

**Moreton Bay Regional Council  
Local Law No. 4  
(Local Government Controlled Areas and Roads) 2011**

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## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as *Moreton Bay Regional Council Local Law No. 4 (Local Government Controlled Areas and Roads) 2011*.

### **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; and
  - (d) miscellaneous matters affecting aerodromes.

### **3 Definitions—the dictionary**

The dictionary in the schedule defines particular words used in this local law or any subordinate local law authorised by 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 *Moreton Bay Regional Council Local Law No. 1 (Administration) 2011*.

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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 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*.

## 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)—*

*The local government may declare that the playing of sport generally, or the playing of certain sports, 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.*

- (2) The local government must take reasonable steps to provide notice to members of the public regarding the prohibited activities or restricted activities declared for local government controlled areas or roads.
- (3) A person must not engage in a prohibited activity or a restricted activity outside the extent permitted under a subordinate local law.

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

- (4) In this section—

***reasonable steps*** may include, as a minimum-

- (a) where the local government considers practical, the display of a notice at a prominent place within each local government controlled area for which a declaration under subsection (1) has been made; or
- (b) the local law made available to be inspected and purchased at the local government's public office; and
- (c) the local law made available on the local governments website, and
- (d) public education.

*Example for paragraph (d)—*

- (i) *fact sheets;*
- (ii) *newspapers and other media.*

### 6 Opening hours of local government controlled areas

- (1) The local government may declare the times when a local government controlled area is open to the public (the ***opening hours***).
- (2) A person, other than an essential services employee who is bona fide carrying out the duties assigned to that employee, must not enter or remain in a local government controlled area outside the opening hours unless the person is authorised to do so by

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

the chief executive officer<sup>4</sup>.

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

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

## **7 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; or
  - (b) to protect the health and safety of a person or the security of a person's property; or
  - (c) because of a fire or other natural disaster; or
  - (d) to conserve or protect the cultural or natural resources of the area or native wildlife.
- (2) A resolution under subsection (1)—
- (a) must state a period, not greater than 6 months, during which the area will be closed; and
  - (b) must be revoked by the 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; or
  - (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.

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

- (5) 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.
- (6) A person, other than an essential services employee who is bona fide carrying out the duties assigned to that employee, must not enter or remain in a local government controlled area while it is closed to public access under this section, unless the person is authorised to do so by the chief executive officer.

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

- (7) In this section—

*significant Aboriginal area* has the meaning given in the *Aboriginal Cultural Heritage Act 2003, section 9*.

## Part 3 Matters affecting roads

### 8 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>5</sup> to the owner—
  - (a) if the land is not currently fenced—require the owner to fence the land; or
  - (b) if a current fence on the land is in disrepair or does not satisfy the prescribed minimum standard—require the owner to repair, modify 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* has the meaning given in the *Animal Care and Protection Act 2001, section 42*.

*pest animal* has the meaning given in the *Animal Care and Protection Act 2001, section 42*.

### 9 Numbering of premises and allotments adjoining a road<sup>6</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.

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

<sup>6</sup> See the Act, section 60, regarding control of roads by a local government.

- (2) An owner of land (other than vacant land) must display the number allocated in a manner that ensures it is easily identified from the adjoining road.

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

## Part 4 Matters affecting aerodromes

### 10 Use of vehicles

- (1) The local government may determine areas within an aerodrome in which a person is, or is not, permitted to park a vehicle or cause a vehicle to stand and must identify those areas by means of permanently displayed signs or notices.
- (2) A person, other than an essential services employee who is bona fide carrying out the duties assigned to that employee, must not park a vehicle, or cause a vehicle to stand, contrary to the terms of a sign or notice displayed under sub-section (1).

Maximum penalty for subsection (2) - 20 penalty units

### 11 Aircraft parking

- (1) The local government may designate a part of an aerodrome to be an area for the parking of aircraft and must identify those parts by means of signs, notices or markers:
- (a) that specify the kind of aircraft that may be parked in the part; and
  - (b) that specify the conditions under which aircraft may be parked in the part.
- (2) A person must only park an aircraft on an aerodrome:
- (a) in a part of an aerodrome designated under sub-section (1) to be an area in which an aircraft, or a particular kind of aircraft only, may be parked; and
  - (b) in accordance with any conditions specified on a sign, notice or marker.

Maximum penalty for subsection (2) - 20 penalty units

- (3) Where an aircraft is parked in contravention of sub-section (2), an authorised person may give a written notice (a **compliance notice**) to a relevant person, and direct that person on the terms prescribed in the notice to:
- (a) remove the aircraft from the aerodrome; or
  - (b) remove the aircraft to an area specified by the authorised person in the notice.

- (4) The local government, an authorised person or any other officer, employee or agent of the local government will not be liable for or in respect of:
- (a) loss of, or damage to, an aircraft during its removal under sub-section (3); or
  - (b) loss of, or damage to, an aircraft so removed while it is in the custody, possession or control of the local government or of an authorised person or any other officer, employee or agent of the local government other than loss or damage wilfully or negligently caused by an authorised person or other officer, employee or agent.

## 12 Special requirements

- (1) The local government may by subordinate local law:
- (a) exclude from an aerodrome, any particular aircraft or type or class of aircraft or activity where the local government is of the reasonable opinion that the operation of such aircraft or type or class of aircraft or activity is unduly noisy, dangerous or not in the public interest; and
  - (b) subject any activity on or based on an aerodrome to such conditions as the local government considers necessary and desirable including, but not restricted to, conditions as to noise attenuation and hours and duration of operation of the activity; and
  - (c) designate a part of an aerodrome where a particular activity may or may not be carried on; and
  - (d) restrict use by aircraft of an aerodrome for:
    - (i) departures; or
    - (ii) landings; or
    - (iii) servicing; or
    - (iv) embarkment of passengers; or
    - (v) disembarkment of passengers; or
    - (vi) transport of freight; or
    - (vii) any combination of (i) to (vi) above, on any night or on every night during the hours prescribed by the local government; and
  - (e) restrict use by aircraft of an aerodrome for training operations on any night or on every night during the hours prescribed by the local government.
- (2) Where an aircraft is used, or an activity carried on, in contravention of sub-section (1) or a subordinate local law made under this local law, an authorised person may give a written notice (a ***compliance notice***) to a person who is a relevant person in relation to that aircraft or activity, and direct that person within the time prescribed in the notice:

- (a) to cease the use of such aircraft or activity; or
- (b) to remove the aircraft from the aerodrome; or
- (c) to remove the aircraft or activity to an area specified by the authorised person in the notice; or
- (d) to pay prescribed fees or charges; or
- (e) any combination of (a) to (d) above.

### **13 Prevention of hazards to aircraft**

- (1) This section applies if, in the opinion of an authorised person, there is on land adjoining or in the vicinity of an aerodrome:
  - (a) a tree which penetrates or in a short period is likely to penetrate, the Obstacle Limitation Surface; or
  - (b) a structure or part of a vehicle penetrating the Obstacle Limitation Surface; or
  - (c) a light exhibited which by reason of glare or by causing confusion or by interfering with the operation of aircraft, is likely to endanger the safety of aircraft; or
  - (d) waste or refuse which is likely to attract birds in such numbers as to create a hazard, or a potential hazard, to aircraft using or operating in the vicinity of the aerodrome.
- (2) The authorised person may by compliance notice give to the owner of the relevant land or the person apparently in charge of the relevant vehicle require the person to:
  - (a) remove or lop that part of vegetation penetrating, or likely to penetrate, the Obstacle Limitation Surface; or
  - (b) remove, or dismantle to the extent necessary, a structure or part of a vehicle so that the structure or part does not penetrate the Obstacle Limitation Surface; or
  - (c) extinguish a light or shield it to the extent necessary to remove any likely danger to the safety of aircraft operation and refrain from exhibiting a light, or any other light having similar effect, in the future; or
  - (d) remove or effectively cover waste or refuse to eliminate any attraction to birds.



## **Part 5                      Miscellaneous**

### **14 Subordinate local laws**

The local government may make subordinate local laws about—

- (a) the declaration of prohibited activities or restricted activities;<sup>7</sup> or
- (b) the opening hours for a local government controlled area;<sup>8</sup> or
- (c) closing a local government controlled area to public access;<sup>9</sup> or
- (d) minimum standards for fences on land adjoining a road;<sup>10</sup>
- (e) regulating the use of aerodromes<sup>11</sup>.

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<sup>7</sup> See section 5(1).

<sup>8</sup> See section 6(1).

<sup>9</sup> See section 7(3).

<sup>10</sup> See section 8(3).

<sup>11</sup> See section 12(1).

## Schedule Dictionary

## Section 3

**aerodrome** means an area of land under the control of the local government and used and licensed as an aerodrome under the civil aviation laws for use as an aerodrome.

**airside area** means the movement area of an aerodrome, including buildings and other structures, being the whole or that part of an aerodrome inside the perimeter fence, but excluding buildings on leased areas and any area signposted by the local government for the use by the general public in connection with a lawful aerodrome activity. (For example, a waiting area or public car park)

**boat ramp** means a ramp or other device or structure used or capable of use, or designed or intended for use, for the purpose of launching and retrieving trailerable vessels.  
The term includes part of a boat ramp.

**canal** means an artificial waterway-

- (a) connected or intended to be connected to tidal water; and
- (b) from which boating access to the tidal water is not hindered by a lock, weir or similar structure.

The term includes a canal surrendered to the State under the *Canals Act*, section 13(4).  
However, *canal* does not include any part of tidal water containing facilities that are used commercially or by members of a club or association on an exclusive basis for 1 or more of the following—

- (a) boat launching, landing, berthing or storing;
- (b) boat repairs;
- (c) boat provisioning, fuelling or servicing;
- (d) recreation, comfort and convenience of persons who own or use boats.

**civil aviation laws** means a law made by the Commonwealth Parliament about the use and operation of an aerodrome.

**deposit** includes drop, deliver, leave, place or throw.

**essential services employee** means an officer or employee of –

- (a) the Police Services; or
  - (b) the Ambulance Services; or
  - (c) the Fire Services; or
  - (d) a Gas Supply Franchise; or
  - (e) Australia Post; or
  - (f) an Electricity Corporation; or
  - (g) the State Emergency Services; or
  - (h) Telstra; or
  - (i) a life-saving club; or
  - (j) the local government; or
  - (k) any other State Agency;
- carrying out the duties assigned to that officer or employee.

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

**goods** includes any wares, merchandise, chattels, money, stone, timber, metal, fluid, plant and any other article, substance or material whatsoever and includes animals.

**install** means construct, make, mark, place or erect, or affix to or paint on any surface or structure, and repair, maintain, manage and control.

**itinerant vending vehicle** means a moving motor vehicle that stops on a road to make a sale of goods carried in, or on, the vehicle only when its driver is hailed by a person intending to purchase any of the goods being carried.

**itinerant vendor** means a person who operates an itinerant vending vehicle.

**jetty** means wharf, pier, jetty, or landing-place which is the property of or under the control of the local government.

**landing** includes-

- (a) any jetty, gangway, landing, landing place, launching ramp, pier, platform, pontoon, quay, stage, wharf or like premises used or capable of use or designed or intended for use, for the purpose of taking goods or persons to, or removal of goods or persons from, any vessel; and
- (b) where necessary, all buildings, facilities, railways, tramways, and other works in the landing and the appurtenances of the landing, and the approaches to the landing; and
- (c) part of a landing.

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

*Examples of local government controlled areas-*

- *parks, reserves and gazetted foreshores*
- *camping grounds or caravan parks on land owned or controlled by the local government*
- *local government swimming pools*
- *local government cemeteries*
- *Council Chambers and local government offices*
- *local government controlled jetties, landings, ramps, locks and canals*

The term includes part of a local government controlled area.

**master** in relation to a vessel

- (a) means the person having command or charge of the vessel, but
- (b) excludes a pilot who has the conduct of the vessel, but does not belong to the vessel.

**moor** includes anchor, berth, fasten or any other mechanism that:

- (a) secures a vessel to a landing or ramp; or
- (b) allows a the vessel to lie alongside, or remain attached, to a landing or ramp.

**obstacle limitation surface, or OLS**, means the series of surfaces established by the local government in the air space around an aerodrome and published in the Redcliffe Aerodrome Obstacle Limitation Surface Plan.

**operator** of:

- (a) vehicle access means a person who undertakes the motor vehicle access; or
- (b) a licensed activity means a person who conducts a licensed activity and

includes that person's employees and agents who are employed or engaged by that person in connection with the vehicle access or licensed activity.

**owner** means:

- (a) in relation to a vessel-
  - (i) is the person who owns the vessel, whether or not the person is registered as the vessel's owner; and
  - (ii) includes a person who-
    - (A) exercises, or purports to exercise, the powers of the owner; and
    - (B) operates the vessel, or causes or allows it to be operated by someone else; and

*Examples-*

- *If the vessel's owner lives outside Queensland, and the owner appoints an agent in Queensland to exercise the owner's powers and operate the vessel, the agent is an owner of the vessel.*
- *If, under a charter, a person has exclusive possession of a vessel and may operate the vessel, the person is an owner of the vessel.*
- *If a bank becomes the mortgagee in possession of a vessel and operates it, the bank is an owner of the vessel.*

- (b) in relation to a vehicle, includes a person-
  - (i) who is the owner, joint owner or part owner of the vehicle; or
  - (ii) who is a bailee to whom the vehicle is bailed; or
  - (iii) who has the use or control of the vehicle under a hiring agreement, hire purchase agreement or leasing arrangement; or
  - (iv) in whose name the vehicle is registered; or
  - (v) who is apparently in charge of the vehicle at the relevant time.

**personal water craft** has the meaning given in the *Transport Operations (Marine Safety) Regulation 2004*.

**protected area** means a local government area or any part thereof designated as a protected area for the cultivation of a plant or for environmental protection.

**ramp** means a barge loading ramp or boat ramp; and includes part of a ramp.

**relevant person** means:

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

**road** see *Moreton Bay Regional Council Local Law No.1 (Administration) 2011*, schedule 1.

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

**tender** means an auxiliary ship, other than a lifeboat, that—

- (a) is not longer than 6m; and
- (b) is employed to attend another ship; and
- (c) is smaller than the other ship; and
- (d) is operated only in the proximity of the other ship.

**vessel** means any ship, boat, punt, ferry, air cushion vehicle and every other kind of vessel used or apparently designed for use in navigation whatever may be the means of its propulsion.