



**Douglas Shire Council
Local Law No. 1
(Administration) 2020**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 1 (Administration) 2020*.

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; and
 - (b) authorised persons for enforcing local laws; and
 - (c) review of certain decisions made under local laws; and
 - (d) enforcement of local laws; and
 - (e) matters relating to legal proceedings; and
 - (f) miscellaneous administrative matters relating to meetings, fees, abandoned goods and seized and impounded items.

3 Definitions—the dictionary

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

4 Relationship with other laws¹

This local law —

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

Part 2 Approvals for prescribed activities

5 Meaning of prescribed activity

Prescribed activity means—

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

¹ 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.

6 Offence to undertake prescribed activity without an approval

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

Maximum penalty for subsection (2)—

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

Example—

A subordinate local law may declare that subsection (2) does not apply to the operation of a camping ground that meets certain criteria (for example, less than a certain size or in a particular location) or complies with certain conditions. A person operating such a camping ground would therefore not require an approval under this part.

7 Approvals for prescribed activities to be obtained under this part

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

8 Form of application

- (1) An application for an approval of a prescribed activity must be—
 - (a) made in the form approved by the local government;
 - (b) 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
 - (c) 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);

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

- (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 the applicant does not, without reasonable excuse, provide the further information by the stated date—
 - (a) the application lapses; and
 - (b) the local government must give the applicant written notice stating that—
 - (i) under this section the application lapses; and
 - (ii) the applicant may make a new application.
- (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

9 Local government's discretion in granting approvals

- (1) The local government may grant an approval for an applicant to undertake a prescribed activity only if it is satisfied that—
 - (a) if the prescribed activity requires an approval under an Act, a law of the Commonwealth or the local governments planning scheme—the separate approvals have been granted; and
 - (b) the proposed operation and management of the prescribed activity is adequate to protect public health, safety and amenity and prevent environmental harm; and
 - (c) the grant of the approval would be consistent with the purpose of any relevant local law; and
 - (d) the proposed operation and management of the prescribed activity would be consistent with any additional criteria prescribed for the activity under a subordinate local law for this paragraph; and

- (e) if the application relates to trust land—the grant of the approval is consistent with the terms and conditions of the trust; and
- (f) if the application relates to a prescribed activity mentioned in section 5(b)—the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
- (g) the prescribed activity is in accordance with the local government's adopted sustainability policies and principles.

Example for paragraph (e)—

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.

- (2) By written notice to the applicant, the local government may—
 - (a) grant an approval unconditionally; or
 - (b) grant 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.

- (3) However, the local government's powers in deciding the application are subject to the provisions of any relevant local law.
- (4) The local government must give the applicant an information notice if the local government—
 - (a) refuses to grant the approval; or
 - (b) grants the approval subject to a non-standard condition.
- (5) In this section—

non-standard condition means a condition that is not prescribed under section 10(3) as a condition that must be imposed on an approval, or that will ordinarily be imposed on an approval.

10 Conditions of approval

- (1) An approval may be granted on conditions the local government considers appropriate.
- (2) However, the conditions must—
 - (a) be reasonably necessary to ensure that the operation and management of the prescribed activity will be adequate to protect public health, safety and amenity and prevent environmental harm; and
 - (b) be consistent with the purpose of any relevant local law;
 - (c) if the approval is for a prescribed activity mentioned in section 5(b) be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and

- (d) not conflict with the conditions of any other relevant approval issued under an Act; and
 - (e) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the prescribed activity under an Act within 3 days of the relevant approval being suspended or cancelled.
- (3) Subject to subsection (2), the local government may, by subordinate local law, prescribe conditions that must be imposed on an approval, or that will ordinarily be imposed on an approval.
- (4) To remove any doubt, it is declared that a condition of an approval may authorise an act, or omission that—
- (a) contravenes a noise standard; or
 - (b) causes an environmental nuisance.³

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.

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

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

12 Independent certification

- (1) In deciding an application for an approval, the local government may 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.

³ See *Environmental Protection Act 1994*, schedule 1, section 3(b)

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

13 Term of approval

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

- (a) the term provided for the prescribed activity under a subordinate local law for this 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.

14 Renewal of approval

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

Example—

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

- (3) The application under subsection (1) must be—
 - (a) made in a form approved by the local government; and
 - (b) accompanied by the prescribed fee.
- (4) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.
- (5) Section 8(4) to (6) applies to the notice as if it was a notice under section 8(2).
- (6) The local government may, by written notice to the applicant—
 - (a) grant the application; or
 - (b) grant the application and amend the conditions of the approval; or
 - (c) refuse the application.
- (7) In deciding under subsection (6), the local government may have regard to—
 - (a) the matters mentioned in section 9(1); and
 - (b) whether the conditions of the approval are being complied with by the applicant.
- (8) The local government must give the applicant an information notice if the local government—

- (a) refuses the application; or
 - (b) grants the application and amends the approval to include non-standard conditions.
- (9) The local government may amend the conditions of the approval under subsection (6)(b) without following the procedure in section 18.
- (10) If an approval holder applies to renew or extend the approval, the approval remains in force until—
- (a) if the application is granted, with or without amendment of the conditions—the date the application is granted; or
 - (b) if the application is refused and the applicant applies for a review of the decision under part 4—the date the applicant is given notice of the review decision; or
 - (c) if the application is refused and the applicant has not applied for a review of the decision under part 4—14 days after the applicant is given an information notice under subsection (8).

15 Transfer of approval

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

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

- (11) The local government must give the approval holder and the proposed transferee an information notice if the local government—
 - (a) refuses the application; or
 - (b) grants the application and amends the approval to include non-standard conditions.

16 Amending conditions at request of approval holder

- (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) state the proposed amendment; and
 - (d) state 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, within 14 days of the decision, 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 18.
- (6) If the local government refuses to amend the conditions, the local government must give the approval holder an information notice.

17 Grounds for amending, suspending or cancelling an approval

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

- (a) the amendment, cancellation or suspension is necessary—
 - (i) for the protection of public health or safety; or
 - (ii) to prevent environmental harm; or
 - (iii) to prevent property damage or a loss of amenity; or
 - (iv) to allow for works on roads or local government controlled areas; or
 - (v) to improve access to a road; or
 - (vi) to improve the efficiency of vehicle or pedestrian traffic.
- (b) another approval required for the prescribed activity under an Act has been suspended, or cancelled;
- (c) in undertaking the prescribed activity, the approval holder has failed to comply with a local law or an Act;
- (d) the approval holder has failed to comply with a condition of the approval;
- (e) the approval holder has failed to comply with a notice under sections 26 that relates to the conduct of the prescribed activity or has failed to comply with a stop order under section 28;
- (f) the approval was granted because of a document or representation that was—

- (i) false or misleading; or
- (ii) obtained or made in another improper way.

18 Procedure for amending, suspending or cancelling approval

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

19 Procedure for immediate suspension of approval

- (1) Despite section 17, 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.

- (2) The suspension—
 - (a) can be effected 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 18; 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;
 - (ii) the local government gives the approval holder notice under section 18(4) or (5) of its decision about the show cause notice;
 - (iii) 14 days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice;
 - (iv) 14 days have passed since the approval holder notifies the local government that it has made its final written submissions regarding the show cause notice.

Part 3 Authorised persons

20 Appointment

- (1) The chief executive officer may appoint a person under the Act to be an authorised person for these local laws.⁵
- (2) An authorised person's instrument of appointment must state the local law(s) for which the person is appointed as an authorised person.

21 Threatening etc. an authorised person⁶

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

Maximum penalty— 50 penalty units

Part 4 Review of decisions

22 Application for review

- (1) A person who is given, or is entitled to be given, an information notice for a decision under a local law (an **original decision**) may apply to the chief executive officer⁷ for a review of the decision under this part.⁸
- (2) The application (a **review application**) must be made within 14 days of—
 - (a) if the person is given an information notice for the decision—the day the person is given the notice; or

⁵ See the Act, chapter 6, part 6, for the power to appoint authorised persons.

⁶ See also the Act, section 149, in relation to obstructing a person enforcing the Local Government Act and section 150 in relation to impersonating an authorised person.

⁷ See definition of **chief executive officer** in the Act, schedule 4.

⁸ 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.

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

23 Review decision

- (1) The local government must review the original decision 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.

24 Stay of operation of original decision

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

Part 5 Enforcement

25 Production of records

- (1) This section applies where an authorised person has entered a property under the Act, to find out whether the conditions of an approval have been complied with.⁹
- (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.

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

26 Compliance notice

- (1) If—
 - (a) an authorised person is satisfied on reasonable grounds 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) a matter relating to 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,¹⁰

the authorised person may give¹¹ a written notice (a **compliance notice**) to the person (the **recipient**) requiring the person to remedy the contravention.¹²

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

⁹ See the Act, section 132.

¹⁰ For example, see *Local Law No. 3 (Community & Environmental Management) 2020*, 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).

¹¹ See the *Acts Interpretation Act 1954* (Qld), sections 39 and 39A, regarding the service of documents on a person.

¹² 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.

- 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) the particular provision of the local law or approval the authorised person believes is being, or has been, contravened; and
 - (b) briefly, how it is believed the provision of the local law or approval is being, or has been, contravened; and the specified action that the recipient must take to comply with the notice;
 - (c) the time by which the recipient must remedy the contravention;
 - (d) that it is an offence to fail to comply with the compliance notice; and
 - (e) the maximum penalty for failing to comply with the compliance notice.
- (3) The time under subsection (2)(b) must be reasonable having regard to—
- (a) the action required to remedy to contravention; and
 - (b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm or nuisance that may result from a failure to comply with the notice; and
 - (c) how long the recipient has been aware of the contravention.
- (4) The compliance notice must include, or be accompanied by, an information notice.
- (5) The recipient must comply with the compliance notice.¹³
- Maximum penalty for subsection (5)— 50 penalty units.

27 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—

¹³ See also sections 17(e) and 18 regarding the local government's power to amend, suspend or cancel an approval where a notice is not complied with and 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.

- (i) the owner, or person in possession of the structure or thing, has not complied with the compliance 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).
- (4) In this section—
thing does not include an animal.

28 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.
- (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

29 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.

30 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.

31 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*.

32 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

33 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.

34 Fees

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

35 Abandoned goods

- (1) This section applies where an authorised person considers on reasonable grounds that goods¹⁴ have been abandoned in a local government controlled area or on a road.
- (2) The authorised person may seize and impound the goods.
- (3) To avoid any doubt, goods includes a vehicle and a ship.

36 Dealing with seized and impounded items

- (1) This section applies where—
 - (a) an authorised person has exercised a power under a local law to seize and impound a structure, thing or goods (an **impounded item**);¹⁵ or
 - (b) the local government has impounded an item that has been delivered into its custody pursuant to a local law (also an **impounded item**) and the local law states that this section is to apply.
- (2) However, this section does not apply to an impounded item that is an animal.¹⁶
- (3) 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 (6).
- (4) A person may reclaim an impounded item 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 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.
- (5) If an impounded item is not reclaimed within 28 days of being impounded, the impounded item is forfeited to the local government, which may dispose of the item—
 - (a) if 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 through—
 - (i) public auction or tender, following an advertisement published at least 14 days before the date of the proposed sale; or
 - (ii) through an agent of the local government; or
 - (iii) an enterprise owned by the local government; or
 - (c) if it has been offered for sale under paragraph (b) but has not been sold within a reasonable period—as the chief executive officer directs.

¹⁴ 'Goods' does not include animals. For seizing and impounding animals see part 4 of *Local Law No. 2 (Animal Management) 2020*.

¹⁵ See, for example, section 28 in relation to structures or things brought onto a local government controlled area or road in contravention of a local law and section 36 in relation to abandoned goods.

¹⁶ See *Local Law No.2 (Animals) 2020* part 4, in relation to the seizure of animals. See the *Animal Management (Cats and Dogs) Act 2008* in relation to the seizure of regulated dogs.

- (6) 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 (7), to the former owner of the impounded item.
- (7) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (6)(b)(iii) within 6 months from the date of the sale or disposal, the proceeds become the property of the local government.

Part 8 Transitions, Savings and Repeals

37 Repeal

The following local laws are repealed:

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

38 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 in section 37.
- (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.

39 Pending approvals

- (1) This section applies to an application (however described) that was made under the repealed local laws in section 37, 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.

40 Action to cancel or suspend an existing approval

- (1) This section applies if, immediately before the repeal of the local laws in section 37—
 - (a) a person holds an approval;
 - (b) the person has received a notice under the repealed 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 as if this local law had not commenced.
- (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 as if this local law had not commenced.

41 Suspended approval

- (1) This section applies if an existing approval has been suspended under a repealed 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.

42 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.

43 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.

44 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

45 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;¹⁷
- (b) the information, documents or materials that must accompany an application for an approval;¹⁸
- (c) additional criteria for the granting of approvals for prescribed activities;¹⁹
- (d) the conditions that must be imposed on an approval or that will ordinarily be imposed on an approval;²⁰
- (e) application requirements for which an independent certifier's certificate may be accepted by the local government;²¹
- (f) the individuals or organisations that are declared as independent certifiers for particular application requirements;²²
- (g) the qualifications that are necessary for an individual or organisation to provide an independent certificate about particular application requirements;²³
- (h) the term for which an approval for a prescribed activity remains in force;²⁴
- (i) the further term for which an approval for a prescribed activity may be renewed or extended;²⁵ and

¹⁷ See section 6(3).

¹⁸ See section 8(1)(d)(v).

¹⁹ See section 9(1)(g).

²⁰ See section 10(3).

²¹ See section 12(1).

²² See section 12(2), definition of *independent certifier*, paragraph(a).

²³ See section 12(2), definition of *independent certifier*, paragraph(b).

²⁴ See section 13(a).

²⁵ See section 14(6).

- (j) categories of prescribed activities for which approvals are non-transferable;²⁶
- (k) complementary accommodation prescribed as appropriate for caravan parks;²⁷
- (l) a State-controlled road to which this local law applies;²⁸
- (m) public place activities prescribed as regulated activities on local government controlled areas and roads.²⁹

²⁶ See section 15(2).

²⁷ See schedule 1, definition of **complementary accommodation**, paragraph (b).

²⁸ See schedule 1, definition of **road**, subparagraph (b)(i).

²⁹ See schedule 2, part 2, definition of **undertaking regulated activities on local government controlled areas and roads**, paragraph (c).

Schedule 1 Dictionary

Section 3

an Act means legislation enacted by the State of Queensland.

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 4.³⁰

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

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 26; 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.

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 means something affording diversion or amusement, especially an exhibition or performance of some kind, and recreation.

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 do not include animals and to avoid any doubt, includes vehicles and ships.

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—

³⁰ See also section 20.

- (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.

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—

- (a) means land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road;

Examples of local government controlled areas—

- parks, reserves and gazetted foreshores
 - camping grounds or caravan parks on land owned or controlled by the local government
 - local government swimming pools
 - cemeteries
 - Council Chambers and local government offices
 - jetties.
- (b) includes part of a local government controlled area; and
 - (c) does not include a residential lot on DOGIT land.

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

prescribed activity see section 5.

prescribed fee means a cost-recovery fee fixed by the local government, by local law or by resolution, under the Act.³¹

property see *Acts Interpretation Act 1954*, section 36 and Schedule 1.

public notice means a notice published in a newspaper or on local government website circulating in the local government's area.

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

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

review decision see section 23(1).

road means 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

³¹ See the Act, section 97.

- (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 accommodation³² 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.

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

show cause notice see section 18(2).

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, tram or ship (except for hovercraft).

³² 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
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 cane railways
operation of caravan parks
operation of cemeteries
operation of public swimming pools
operation of shared facility accommodation
operation of temporary entertainment events
undertaking regulated activities on local government controlled areas and roads
undertaking regulated activities regarding human remains

Part 2 Definitions of prescribed activities

- (1) ***Alteration or improvement to local government controlled areas and roads***³³ means—
- (a) installing, changing, damaging or removing a structure in a local government controlled area or on a road; or
 - (b) planting, clearing or damaging of vegetation in a local government controlled area or on a road.
- (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;³⁴
 - (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.

³³ 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.

³⁴ See the definition of ***Planning Act*** in the Act, schedule 4.

commercial use of local government controlled areas³⁵ 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.

installation of advertising devices means the installation, erection, or display of an advertisement or sign that is visible from a road or other public place.³⁶

keeping of animals means the keeping of an animal or animals for which an approval is required under *Local Law No. 2 (Animal Management) 2020*.

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 4³⁷;
- (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.

³⁵ See footnote 40.

³⁶ See the Act, section 37(5), regarding the relationship between a local law about advertising devices and the local government's planning scheme.

³⁷ *Sugar Industry Act 1999*, chapter 2 (Supply contracts and cane access rights), part 4 (Cane access, harvesting and mill supply).

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

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

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

- (a) members of the public or a section of the public;
- (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 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.

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 areas³⁸ 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 prescribed under a subordinate local law for this paragraph, excluding the operation of a temporary entertainment event.

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

³⁸ See footnote 40.