



Moreton Bay City Council

Amendment Local Law (State-controlled Roads) 2024

Explanatory Notes

2024 | Version 1.0



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Short title

This Amendment Local Law may be cited as the *Amendment Local Law (State-controlled Roads) 2024*.

Reference to laws

This Amendment Local Law amends the following Local Laws (**relevant Local Laws**)—

- *Alteration of Public Land Local Law 2023*;
- *Animal Management Local Law 2023*;
- *Commercial Use of Public Land and Roads Local Law 2023*;
- *Community Standards for Public Land and Roads Local Law 2023*;
- *Parking Local Law 2023*; and
- *Signs Local Law 2023*.

What is this Amendment Local Law trying to achieve and why?

This Amendment Local Law is required to amend the relevant Local Laws so they can be applied to State-controlled roads within the local government area for certain matters under sections 66 and 101 of the *Transport Operations (Road Use Management) Act 1995 (TORUM Act)*. This Amendment Local Law is intended to reflect the written agreement Council will have with the chief executive of the Department of Transport and Main Roads pursuant to section 66(5)(b) and section 101(1)(b) of the TORUM Act.

This Amendment Local Law amends the relevant Local Laws by:

- amending definitions or inserting new definitions, including the definition of **road**;
- inserting a Schedule of State-controlled roads to which a relevant Local Law applies;
- for the *Signs Local Law 2023*— inserting additional minimum conditions for self-assessable signs on State-controlled roads;
- making other consequential amendments, as a result of inserting the new Schedule; and
- making other miscellaneous amendments to the relevant Local Laws.

Plain English explanations of key sections of the Amendment Local Law

Part 1 - Preliminary

Section 1 - Short title

This section establishes the short title of this Amendment Local Law.

Section 2 - Local Laws amended

This section provides that this Amendment Local Law amends the relevant Local Laws.

Section 3 - Object

This section provides the scope and context for the provisions of this Amendment Local Law (the **object**). The provisions of this Amendment Local Law must be consistent with the object, which is to amend the relevant Local Laws to apply to State-controlled roads within the local government area and to make other miscellaneous amendments.

Part 2 - Amendment of Alteration of Public Land Local Law 2023

Section 4 - Local Law amended

This section states that part 2 amends the *Alteration of Public Land Local Law 2023* (APLLL).

Section 5 - Amendment of s 4 (Definitions)

This section amends section 4 of the APLLL to reflect the numbering of the Schedule Dictionary (see Section 9), which is required as a second Schedule is being added by Section 10.

Section 6- Amendment of s 34 (Deciding an application)

This section amends section 34(3)(b) and 34(4) of the APLLL to rectify a drafting error where the words 'infrastructure of the local government or the State government' were incorrectly included in section 34(4). Those words have been removed from section 34(4) and inserted as a new subsection 34(3)(b)(vi).

Section 7- Amendment of s 43 (Procedure for immediate suspension of approval)

This section amends section 43(4)(b) of the APLLL to rectify a typographical error regarding a cross-reference to section 42(6).

Section 8- Amendment of s 49 (Subordinate Local Laws)

This section amends section 49(b) of the APLLL to rectify a typographical error regarding a cross-reference to section 36(2)(a).

Section 9 - Amendment of Schedule (Dictionary)

This section numbers the Schedule Dictionary as Schedule 1, which is required as a second Schedule is being added by Section 10. It also amends the definition of **road** by including paragraph (b) which extends the application of the APLLL to those State-controlled roads listed in columns 1 to 4 of table 1 in Schedule 2 in relation to those specific matters outlined in column 5 of table 1 in Schedule 2. The matters in column 5 specifically refer to matters in section 66(3) of the TORUM Act that are relevant to the operation of the APLLL.

This section also corrects a drafting error in the definitions of **accepted alteration** and **Act** in the Schedule Dictionary. These definitions have been amended to be separate from one another.

Section 10 - Insertion of new Schedule 2 (State-controlled roads to which this Local Law applies)

This section inserts a new Schedule 2 relevant to State-controlled roads. Schedule 2, Table 1 is relevant to the amended paragraph (b) of the definition of **road** in the APLLL. Schedule 2 is intended to reflect the agreement which the Council will have with the Department of Transport and Main Roads under section 66 of the TORUM Act regarding the matters which the Council is permitted to regulate on specified State-controlled roads in the local government area. A reference to a column below is a reference to that column in Schedule 2, Table 1. Broadly:

- Columns 1 to 4 lists each of the State-controlled roads in the local government area on which the matters listed in column 5 are regulated (including the specific sections of the road and where the section begins and ends); and
- Column 5 lists each of the matters which are regulated by the APLLL and which Council is permitted to regulate on the State-controlled roads listed in columns 1 to 4.

Column 5 explicitly excludes:

- the stacking, sorting or exposure of goods in, on or over a road by the Department of Transport and Main Roads or its contractors; and
- the use of advertising devices (including illuminated street signs), traffic signs and lighting.

Those matters are reserved for the State to regulate on State-controlled roads under State legislation.

Part 3 - Amendment of Animal Management Local Law 2023

Section 11 - Local Law amended

This section states that part 3 amends the *Animal Management Local Law 2023 (AMLL)*.

Section 12 - Amendment of s 4 (Definitions)

This section amends section 4 of the AMLL to reflect the numbering of the Schedule Dictionary (see Section 18), which is required as a second Schedule is being added by Section 19.

Section 13 - Insertion of new s 44A

This section inserts a new section 44A to note that Chapter 3 of the AMLL applies to all land and roads in the local government area. The term **road** is a defined term, which is amended by Section 18 to include all State-controlled roads in the new Schedule 2 (inserted by Section 19).

Section 14 - Insertion of new s 59A

This section inserts a new section 59A to note that Chapter 4 of the AMLL applies to all land and roads in the local government area. The term **road** is a defined term, which is amended by Section 18 to include all State-controlled roads in the new Schedule 2 (inserted by Section 19).

Section 15 - Amendment of s 62 (Immediate return of animal seized wandering at large)

This section amends section 62(1)(b) of the AMLL to correct a grammatical error by inserting a comma after 'found out' for improved readability.

Section 16 - Amendment of s 101 (Magistrate Court's powers on appeal)

This section amends section 101(2) of the AMLL to correct the reference to 'Local Law'.

Section 17 - Amendment of s 107 (Subordinate Local Laws)

This section amends section 107(q) of the AMLL to reflect the numbering of the Schedule Dictionary (see Section 18), which is required as a second Schedule is being added by Section 19.

Section 18 - Amendment of Schedule (Dictionary)

This section numbers the Schedule Dictionary as Schedule 1, which is required as a second Schedule is being added by Section 19. It also amends the definition of **road** by including paragraph (a)(ii) which extends the application of the AMLL to those State-controlled roads listed in columns 1 to 4 of table 1 in Schedule 2 in relation to those specific matters outlined in column 5 of table 1 in Schedule 2. The matters in column 5 specifically refer to matters in section 66(3) of the TORUM Act that are relevant to the operation of the AMLL. The definition of **road** in paragraph (a) is relevant to the new sections 44A and 59A only. All other references to **road** in the AMLL has the meaning in paragraph (b) of the definition, with reference to the meaning of the meaning of the word 'road' in the *Transport Infrastructure Act 1995*.

Section 18 also includes a definition of **effective control**, with reference to the explanation of that concept in section 52(2) of the AMLL and amends the definition of **public place** by referring directly to the meaning of that term in the *Local Government Act 2009* (as opposed to 'the Act' which is not a defined term in the AMLL).

Section 19 - Insertion of new Schedule 2 (State-controlled roads to which this Local Law applies)

This section inserts a new Schedule 2 relevant to State-controlled roads. Schedule 2, Table 1 is relevant to the amended paragraph (a)(ii) of the definition of **road** in the AMLL. Schedule 2 is intended to reflect the agreement which the Council will have with the Department of Transport and Main Roads under section 66 of the TORUM Act regarding the matters which the Council is permitted to regulate on specified State-controlled roads in the local government area. A reference to a column below is a reference to that column in Schedule 2, Table 1. Broadly:

- Columns 1 to 4 lists each of the State-controlled roads in the local government area on which the matters listed in column 5 are regulated (including the specific sections of the road and where the section begins and ends); and
- Column 5 lists each of the matters which are regulated by the AMLL and which Council is permitted to regulate on the State-controlled roads listed in columns 1 to 4.

Column 5 explicitly excludes the regulation of stock movement and crossings across a road. That matter is reserved for the State to regulate on State-controlled roads under State legislation.

Part 4 - Amendment of Commercial Use of Public Land and Roads Local Law 2023

Section 20 - Local Law amended

This section states that part 4 amends the *Commercial Use of Public Land and Roads Local Law 2023* (CUPLRLL).

Section 21 - Amendment of s 41 (local government power to reinstate site and cost recover)

This section amends the definition of **original state** in section 41(6) of the CUPLRLL in correcting a typographical error in relation to 'self-assessment'.

Section 22 - Amendment of Schedule 1 (Corresponding local laws)

This section amends the schedule by omitting the number '57' before the heading 'Definitions for Schedule 1'. The inclusion of a section number was a drafting oversight.

Section 23 - Amendment of Schedule 2 (Dictionary)

This section amends the definition of **road** by including paragraph (b) which extends the application of the CUPLRLL to those State-controlled roads listed in columns 1 to 4 of table 1 in Schedule 3 in relation to those specific matters outlined in column 5 of table 1 in Schedule 3. The matters in column 5 specifically refer to matters in section 66(3) of the TORUM Act that are relevant to the operation of the CUPLRLL.

Section 24 - Insertion of new Schedule 3 (State-controlled roads to which this Local Law applies)

This section inserts a new Schedule 3 relevant to State-controlled roads. Schedule 3, Table 1 is relevant to the amended paragraph (b) of the definition of **road** in the CUPLRLL. Schedule 3 is intended to reflect the agreement which the Council will have with the Department of Transport and Main Roads under section 66 of the TORUM Act regarding the matters which the Council is permitted to regulate on specified State-controlled roads in the local government area. A reference to a column below is a reference to that column in Schedule 3, Table 1. Broadly:

- Columns 1 to 4 lists each of the State-controlled roads in the local government area on which the matters listed in column 5 are regulated (including the specific sections of the road and where the section begins and ends); and
- Column 5 lists each of the matters which are regulated by the CUPLRLL and which Council is permitted to regulate on the State-controlled roads listed in columns 1 to 4.

Column 5 explicitly excludes:

- the stacking, sorting or exposure of goods in, on or over a road by the Department of Transport and Main Roads or its contractors; and
- the use of advertising devices (including illuminated street signs), traffic signs and lighting.

Those matters are reserved for the State to regulate on State-controlled roads under State legislation.

Column 5 also explicitly requires that an approval for:

- footpath dining on a State-controlled road must require compliance with the Department of Transport and Main Roads *Guideline for Footpath Dining on State-controlled Roads*; and
- roadside vending on a State-controlled road must require compliance with the requirements contained in the Department of Transport and Main Roads *Guideline for Roadside Vending on State-controlled Roads*.

Part 5 - Amendment of Community Standards for Public Land and Roads Local Law 2023

Section 25 - Local Law amended

This section states that part 5 amends the *Community Standards for Public Land and Roads Local Law 2023 (CSPLRLL)*.

Section 26 - Amendment of s 5 (Definitions)

This section amends section 5 of the CSPLRLL to reflect the numbering of the Schedule Dictionary (see Section 30), which is required as a second Schedule is being added by Section 31.

Section 27 - Amendment of s 27 (Overview)

This section amends section 27 of the CSPLRLL to remove reference to paragraph (c), which was a drafting error.

Section 28 - Amendment of s 59 (Permission required to perform obligation)

This section amends two definitions in section 59(10) of the CSPLRLL by changing the defined terms to lowercase (i.e. '**Development**' to '**development**' and '**Existing permission**' to '**existing permission**').

Section 29 - Amendment of s 69 (Subordinate Local Laws)

This section amends section 69(h) of the CSPLRLL to reflect the numbering of the Schedule Dictionary (see Section 30), which is required as a second Schedule is being added by Section 31.

Section 30 - Amendment of Schedule (Dictionary)

This section numbers the Schedule Dictionary as Schedule 1, which is required as a second Schedule is being added by Section 31. It also amends paragraph (b) of the definition of **road** for section 22 of the CSPLRLL.

Under section 22 of the CSPLRLL, Council can prescribe, by Subordinate Local Law, activities that are restricted on public land and roads (or an area of public land and road) (**prescribed restricted activities**). section 22 of the CSPLRLL requires a specific definition of **road** as Council is limited by State legislation in the activities it is permitted to regulate on a State-controlled road. Those activities that Council is not able to regulate on a State-controlled road, may be regulated under other State legislation.

For section 22 of the CSPLRLL, the definition of **road** is amended by including paragraph (b)(ii), which extends the application of section 22 to those State-controlled roads listed in columns 1 to 4 of table 1 in Schedule 2 in relation to each of the high-level matters listed in column 5 and each of the prescribed restricted activities listed in column 6. The high-level matters in column 5 specifically refer to matters in section 66(3) of the TORUM Act that are relevant to the operation of the CSPLRLL. The effect is that not all prescribed restricted activities will apply to State-controlled roads under the CSPLRLL (although they may still be restricted under State legislation). See further explanation on the operation of Schedule 2 in Section 31 below.

Section 30 also amends paragraph (c) of the definition of **road verge** by inserting the word "road" before the word "kerb". This amendment ensures consistence with paragraphs (a) and (b) of the definition.

Section 31 - Insertion of new Schedule 2 (State-controlled roads to which this Local Law applies)

This section inserts a new Schedule 2 relevant to State-controlled roads. Schedule 2, Table 1 is relevant to the amended paragraph (b) of the definition of **road** in the CSPLRLL, which defines “road” for the purposes of prescribed restricted activities.

Schedule 2 is intended to reflect the agreement which the Council will have with the Department of Transport and Main Roads under sections 66 and 101 of the TORUM Act regarding the matters and activities which the Council is permitted to regulate on specified State-controlled roads in the local government area. A reference to a column below is a reference to that column in Schedule 2, Table 1. Broadly:

- Columns 1 to 4 lists each of the State-controlled roads in the local government area on which the matters and activities listed in column 6 are regulated (including the specific sections of the road and where the section begins and ends);
- Column 5 lists each of the high level matters which Council is permitted to regulate on the State-controlled roads listed in columns 1 to 4; and
- Column 6 lists each of the prescribed restricted activities which are regulated by the CSPLRLL, which relate to the matters listed in column 5 and which Council is permitted to regulate on the State-controlled roads listed in columns 1 to 4.

Not all prescribed restricted activities under the CSPLRLL will apply to State-controlled roads (although they may still be restricted under other State legislation). Only the prescribed restricted activities listed in column 6 will be restricted on a State-controlled road (listed in columns 1 to 4). Column 5 merely contains the high-level matters to which the prescribed restricted activities listed in column 6, relate. Further, where State legislation permits Council to regulate those prescribed restricted activities, that legislation is also referred to in column 5. For example, section 66 of the TORUM Act allows Council to regulate certain matters on State-controlled roads (with the written agreement of the Department of Transport and Main Roads). Where this is applicable to Schedule 2, a reference to section 66 of the TORUM Act has been inserted into column 5. The matters listed in column 5 do not, and are not intended to, directly align with the activities listed in column 6.

Part 6 - Amendment of Parking Local Law 2023

Section 32 - Local Law amended

This section states that part 6 amends the *Parking Local Law 2023 (PLL)*.

Section 33- Amendment of s 4 (Definitions)

This section amends section 4 of the PLL to reflect the numbering of the Schedule Dictionary (see Section 34), which is required as a second Schedule is being added by Section 35.

Section 34 - Amendment of Schedule (Dictionary)

This section numbers the Schedule Dictionary as Schedule 1, which is required as a second Schedule is being added by Section 35. It also amends / inserts the following definitions:

- amends the definition of **application** to insert a full-stop;
- amends the definition of **local government area** to explicitly include State-controlled roads. This puts beyond doubt that any section of the PLL that refers to the local government area, also refers to State-controlled road in the area;
- amends the definition of **road** by extending the definition to those State-controlled roads listed in columns 1 to 4 of table 1 in Schedule 2; and
- inserts a definition for **State-controlled road** to mean a road listed in columns 1 to 4 of table 1 in Schedule 2.

Section 35 - Insertion of new Schedule 2 (State-controlled roads to which this Local Law applies)

This section inserts a new Schedule 2 relevant to State-controlled roads. Schedule 2, table 1 is relevant to the definition of **State-controlled road** and the amended definitions of **road** and **local government area** in the PLL. Schedule 2 is intended to reflect the agreement which the Council will have with the Department of Transport and Main Roads under section 101 of the TORUM Act regarding the parking matters which the Council is permitted to regulate on specified State-controlled roads in the local government area.

Part 7 - Amendment of Signs Local Law 2023

Section 36 - Local Law amended

This section states that part 7 amends the *Signs Local Law 2023 (SLL)*.

Section 37 - Amendment of s 5 (Regulated sign)

This section amends section 5 of the SLL, specifically the definition of 'election sign' and 'vehicle sign'.

The amendment to 'election sign' is to refer to the amended short title of the *Moreton Bay Regional Council Local Law No 8. (Election Signs) 2019*, which was amended to the *Election Signs Local Law 2019* by section 4 of the *Amendment Local Law No. 1 (Moreton Bay Regional Council Local Law No. 8 (Election Signs) 2019) 2023*.

The amendment to 'vehicle sign' is to remove reference to a sign regulated under s 126(1)(b) of the *Traffic Regulation 1962 (TR)* from the definition. The Department of Transport and Main Roads has provided advice that Council may, under s 66(3)(c) of the *Transport Operations (Road Use Management) Act 1995 (TORUM Act)* make a local law about matters otherwise regulated under s 126(1)(b) of the TR. Under s 66(6) of the TORUM Act, where Council makes a local law about a matter mentioned in s 66(3)(a) to (f) of the TORUM Act, the provisions of the TORUM Act (including the TR) about the matter no longer apply to the local government area to which the local law applies.

Section 38 - Amendment of s 23 (Local government may amend, suspend or cancel approval)

This section amends section 23(1)(a)(iv) of the SLL by removing the words "roads or" that appear before the word "public land" because 'public land' is already defined to include 'road'.

Section 39 - Amendment of s 24 (Procedure for immediate suspension of approval)

This section amends section 24(1)(c) of the SLL by removing the words "roads or" that appear before the word "public land" because 'public land' is already defined to include 'road'.

Section 40 - Amendment of s 37 (Stop orders)

This section amends section 37(2)(c) of the SLL by removing the words "roads or" that appear before the word "public land" because 'public land' is already defined to include 'road'.

Section 41 - Amendment of Schedule 1 (Self-assessable signs)

This section amends the minimum conditions for certain self-assessable signs as they relate to State-controlled roads, as follows:

Self-assessable sign	Minimum condition
Community activity sign	

Garage sale sign	If installed on a State-controlled road, the sign must adhere to any additional requirements in the Department of Transport and Main Roads Roadside Advertising Manual - Technical Volume, including Table C1 and Figures C5A and C5C.
A-frame business sign	If installed on a State-controlled road, the sign must adhere to any additional requirements in the Department of Transport and Main Roads: (a) Roadside Advertising Manual - Technical Volume, including Table C1 and Figures C5A and C5C; and (b) <i>Ancillary Works and Encroachments Notice—2021</i> made under the <i>Transport Infrastructure Act 1994</i> , section 50(4).
Real estate sign	
Freestanding flag sign	The sign must not be installed on a State-controlled road.

The section also inserts a definition of **State-controlled road** for Schedule 1 (noting this is limited by the location in column 2 of table 1 in Schedule 1).

Section 42 - Amendment of Schedule 2 (Dictionary)

This section amends the definition of **road** by including paragraph (b) which extends the application of the SLL to those State-controlled roads listed in columns 1 to 4 of table 1 in Schedule 3 in relation to those specific matters outlined in column 5 of table 1 in Schedule 3. The matters in column 5 specifically refer to matters in section 66(3) of the TORUM Act that are relevant to the operation of the SLL.

The definition of **road** is relevant to the definition of **public land**, which is defined to include 'road'.

This section also rectifies a grammatical error in the definition of **statutory sign** by inserting a full-stop.

Section 43 - Insertion of new Schedule 3 (State-controlled roads to which this Local Law applies)

This section inserts a new Schedule 3 relevant to State-controlled roads. Schedule 3, Table 1 is relevant to the amended paragraph (b) of the definition of **road** in the SLL. Schedule 3 is intended to reflect the agreement which the Council will have with the Department of Transport and Main Roads under section 66 of the TORUM Act regarding the matters which the Council is permitted to regulate on specified State-controlled roads in the local government area. A reference to a column below is a reference to that column in Schedule 3, Table 1. Broadly:

- Columns 1 to 4 lists each of the State-controlled roads in the local government area on which the matters listed in column 5 are regulated (including the specific sections of the road and where the section begins and ends); and
- Column 5 lists each of the matters which are regulated by the SLL and which Council is permitted to regulate on the State-controlled roads listed in columns 1 to 4.

Column 5 specifically states in paragraph (c) that the Council's approval of the installation and display of any sign on a State-controlled road under Part 2 of the SLL is subject to the approval of the Department of Transport and Main Roads. Paragraph (d) provides that Council cannot the installation or display of a sign on the Bruce Highway (including its on-ramps and off-ramps). Paragraphs (e) and (f) limit the types of signs that Council may approve on State-controlled roads and paragraph (g) requires an approval granted under the SLL for a sign on a State-controlled road to require compliance with the requirements contained in the Department of Transport and Main Roads Roadside Advertising Manual.

Is this law consistent with fundamental legislative principles?

The Amendment Local Law is generally consistent with fundamental legislative principles.

Is this law consistent with Human Rights?

The Amendment Local Law is generally compatible with the *Human Rights Act 2019*.

