816

## Map 1

PORT DOUGLAS: Southern end of Four Mile Beach, south of the Cowrie Street beach entrance.





## Map 2

PORT DOUGLAS: Part of Hutchins Park, Oriole Street, Port Douglas

**\*\*Potential site to be identified through community engagement\*\***



## Map 3

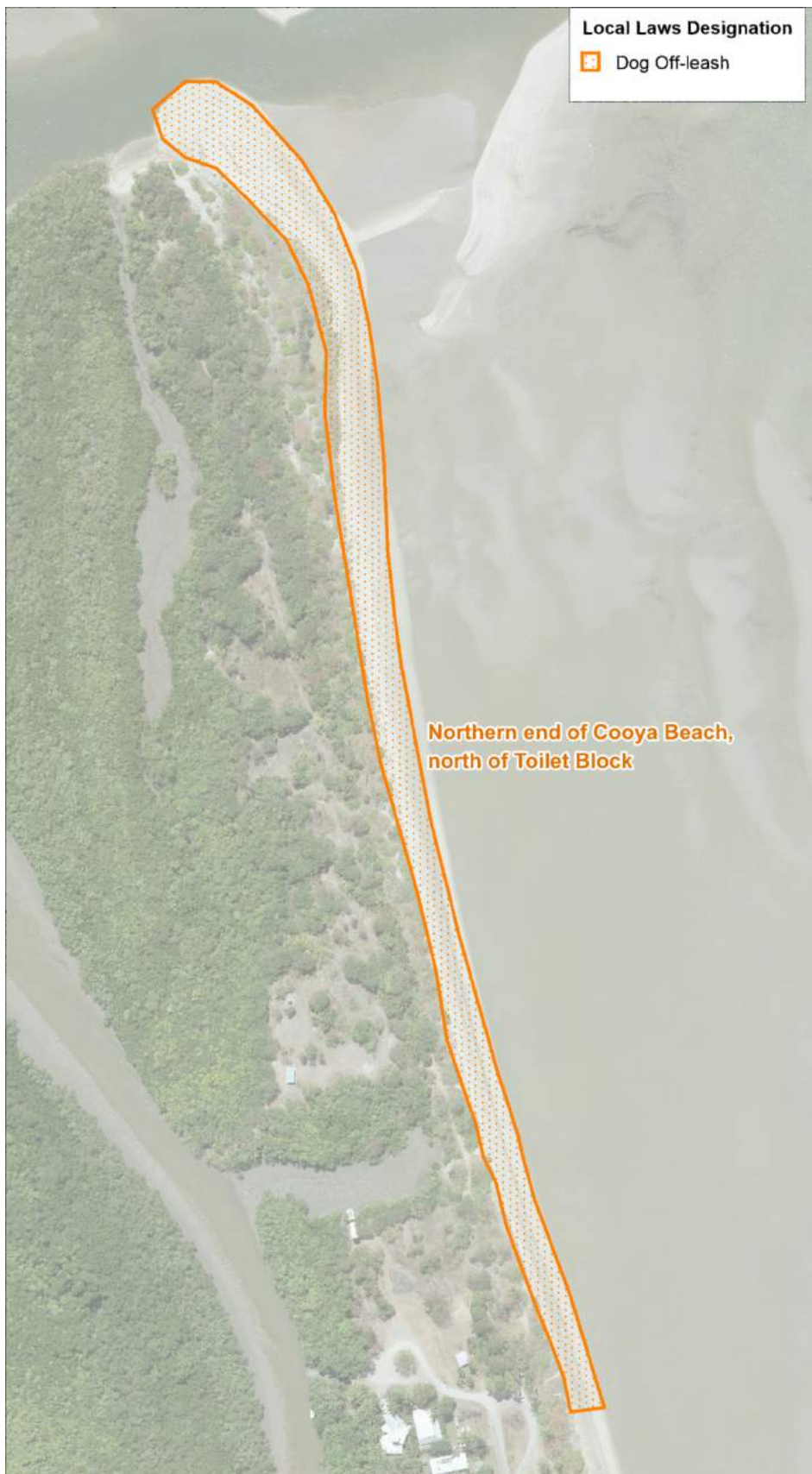
NEWELL BEACH: Northern end of Newell Beach including the foreshore area to the end of Marine Parade, north of Phillip Street.





## Map 4

COOYA BEACH: Northern end of Cooya Beach, north of the public toilet block, beach esplanade.



Map 5 \*\*For future use – when a suitable enclosure is erected\*\*

COOYA BEACH: Northern section of Lou Prince Park located on Cooya Beach Road, Cooya Beach.



## Map 6

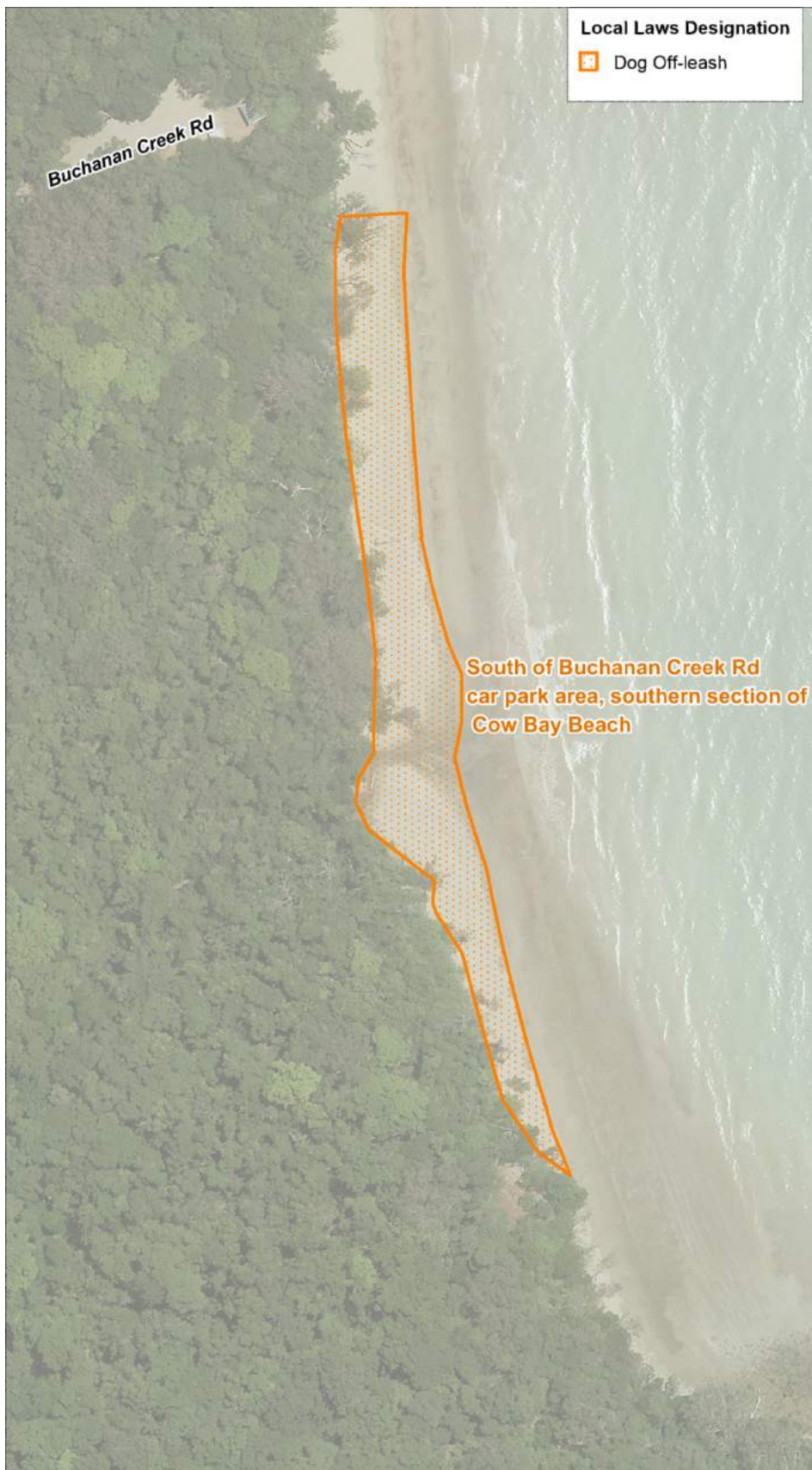
WONGA BEACH: Beach esplanade north of Giblin Street, but south of Vixies Road, Wonga Beach





## Map 7

COW BAY: South of Buchanan Creek Rd car park area, southern section of Cow Bay Beach



## Map 8

DIWAN: Part of Diwan reserve, behind Douglas Shire Council Depot





Map 9 \*\*For future use – when a suitable enclosure is erected\*\*

MOSSMAN: Foxton Avenue, Mossman, Northern section of George Davis Park, north of the fitness equipment to the edge of the proposed Botanic Gardens.





## DOUGLAS SHIRE COUNCIL PUBLIC INTEREST TEST PLAN

### 1. BACKGROUND

In April 1995, the Commonwealth, State and local governments endorsed a package of legislative and administrative arrangements that underpin the National Competition Policy (NCP). Under the NCP, all levels of government committed to reviewing all legislation that contains measures that may restrict competition.

A Public Benefit Test (PBT) is the mechanism for conducting the legislative review process.

The NCP is implemented by an inter-governmental agreement signed by the Council of Australian Governments (COAG) and includes the Competition Principles Agreement (CPA), which establishes the principles governing pro-competitive reform of government business enterprises and government regulation.

Under clause 5(1) of the CPA, all governments agreed to the principle that legislation should not restrict competition, unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

The Public Interest Test (PIT) for the proposed Local Laws and Subordinate Local Laws will be conducted against the principles and objectives set by the CPA.

In reviewing legislation that restricts competition, clause 5(9) of the CPA requires that the review should:

- clarify the objectives of the legislation;
- identify the nature of the restriction on competition;
- analyse the likely effect of the restriction on competition and on the economy generally;
- assess and balance the costs and benefits of the restriction; and
- consider alternative means of achieving the same result including non-legislative approaches.

Without limiting the matters to be taken into account in a review, clause 1(3) of the CPA sets out matters which should be taken into account, as follows:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or of a class of consumers;
- the competitiveness of Australian businesses; and

- the efficient allocation of resources.

This PIT Plan has been prepared in accordance with guidelines issued by the former Queensland Department of Infrastructure, Local Government and Planning (DILGP) (now the Department of Local Government, Racing and Multicultural Affairs) and with the regulatory requirements under the *Local Government Act 2009* (Qld) to provide a basis for community consultation. The PIT Plan details activities to be conducted during the test and identifies the depth of analysis to be carried out for each of the potentially anti-competitive provisions.

## **2. PROPOSED LOCAL LAWS**

The Council is conducting a PIT regarding possible anti-competitive provisions identified in the following proposed Local Laws and Subordinate Local Laws:

- *Local Law No. 1 (Administration) 2018;*
- *Subordinate Local Law No. 1 (Administration) 2018;*
- *Local Law No. 2 (Animal Management) 2018;*
- *Subordinate Local Law No. 2 (Animal Management) 2018;*
- *Local Law No. 3 (Community and Environmental Management) 2018;*
- *Subordinate Local Law No. 3 (Community and Environmental Management) 2018;*
- *Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018;*
- *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018;*
- *Local Law No. 5 (Parking) 2018;*
- *Subordinate Local Law No. 5 (Parking) 2018;*
- *Local Law No. 6 (Bathing Reserves) 2018; and*
- *Subordinate Local Law No. 6 (Bathing Reserves) 2018.*

A copy of the proposed Local Laws and Subordinate Local Laws can be accessed on Council's website (<https://douglas.qld.gov.au/>), or may be viewed at Council's office at 64-66 Front Street, Mossman and the Port Douglas Hub on Mowbray Street, Port Douglas.

## **3. GENERAL**

The Local Laws and Subordinate Local Laws introduce a number of potentially anti-competitive provisions including:

- requiring approvals to carry on certain businesses;
- regulating the conduct of business; and
- prescribing quality/technical standards to be observed in the conduct of certain businesses.



#### **4. ANTI-COMPETITIVE REVIEW OF LOCAL LAWS**

Under section 38 of the *Local Government Act 2009*, a local government must not make a Local Law that contains an anti-competitive provision, unless the local government has complied with the procedures prescribed under a regulation for the review of anti-competitive provisions.

Section 15 of the *Local Government Regulation 2012* provides that an anti-competitive provision is a provision that the local government identifies as creating:

- a barrier to entry into a market; or
- competition within a market,

after applying the Competition Policy Guidelines.

The Competition Policy Guidelines are identified in the document entitled '*National Competition Policy - Guidelines for Conducting Reviews on Anti-Competitive Provisions in Local Laws*' (Version 2) published by the former DILGP, in 2013.

#### **5. TABLE OF ANTI-COMPETITIVE PROVISIONS**

The anti-competitive provisions identified by the PIT in the proposed Local Laws and Subordinate Local Laws are outlined in the table in **Appendix 1**.

#### **6. CONFIRM SECTIONS ARE ANTI-COMPETITIVE**

At this stage, the sections identified in the table in Appendix 1 are confirmed as anti-competitive and no errors in analysis were made in the identification stage.

#### **7. REALISTIC REGULATORY AND NON-REGULATORY ALTERNATIVES TO PROPOSED ANTI-COMPETITIVE PROVISIONS**

Regulatory and non-regulatory alternatives available to local government which may achieve the objectives of the Local Laws and Subordinate Local Laws identified as anti-competitive include the following:

- performance-based regulation;
- market/Industry self-regulation;
- Codes of Conduct;
- Standards;
- no regulation;
- public information and education programs;
- economic incentives;
- industry accreditation; and / or
- negative licensing.

In its assessment of the viability of the abovementioned alternatives, Douglas Shire Council does not consider any of these options as viable alternatives to the regulation as set out in the proposed Local Laws and Subordinate Local Laws.

Alternative arrangements requiring voluntary compliance by businesses, in the Council's view, fail to provide the level of environmental and public health/safety standards required to be maintained.

## **8. TYPE OF REVIEW REQUIRED**

The review of anti-competitive provisions in the Local Laws and Subordinate Local Laws will be conducted as a *minor* review on the basis that:

- the Local Laws and Subordinate Local Laws have been developed for social, rather than economic objectives;
- the level of concern about the possible anti-competitive provisions is considered to be low as they are uncontroversial. The impact is on a discrete number of possible local businesses and does not have state-wide or national implications;
- the restrictions are introduced predominantly for health and safety reasons, for example regulation of animals;
- a major review will have significant cost with little or no likely reform;
- the restrictions impact on the local market, but the impact on the participants is low;
- the number of stakeholders involved in the review is low and the potential impact on stakeholders is low to moderate;
- public consultation with local residents and business will be conducted;
- the complexity of the issues relating to the review is considered to be low and the level of uncertainty as to the impacts the changes will have on stakeholders is also considered to be low; and
- the review will be conducted in-house.

## **9. CONSULTATION PROCESS TO BE UNDERTAKEN**

Consultation with the public will be conducted by giving the public notice of the review in the Cairns Post and the Mossman and Port Douglas Gazette, on Council's website and Facebook page and by inviting submissions. Public notices will also be posted on notice boards in the Council's administration office in Mossman and at the Port Douglas Hub.

This PIT Plan, as well as the proposed Local Laws and the Subordinate Local Laws will be available for inspection on the Council's website and at Council's office in Mossman free of charge.

## **10. CONTENT OF PUBLIC INTEREST TEST PLAN**

Appendix 1 set out below identifies a number of possible anti-competitive provisions in the proposed local laws which either act to create barriers to entering the market or restrict competition in the market.

However, some of the provisions of the proposed local laws contained in Appendix 1 may arguably be excluded from Council's review of anti-competitive provisions on the basis that they:

- regulate the behaviour of individuals;
- deal solely with internal administrative procedures of the local government;
- are intended as legitimate measure to combat the spread of pests and disease;
- are to ensure accepted public health and safety standards are met; and/or

- repeal local laws.

Notwithstanding the potential exclusions, all of the possible anti-competitive provisions have been included in this PIT Plan to enable full consideration of market impacts and market consultation where appropriate.

As a result of community consultation, where Council has identified anti-competitive provisions that are not permissible exclusions (discussed above), it will undertake an assessment of the impact of the provisions to determine whether it considers significant impacts will exist if the provisions are adopted. However, Council is not required to undertake any further review of the provisions, if it determines there are no significant impacts from the anti-competitive provisions, but will notify the community of those provisions when making the local law.

#### 11. KEY STAKEHOLDERS AFFECTED BY THE CURRENT SITUATION

The following key stakeholders have been identified as being affected by the current situation.

Stakeholders	Size	Distribution	Impact, rating and rationale
Local Government	1	Local government area	<b>Low/Negative –</b> Increased compliance costs of regulation
<b>Commercial operators</b> Existing and potential businesses e.g. Retailers and Mobile vendors	Unknown	Nil direct notification to businesses that operate locally. Information will however be available on Council's website for reference.	<b>Moderate/Negative –</b> Potential Increased burden of compliance and costs of licensing
State Government	1	Relevant State Government agencies known to operate locally will be contacted directly, notifying of the potentially anti- competitive provisions.	<b>Low/Negative</b> Increased compliance costs of regulation
Public	Approx. 12,000 persons	Public notification to occur in the Cairns Post, Mossman and Port Douglas Gazette on Council's website and Facebook page and at Council's administration office in Mossman and at the Port Douglas Hub.	<b>Low –</b> Potential for increased non-compliance with minimum standards

**12. TIMETABLE FOR CONDUCTING THE PUBLIC INTEREST TEST**

Public Interest Test Stage	Timeframe
Commence Public Interest Test	29 August 2018
Estimate of time for completing Public Interest Test	4 weeks, including public consultation period
Public Consultation period	28 days
Target date for presenting Public Interest Test Report to Council	6 November 2018 Council Meeting

**13. CONTENT OF THE PUBLIC INTEREST TEST REPORT**

At the conclusion of the public consultation, Council will prepare a Public Interest Test Report. This will include the following:

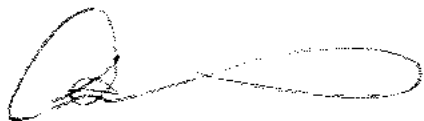
- a summary of the consultation process including a list of stakeholders consulted and the outcomes of consultation;
- any alternatives to the existing anti-competitive provisions and whether (or not) they are viable; and
- recommendations.

A copy of the Public Interest Test Report will be made available on the Council's website, <https://douglas.qld.gov.au>.

**14. PUBLIC INTEREST TEST PLAN APPROVAL**

This decision has been delegated by Council to the Chief Executive Officer. The *Local Government Act 2009* (Qld) allows this decision to be delegated by Council. Council will not delegate any decision in respect of recommendations contained in the actual public interest test report.

Approved by:



Darryl Crees  
Acting Chief Executive Officer

Dated: 21 August 2018

## APPENDIX 1: Possible Anti-Competitive Provisions

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
Local Law No. 1 (Administration) 2018	To provide a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws and subordinate local laws.	Section 5(1) A person must not undertake a prescribed activity without an approval granted by the local government.	3. Licensing or registration requirements for persons or bodies wishing to engage in a particular business activity and which operate on the basis of either limiting the number of participants or limiting participation to those persons or bodies that meet defined standards, qualifications or training or to those who hold membership of particular occupational or professional organisation.  7. Restrictions on the conduct of a business relating to matters such as the hours of operation, size of premises, provision of specified facilities, geographical area of operation, advertising or promotion, sector-specified operation (eg retail	Having regard to the definition of "prescribed activity", certain business operators are to obtain an approval as a condition of operation of the business. <sup>5</sup>  For example, an approval is required to carry out the following prescribed activities: <ul style="list-style-type: none"> <li>• Alternation or improvement to local government controlled areas and roads</li> <li>• Bringing or driving motor vehicles onto local government controlled areas</li> <li>• Bringing or driving prohibited vehicles onto</li> </ul>

<sup>1</sup> Blue shading of rows in the table below reflects proposed Local Law provisions, whilst white rows in the table below reflects proposed Subordinate Local Law provisions.

<sup>2</sup> An anti-competitive provision means a provision that local government applying the Competition Policy Guidelines identifies as creating a barrier to:

- (a) entry to a market; or
- (b) competition within a market.

<sup>3</sup> The particular type of anti-competitive provision is described by reference to the criteria set out in Appendix 2 below.

<sup>4</sup> The reason or basis for including the provision in this PIT Plan describes why the proposed provision is considered anti-competitive. This column does not provide a justification or assessment of why Council believes the identified provisions should be formally adopted as part of the final suite of local laws.

<sup>5</sup> Refer to Schedules 2-19 of Subordinate Local Law No. 1 (Administration) 2018.

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
			<p>vs wholesale), type of good or service allowed to be offered for sale etc.</p> <p>10. Allocation of licences or other authorities which either allow the holder access to natural resources (including water, minerals, forests and fisheries) or which create rights, or permit specified activities, denied to non-holders (for example, licences to dispose of waste material in a particular manner).</p>	<p>motor vehicle access areas</p> <ul style="list-style-type: none"> <li>Carrying out works on a road or interfering with a road or its operation</li> <li>Commercial use of local government controlled areas and raids</li> <li>Establishment or occupation of a temporary home</li> <li>Installation of advertising devices</li> <li>Keeping of animals</li> <li>Operation of a pet shop, cattery or kennel</li> <li>Operation of camping grounds</li> <li>Operation of cane railways</li> <li>Operation of caravan parks</li> <li>Operation of cemeteries</li> <li>Operation of public swimming pools</li> <li>Operation of shared facility accommodation</li> <li>Operation of temporary entertainment events</li> <li>Parking contrary to an indication on an official traffic sign regulating parking by time or</li> </ul>

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
				<ul style="list-style-type: none"> <li>• payment of a fee</li> <li>• Parking in a loading zone by displaying a commercial vehicle identification label</li> <li>• Undertaking animal breeding</li> <li>• Undertaking regulated activities on local government controlled areas and roads</li> <li>• Installation and operation of gates and grids</li> <li>• Undertaking regulated activities regarding human remains</li> <li>• Use of bathing reserves for training, competitions etc</li> <li>• Use of moorings</li> </ul>
		<b>Section 5(3)</b> Local government may declare that section 5(1) does not apply to a particular category of prescribed activity.	5. Requirements for prescribed quality or technical standards to be observed, or for specified equipment to be used, in regard to a particular business activity, other than those requirements that apply generally in regard to public/workplace health and safety.	For example categories of prescribed activity that meet certain criteria or comply with certain conditions.
		<b>Section 8(1)</b> An approval may be granted on such conditions as the	5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a	Having regard to the definition of "prescribed activity", certain business

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		local government considers appropriate.	business	<p>operators are to obtain an approval as a condition of operation of the business.<sup>6</sup></p> <p>For examples refer to comments above in respect of LL1, section 5(1).</p> <p>The approval may include conditions which restrict the conduct of the business such as:</p> <ul style="list-style-type: none"> <li>• Size of premises</li> <li>• Provision of specified facilities</li> <li>• Geographical area of operation</li> <li>• advertising etc.</li> </ul> <p>However, conditions must:</p> <ul style="list-style-type: none"> <li>• be reasonably necessary to ensure the operation and management of the activity is adequate to protect public health, safety and amenity and prevent environmental harm</li> <li>• are consistent with the purpose of any relevant local law</li> </ul>

<sup>6</sup> Refer to Schedules 2-19 of Subordinate Local Law No. 1 (Administration) 2018.



Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
				<ul style="list-style-type: none"> <li>do not conflict with conditions of any other relevant approval etc.</li> </ul>
		<b>Section 8(3)</b> Local Government may prescribe conditions on an approval	5. Requirements for prescribed quality or technical standards 9. Measures that have the effect of conferring a benefit on a particular person or body engaged in a particular business activity relative to other parties engaged in the same activity, including prescribing technical specifications or standards that can only be met by a particular operator, prescribing different requirements for public sector vis a vis private sector operators or making financial assistance available (including the waiver of various State or local government charges or fees as well as direct assistance measures such as a grant or subsidy) if a business is carried on at a particular place or in a particular manner.	A condition of approval may be imposed on some approval holders, but not others. Conditions may need to be imposed to ensure: <ul style="list-style-type: none"> <li>safety in relation to the prescribed activity;</li> <li>efficient allocation of resources or operation of local government controlled areas;</li> <li>maintain or improve convenience of users of local government controlled areas</li> <li>protection of the environment</li> </ul>
		<b>Section 8(4)</b> A condition of an approval may authorise: <ul style="list-style-type: none"> <li>contravention of a noise standard</li> <li>an environmental</li> </ul>	5. Requirements for prescribed quality or technical standards 9. Measures that have the effect of conferring a benefit on a particular person or body	A condition of approval may authorise the operation or conduct of a particular activity at specified times, at a specified location that would otherwise be by a contravention of the legislated standards.

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		nuisance		Such conditions may not be applied uniformly to all operators or users engaged in a particular activity.
		<b>Section 13(6)</b> The local government may prescribe, by subordinate local law, categories of prescribed activities for which an approval cannot be transferred.	1. An outright prohibition in regard to any particular business activity	The local government may prevent some businesses undertaking particular categories or activities from being able to transfer their approvals to other entities, whilst other businesses may be under no such restriction.
		<b>Section 14(1)</b> The local government may amend, cancel or suspend an approval.	1. An outright prohibition	The local government may prevent businesses from carrying out activities if the local government reasonably considers it is necessary for the protection of public health and safety, or to prevent environmental harm or for another purpose provided for in subsection.
		<b>Section 15(1)</b> The local government may immediately suspend an approval.	1. An outright prohibition	The local government may prevent businesses from carrying out activities if the local government reasonably considers it is necessary for the protection of public health and safety, or to prevent environmental harm or for another purpose provided for

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
				in subsection 1.
		<b>Section 21(2)</b> An authorised person may require the occupier of a property to produce for inspection, records that are required by the conditions of an approval.	7. Restrictions on the conduct of a business	Some businesses may be under a greater obligation than others to maintain records associated with the conduct of their operations and to produce such records upon request.
		<b>Section 22(1)</b> An authorised person may give a compliance notice requiring that the person remedy a contravention of the local laws, including the requirement to obtain an approval for certain prescribed activities.	3. Licensing or registration requirements 5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	Having regard to the definition of "prescribed activity", certain business operators are to obtain an approval as a condition of operation of the business. <sup>7</sup> For examples refer to comments above in respect of LL1, section 5(1). The approval may include conditions which restrict the conduct of the business such as: <ul style="list-style-type: none"> <li>• size of premises</li> <li>• provision of specified facilities</li> <li>• geographical area of operation</li> </ul>

<sup>7</sup> Refer to Schedules 2-19 of Subordinate Local Law No. 1 (Administration) 2018.

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
				<ul style="list-style-type: none"> <li>advertising etc.</li> </ul>
		<b>Section 24(1)</b> An authorised person may order a person to immediately stop a prescribed activity.	1. An outright prohibition	The local government may prevent businesses from carrying out activities if the local government reasonably considers it is necessary for the protection of public health and safety, to prevent environmental harm, or for another purpose provided for in subsection 1.
		<b>Section 30(1)</b> The local Government may by resolution fix a fee provided for by the local law, which is not itself fixed by the local law.	6. Price control provisions, whether by way of setting, or prescribing a process for determining, the maximum/minimum prices or charges for a specified good or service or the maximum/minimum rates of commission, agency or fees for any good or service.	Different activities may be subject to different fees and hence some businesses may be subject to a greater financial burden than others to operate.
		<b>Section 30(2)</b> A resolution fixing a fee may provide that the fee be reimbursed in appropriate circumstances.	9. Measures that have the effect of conferring a benefit on a particular person or body	Some businesses may be entitled to reimbursement of fees, whilst others may not (often dependent on the nature of the business/operations).
		<b>Section 30(3)</b> The local government may	9. Measures that have the effect of conferring a benefit on a particular	Some businesses may be entitled to reimbursement of fees, whilst others may not

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		waive or partially remit a fee where this is not contrary to the local law or a resolution fixing a fee.	person or body	(often dependent on the nature of the business/operations).
Subordinate Local Law No. 1 (Administration) 2018	To supplement Local Law No. 1 (Administration) 2018.	<b>Section 5 and Schedule 2</b> The prescribed activities listed in the Schedule do not require an approval.	3. Licensing or registration requirements	Some activities may be subject to approvals, whilst others are exempted. This may have a differential effect on businesses depending on the nature of their operations/activities.
		<b>Section 7 and Schedule 4</b> It is declared that the following categories of approval are non-transferable: (a) establishment and occupation of a temporary home (b) operation of temporary entertainment events (c) use of bathing reserves for training, competitions, etc. (d) undertaking regulated activities on local government controlled areas and roads (e) commercial use of local government controlled areas and roads	1. An outright prohibition	The local government may prevent some businesses undertaking particular categories or activities from being able to transfer their approvals to other entities, whilst other businesses may be under no such restriction.

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		<p><b>Section 10 and Schedule 25</b> Prescribes activities which are defined as "public place activities"</p> <ul style="list-style-type: none"> <li>(a) distribution of business advertising publications</li> <li>(b) formal/organized sporting or recreation activities</li> <li>(c) social/community events involving more than 50 people (or 100 people in parks)</li> <li>(d) research and scientific investigation</li> <li>(e) wedding ceremonies</li> <li>(f) public meetings, demonstrations or addresses</li> <li>(g) public education, information and interest displays or events</li> <li>(h) use of aquatic equipment including boats/vessels and motorized water craft in a boating reserve</li> <li>(i) use of ultralight hang gliders, paragliders or similar</li> </ul>	3. Licensing or registration requirements	Having regard to the definition of a "prescribed activity", certain business operators are required to obtain an approval as a condition of operation of the business, e.g. an approval is required to hold a public place activity.
		<b>Section 11, Schedules 2-35</b> Section and Schedules prescribe matters relating to	3. Licensing or registration requirements	Having regard to the definition of "prescribed activity", certain business

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		the prescribed activities.		<p>operators are to obtain an approval as a condition of operation of the business.<sup>8</sup></p> <p>For examples refer to comments in respect of LL1, section 5(1).</p> <p>The approval may include conditions which restrict the conduct of the business such as:</p> <ul style="list-style-type: none"> <li>• size of premises</li> <li>• provision of specified facilities</li> <li>• geographical area of operation</li> <li>• advertising etc.</li> </ul>
Local Law No. 2 (Animal Management) 2018	To regulate and manage the keeping and control of animals in the local government area.	<p><b>Section 5(1)</b></p> <p>The local government may, by subordinate local law, prohibit the keeping of animals in prescribed circumstances.</p> <p><b>Section 6(1)</b></p> <p>The local government may, by subordinate local law, require an approval for keeping an</p>	<p>1. An outright prohibition</p> <p>3. Licensing or registration requirements</p> <p>4. Allocation of quantitative entitlements, quotas or franchises</p>	<p>The prohibition on keeping of animals in prescribed circumstances may restrict the operation of businesses that involve the keeping of animals, e.g. breeders, catteries and kennels.</p> <p>The prohibition on keeping of animals in prescribed circumstances may restrict the operation of businesses that involve the keeping of</p>

<sup>8</sup> Refer to Schedules 2-19 of Subordinate Local Law No. 1 (Administration) 2018.

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		animal or animals in prescribed circumstances.	among participants engaging in a particular business activity. 5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	animals, e.g. breeders, catteries and kennels.
		<b>Section 7(1)</b> The local government may, by subordinate local law, require an animal of a particular species or breed to be desexed.	5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	Requirement to desex may impinge on the operations of breeders and pet shops.
		<b>Section 7(2)</b> The local government may, by subordinate local law, specify that the requirement for desexing only applies once an animal reaches a certain age and may exempt animals under particular circumstances.	5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business 9. Measures that have the effect of conferring a benefit on a particular person or body	Requirement to desex may impinge on the operations of breeders and pet shops. Operators who are exempted will be at an advantage over those that are not.
		<b>Section 8(1)</b> The local government may, by subordinate local law, specify minimum standards for the keeping of animals or a particular species or breed of	7. Restrictions on the conduct of a business	The standards may include conditions which restrict the conduct of the business such as size of the premises, provision of specified facilities, geographical area of operation, advertising etc.



Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		animal.		
		<b>Section 10(1)</b> The local government may, by subordinate local law, specify public places where animals, or animals of a particular species or breed, are prohibited.	1. An outright prohibition	May impinge on the ability of businesses involving animals to operate in public spaces, in contrast to other businesses not involving animals which would be under no such impediment.
		<b>Section 41(1)</b> 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.	7. Restrictions on the conduct of a business	Provides for restrictions on the conduct of business, e.g. the sale of animals by breeders or pet shops.
<i>Subordinate Local Law No. 2 (Animal Management) 2018</i>	To supplement <i>Local Law No. 2 (Animal Management) 2018</i> .	<b>Section 5 and Schedule 2</b> Prescribes the animals that are prohibited from being kept in particular circumstances.	1. An outright prohibition 4. Allocation of quantitative entitlements 7. Restrictions on the conduct of a business	The prohibition on keeping animals in prescribed circumstances may restrict the operation of businesses that involve keeping animals e.g. breeders, catteries and kennels.
		<b>Section 6 and Schedule 3</b> Prescribes the circumstances in which an approval to keep animals is required.	3. Licensing or registration requirements 4. Allocation of quantitative entitlements	Requires businesses that involve keeping animals to obtain an approval as a condition of operation of the

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
			7. Restrictions on the conduct of a business	business.
		<b>Section 7 and Schedule 4</b> Prescribes an animal of the species or breed mentioned in the Schedule must be desexed except in prescribed circumstances.	5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	May impinge on the operations of businesses involving the breeding of animals such as breeders and pet shops.
		<b>Section 8 and Schedule 5 &amp; Schedule 6</b> Prescribes the minimum standards for the keeping of animals.	7. Restrictions on the conduct of a business	Provides restrictions on the conduct of businesses that involve keeping animals, e.g. breeders, pet shops, catteries or kennels.
		<b>Section 10 and Animals in Prohibited Public Places Register</b> Prescribes the species or breeds of animals that are prohibited in public places.	1. An outright prohibition	Impacts the activities of businesses in public places where their activities involve particular prescribed species or breeds as against other businesses involving animals (or products or services) that are not prescribed.
		<b>Section 13 and Schedule 7</b> Prescribes the requirements for proper enclosures for animals of particular species or breeds.	5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	Impacts the activities of businesses where their activities involve particular prescribed species or breeds as against other businesses or involving other species or breeds of animal that are not

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
				prescribed.
		<b>Section 17 and Schedule 9</b> Prescribes the conditions for the sale of animals	7. Restrictions on the conduct of a business	Provides for restrictions on the conduct of businesses that involve the sale of animals e.g. by breeders or pet shops.
<i>Local Law No. 3 (Community and Environmental Management) 2018</i>	To protect the environment and public health, safety and amenity within the local government's area.	<b>Section 11</b> A person must not sell or supply a declared local pest or offer or display a declared local pest for sale or supply	1. An outright prohibition	The prohibition on the sale or introduction of declared local pests may prevent the operation of businesses that involve the sale or animals or plants that become declared local pests.
		<b>Section 12(1)</b> A person must not introduce, propagate or breed a declared local pest or provide harbor to a declared local pest	1. An outright prohibition	The prohibition on the sale or introduction of declared local pests may prevent the operation of businesses that involve the sale or animals or plants that become declared local pests.
		<b>Section 12(2)</b> The local government may by subordinate local law prescribe persons who are exempted from prohibitions in relation to specified pests	9. Measures that have the effect of conferring a benefit on a particular person or body	The ability to exempt particular persons from the prohibition will have the likely effect of benefiting some persons over others.

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		<b>Section 15(2) &amp; (3)</b> 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 area.	1. An outright prohibition or  5. Requirements for prescribed quality or technical standards to 7. Restrictions on the conduct of a business	The prohibition or restrictions on the lighting or maintaining of fires may restrict operation of businesses that involve the use of fire.
		<b>Section 20(1)</b> The local government may prescribe requirements to be met relating to specified types of community safety hazards located on particular land	5. Requirements for prescribed quality or technical standards  7. Restrictions on the conduct of a business	Likely to have differential effect on businesses operating on land where different community safety hazards are located.  Restriction required to protect community safety.
		<b>Section 28(2)</b> The local government may give written approval to the owner or occupier of premises for depositing or disposing of the waste and impose conditions on the approval.	10. The allocation of licences or other authorities	Businesses (whether operating in the same field or different fields) may be held to different standards or have different (potentially more onerous) conditions imposed on them – particularly dependent on the nature of the waste being disposed of.
		<b>Section 30</b> Occupier of premises must if required treat the waste to a standard approved by the local government and comply	10. The allocation of licences or other authorities	Requirements to treat particular waste produced by certain businesses may be more onerous on some businesses than others

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		with any requirements prescribed by subordinate local law.		depending on nature of waste generated, the scale of operations and particular conditions imposed by local government.
		<b>Section 31(1)</b> Limitations on the nature of waste permitted to be deposited at a waste facility.	1. An outright prohibition or 5. Requirements for prescribed quality or technical standards	Limitations on waste permitted may be more onerous on some businesses than others due to nature of waste, scale of operations, or alternative methods/locations for disposal available.
		<b>Section 39(2)</b> The local government may by subordinate local law, prescribe a noise standard in the whole or designated parts of the local government's area.	5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	The prescription of noise standards may restrict the operation of businesses that emit noise that are regulated by the standards.
<i>Subordinate Local Law No. 3 (Community and Environmental Management) 2018</i>	To supplement Local Law No. 3 (Community and Environmental Management) 2018	<b>Section 5(1) and Schedule 2</b> Prescribes the animals and plants that are declared local pests and the relevant parts of the local government's area  <b>Section 6 and Schedule 3</b> Creates and exemption for particular persons from introducing, propagating,	1. An outright prohibition	May impact on businesses involving the propagation, introduction, cultivation and/or sale of such declared pest species.  Facilitates scientific and educational research in relation to declared pests, whilst maintaining protections

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		breeding and providing harbour to declared local pests		for the environment and limiting potential for pests to spread.
		<b>Section 7(2) and Schedule 4</b> Specified fires are declared as prohibited.	1. An outright prohibition	May impact on businesses involving the use of fire.
		<b>Section 10 and Schedule 5</b> The responsible person for a community safety hazard must comply with the requirements prescribed.	3. Licensing or registration requirements 5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	May impact on businesses/operations that involve the use of: <ul style="list-style-type: none"> <li>• barbed wire fencing</li> <li>• electric fencing</li> <li>• disused machinery</li> <li>• outdoor cooking ovens</li> </ul> Such businesses will be required to ensure they comply with the additional requirements, which may vary according to size or location of the business, and require compliance with additional standards (eg Australian Standards), and/or implementation of appropriate storage solutions etc.
		<b>Section 12 &amp; Schedule 7</b> Entitles the local government to prescribe noise standards	5. Requirements for prescribed quality or technical standards 7. Restrictions on the conduct of a business	The prescription of noise standards may restrict the operation of businesses that emit noise that are regulated

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				by the standards.
Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018	To protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads and to preserve features of the natural and built environment and other aspect of the amenity of local government controlled land, facilities, infrastructure and roads	<b>Section 5(4)</b> A person must not engage in a prohibited activity or a restricted activity.	1. An outright prohibition or 3. Licensing or registration requirements 5. Requirements for prescribed quality or technical standards	The local government may prevent businesses from carrying out activities/ carry out conditions contrary to conditions if the local government reasonably considers it necessary for the protection of the health and safety of persons using local government controlled land, facilities, infrastructure and roads or to preserve features of the natural and built environment and other aspects of amenity.
		<b>Section 6(3)</b> The local government may, by subordinate local law, declare a specific type of motor vehicle as prohibited in a specified motor vehicle access area.	1. An outright prohibition	The local government may prohibit businesses from using or operating particular types of vehicles in the local government area.
		<b>Section 7(2)</b> A person must not enter or remain in a local government controlled area or facility outside the opening hours	7. Restrictions on the conduct of a business	This limits the hours of operation of businesses that operate from local government controlled areas, a provision that will not affect businesses operating from

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Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		unless the person is authorised to do so by the CEO.		other land.
		<b>Section 8(1)</b> The local government may, temporarily close a local government controlled area to public access on prescribed grounds.	7. Restrictions on the conduct of a business	Where businesses operate from local government controlled areas, they may be forced to close or relocate, whilst businesses operating from other land will not be affected.
		<b>Section 8(3)</b> The local government may, by subordinate local law, permanently close a local government controlled area to the public on prescribed grounds.	7. Restrictions on the conduct of a business	Where businesses operate from local government controlled areas, they may be forced to close or relocate, whilst businesses operating from other land will not be affected.
		<b>Section 9(2)</b> The local government may by giving a compliance notice to the owner require land to be fenced, or a fence to be repaired or replaced.	5. Requirements for prescribed quality or technical standards	Imposes a requirement to fence particular area or repair or replace fencing to a particular standard an obligation that cannot be applied to a business operating from other land.
		<b>Section 9(3)</b> The local government may, by subordinate local law, set out the minimum standards with	5. Requirements for prescribed quality or technical standards	Imposes a requirement to fence particular area or repair or replace fencing to a particular standard an obligation that cannot be



Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		which the fence must comply.		applied to a business operating from other land.
		<b>Section 12(1)</b> The local government may, by a regulatory notice, control access to, or the use of the boat harbor.	5. Requirements for prescribed quality or technical standards	Imposes restrictions on access to and use of a boat harbour, that do not apply to businesses operating from other land.
		<b>Section 12(2)</b> The local government may by regulatory notice control activities or conduct in the boat harbor for particular specified purposes.	5. Requirements for prescribed quality or technical standards	Some operators conducting particular activities may be affected, whilst others may not.
		<b>Section 13(1)</b> The local government may by regulatory notice control the movement or mooring of ships at a boat harbour.	5. Requirements for prescribed quality or technical standards	Some operators in a particular boat harbour or particular part of a boat harbour may be affected, whilst others may not.
		<b>Section 13(2)</b> The local government may by regulatory notice control the movement or mooring of ships in a boat harbour if the movement or mooring may affect the boat harbour's operation.	5. Requirements for prescribed quality or technical standards	Some operators in a particular boat harbour or particular part of a boat harbour may be affected, whilst others may not.

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		<b>Section 13(3)</b> The local government may by regulatory notice control activities on or by ships moored in a boat harbour if the activities may affect the boat harbour's operation.	5. Requirements for prescribed quality or technical standards	Some operators in a particular boat harbour or particular part of a boat harbour may be affected, whilst others may not.
		<b>Section 14</b> The local government may by regulatory notice control the movement, handling or storage of goods loaded, unloaded or trans-shipped to or from ships in a boat harbour.	5. Requirements for prescribed quality or technical standards	Operators handling particular goods may be impacted whilst others may not.
		<b>Section 15</b> The local government may by regulatory notice control the movement of passengers to or from ships using a public marine facility in a boat harbour.	5. Requirements for prescribed quality or technical standards	Businesses making use of public marine facilities may be affected, while those using private facilities will not be impacted.
		<b>Section 16(1)</b> The local government may by regulatory notice control the movement, stopping or parking of vehicles in a boat harbour.	5. Requirements for prescribed quality or technical standards	Businesses using vehicles of the boat harbour may be subject to requirements that businesses outside the boat harbour or those that do not use vehicles in the boat harbour are not required to

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		harbour.		comply with.
		<b>Section 17</b> An authorised person may give directions to persons in a boat harbour if the directions are necessary to ensure the safety or security of the boat harbour, its users or the local government's employees.	5. Requirements for prescribed quality or technical standards	Directions issued by an authorised person may impact certain operators more than others.
		<b>Section 32(1)</b> A person must not unload fish from a ship at the boat harbour to a person who is not the holder of a current fish receipt service approval	3. Licensing or registration requirements 10. The allocation of licences or other authorities	Requires businesses that receive fish being unloaded from ships to have valid fish receipt service approval.
		<b>Section 32(2)</b> A person may unload fish from a ship at a fixed facility provided by the holder of a fish receipt service approval, in accordance with the approval and where the approval holder's prior permission to receive fish at the place has been obtained	7. Restrictions on the conduct of a business 10. The allocation of licences or other authorities	Requires businesses that receive fish being unloaded from ships to have valid fish receipt service approval.

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Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018	To supplement Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018	<b>Section 5(1) and Schedule 2</b> Prescribes activities declared to be prohibited in local government controlled areas or roads	1. An outright prohibition	Some businesses may be impacted, whilst others may not be subject to any prohibition by virtue of the nature of their operations and the particular local government area, facilities and or roads at which they operate.
		<b>Section 5(2) and Schedule 3</b> Prescribes activities that are restricted in local government controlled areas or roads.	3. Licensing or registration requirements 5. Requirements for prescribed quality or technical standards	Some businesses may be impacted, whilst others may not be subject to any restriction by virtue of the nature of their operations and the particular local government area, facilities and or roads at which they operate.
		<b>Section 7 and Schedule 4</b> Prescribes specific types of motor vehicles prohibited from motor vehicle access areas.	1. An outright prohibition	Some businesses may be impacted, whilst others may not be subject to any prohibition by virtue of the nature of the motor vehicles they use or operate in particular local government areas, at facilities or on roads at which they operate.
		<b>Section 8 and Schedule 5</b> Provides Council with the ability to set/limit opening	7. Restrictions on the conduct of a business	Some businesses may be impacted, whilst others may not be subject to any

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		hours for local government controlled areas or facilities.		restriction on their opening hours by virtue of the particular local government areas, facilities or on roads at which they operate.
		<b>Section 9 and Schedule 6</b> Prescribes local government controlled areas that are permanently closed to public access.	1. An outright prohibition	Some businesses may be impacted, whilst others may not be subject to any prohibition by virtue of the particular local government roads at which they operate.  This restriction is imposed in accordance with terms of agreement reached with native title holders for the Mossman Gorge Road.
Local Law No. 5 (Parking) 2018	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.	<b>Section 7(2)</b> The local government may by subordinate local law prescribe the persons that may be issued with a parking permit.	9. Measures that have the effect of conferring a benefit on a particular person or body	A parking permit may be issued to: <ul style="list-style-type: none"> <li>• persons with disabilities</li> <li>• commercial operators</li> <li>• tourism-related businesses,</li> <li>• school bus operators,</li> <li>• local government employees,</li> <li>• residents of a particular road, contractors or workers working on an adjacent site,</li> <li>• news media and</li> </ul>

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				<ul style="list-style-type: none"> <li>associated personnel, any other persons who in the reasonable opinion of the local government warrants the issue of a permit.</li> </ul>
		<b>Section 8(2)</b> The local government may by subordinate local law prescribe the vehicles that may be issued with a commercial vehicle identification label	3. Licensing or registration requirements	Will benefit businesses with particular commercial vehicles that utilise loading zones
Subordinate Local Law No. 5 (Parking) 2018	To supplement Local Law No. 5 (Parking) 2018	<b>Section 7</b> Sets out the persons who may be issued with a parking permit	9. Measures that have the effect of conferring a benefit on a particular person or body	The following persons are permitted to be issued with a parking permit: <ul style="list-style-type: none"> <li>persons granted approval under another local law for the commercial use of a local government controlled area, where the permit is necessary to undertake the commercial use</li> <li>Persons engaged in tourism-related business</li> <li>School bus operators</li> <li>Local government employees, contractors or agents carrying out work</li> </ul>

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				<p>on behalf of the local government</p> <ul style="list-style-type: none"> <li>Residents of a road for which a permit is required</li> <li>Contractors or workers requiring a permit to park on a road to undertake work on an adjoining site</li> <li>Official news media journalists, camera operators engaged in news gathering for a magazine, newspaper, radio or television broadcast</li> <li>Any other person who in the opinion of an authorised person has reasonable grounds to warrant a parking permit.</li> </ul>
		<p><b>Section 8</b> Authorises the issue commercial vehicle identification labels to any motor vehicle constructed, fitter or equipped for the carriage of persons which is used for carrying on a busies that requires the regular use of loading zones.</p>	<p>3. Licensing or registration requirements</p>	<p>Will benefit businesses with particular commercial vehicles that utilise loading zones</p>

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
Local Law No. 6 (Bathing Reserves) 2018	To enhance the public safety and convenience of bathing reserves placed under the local government's control through orderly management and regulation of activities within these reserves.	<b>Section 10(1)</b> Permits restrictions on access to all or any part of a bathing reserve for life-saving training on an exclusive basis or use for a surfing competition, life-saving competition or another aquatic activity.	1. An outright prohibition	May restrict businesses that operate across or all or any part of a bathing reserve.  Justified on the basis of permitting safe and efficient life-saving training or competitions, which is of public benefit to users of bathing reserves.
		<b>Section 11</b> Prohibits the use of aquatic equipment in a bathing area subject to conditions.	1. An outright prohibition or 5. Requirements for prescribed quality or technical standards	May impact on businesses that operate and use aquatic equipment in bathing reserves, but not impact those that do not use such equipment or operate in other areas.
		<b>Section 12(1)</b> The local government may by subordinate local law prohibit or restrict the use of aquatic equipment (or a class of such equipment) in a bathing reserve.	1. An outright prohibition or 5. Requirements for prescribed quality or technical standards	May impact on businesses that operate and use aquatic equipment in bathing reserves, but not impact those that do not use such equipment or operate in other areas.
		<b>Section 13(1)</b> An authorised person may temporarily set apart a particular part of a bathing reserve for use of particular	9. Measures that have the effect of conferring a benefit on a particular person or body	May operate to benefit businesses that make use of particular aquatic equipment.



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		aquatic equipment.		
		<b>Section 15</b> The local government may prohibit specified equipment in a bathing reserve	1. An outright prohibition	May exclude equipment used by particular businesses. Justified on the basis of protection of public safety and environmental preservation
		<b>Section 17</b> The local government may by subordinate local law, prohibit or restrict access to bathing reserves by particular animals.	1. An outright prohibition or 5. Requirements for prescribed quality or technical standards	May impact some businesses, whilst others may not be subject to the prohibition or restrictions by virtue of the particular bathing reserves at which they operate, or the particular animals involved in their business operations
		<b>Section 20(1)</b> The local government may assign to a life saving club the responsibility for patrolling (all or part of) a bathing reserve	8. The nomination of a particular person or body as the sole or preferred customer or supplier in regard to a particular business activity.	Excludes the ability of other groups or businesses from having responsibility for conducting patrols at bathing reserves. Justified on the basis of nomination of a life saving club that has the capacity and capability of providing the required services in a timely manner to a particular locality

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		<b>Section 20(2)(a)</b> Responsibility for patrolling a particular bathing reserve may be assigned on conditions the local government considers appropriate.	5. Requirements for prescribed quality or technical standards	Different or additional conditions may be imposed on life saving clubs with responsibility for patrolling different (parts of) bathing reserves.  Justified on the basis of maintaining the safety and security of users of reserves
		<b>Section 21</b> With the local government's approval, a life-saving club may enclose part of a bathing reserve for exclusive use by its members.	9. Measures that have the effect of conferring a benefit on a particular person or body	Prohibits other groups or businesses from enclosing parts of a bathing reserve.  This ensure that surf lifesavers may establish areas within a bathing reserve for the storage of equipment and the exclusive use by surf lifesavers in order to provide operational effectiveness of surf lifesaving patrols.
<i>Subordinate Local Law No. 6 (Bathing Reserves) 2018</i>	To supplement <i>Local Law No. 6 (Bathing Reserves) 2018</i>	<b>Section 5(1) and Schedule 2</b> Prescribes the equipment that is prohibited in bathing reserves.	1. An outright prohibition	May impact on businesses that operate and use aquatic equipment in bathing reserves, but not impact those that do not use such equipment or operate in other areas.

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		<b>Section 5(2) and Schedule 3</b> Prescribes the equipment that is restricted in bathing reserves.	5. Requirements for prescribed quality or technical standards	May impact on businesses that operate and use aquatic equipment in bathing reserves, but not impact those that do not use such equipment or operate in other areas.
		<b>Section 7</b> Prescribes particular circumstances where prohibited equipment is permitted	5. Requirements for prescribed quality or technical standards	<p>Some businesses that utilise prohibited equipment in their operations that do not satisfy the prescribed circumstances may be prohibited from using such equipment, whilst others may be permitted the use of such equipment.</p> <p>Prohibited equipment is permitted:</p> <ul style="list-style-type: none"> <li>• Where life saving equipment is used by members of a life-saving patrol for surveillance and to assist person in distress</li> <li>• Where prohibited equipment is used during a competition or event approved in writing by the local government</li> <li>• with approval granted under another local law.</li> </ul>

Proposed Law <sup>1</sup>	Object/Purpose of Local Law	Possible Anti-Competitive Provisions <sup>2</sup>	Type of Anti-Competitive Provision/Criteria <sup>3</sup>	Reasons/Basis for thinking the provision is caught by the criteria in Appendix 2 <sup>4</sup>
		<b>Section 8 and Schedule 4</b> Prescribes the animals that are restricted in a bathing reserve or part of a bathing reserve and the extent of any restrictions.	5. Requirements for prescribed quality or technical standards	Horses, camels and donkeys are permitted at Four Mile Beach Bathing Reserve only with the written permission of the CEO.

## APPENDIX 2: Table of Criteria for assessment of anti-competitive provisions

Criteria	Description of Criteria
1	An outright prohibition in regard to any particular business activity.
2	A statutory monopoly.
3	<b>Licensing or registration requirements</b> for persons or bodies wishing to engage in a particular business activity and which operate on the basis of either limiting the number of participants or limiting participation to those persons or bodies that meet defined standards, qualifications or training or to those who hold membership of a particular occupational or professional organisation.
4	Allocation of <b>quantitative entitlements</b> , quotas or franchises among participants engaging in a particular business activity.
5	Requirements for <b>prescribed quality or technical standards</b> to be observed, or for specified equipment to be used, in regard to a particular business activity, other than those requirements that apply generally in regard to public/workplace health and safety.
6	<b>Price control provisions</b> , whether by way of setting, or prescribing a process for determining, the maximum/minimum prices or charges for a specified good or service or the maximum/minimum rates of commission, agency or fees for any good or service.
7	Restrictions on the <b>conduct of a business</b> relating to matters such as hours of operation, size of premises, provision of specified facilities, geographical area of operation, advertising or promotion, sector-specific operation (eg. retail -v- wholesale), type of good or service allowed to be offered for sale, etc.
8	The <b>nomination of a particular person or body</b> as the sole or preferred customer or supplier in regard to a particular business activity.
9	Measures that have the effect of conferring a <b>benefit on a particular person or body</b> engaged in a particular business activity relative to other parties engaged in the same activity, including prescribing technical specifications or standards that can only be met by a particular operator, prescribing different requirements for public sector vis a vis private sector operators or making financial assistance available (including the waiver of various State or local government charges or fees as well as direct assistance measures such as a grant or subsidy) if a business is carried on at a particular place or in a particular manner.
10	The <b>allocation of licences or other authorities</b> which either allow the holder access to natural resources (including water, minerals, forests and fisheries) or which create rights, or permit specified activities, denied to non-holders (for example, licences to dispose of waste material in a particular manner).
11	<b>Preferential purchasing arrangements.</b>

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