

City of Moreton Bay

Signs Local Law 2023

Explanatory Notes

2023 | Version 1.0



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Short title

This Local Law may be cited as the *Signs Local Law 2023*.

What is this Local Law trying to achieve and why?

City of Moreton Bay strives to build a community which supports exceptional and innovative businesses, individuals and community groups. These play a vital role in delivering services, events, activities and experiences that contribute to the vibrant fabric of the Moreton Bay community. Council appreciates signs are fundamental to informing the community of services and events in the local area and encourage visitors to come and experience all the City has to offer.

However, signs also have the potential to impact public safety, road safety and amenity if not appropriately managed. Accordingly, the primary purpose of this Local Law is to regulate the installation and display of signs to avoid, where possible, or minimise risks to public health and safety, road safety and the environment and to preserve the visual amenity and fitness for use of public land.

This Local Law creates two clear categories for signs regulated under the Law:

- self-assessable signs— those signs that don't require formal approval provided minimum conditions are met; and
- licensable signs— those signs that require a formal approval.

Categorising signs in this way will reduce red tape for those high volume and low risk signs. This law aims to provide a new, simplified approach to regulating signs at a local government level that is more reflective of modern advertising and meets the needs of the growing Moreton Bay community.

How will the Local Law achieve those aims?

This Local Law achieves its purpose by providing for:

- self-assessable signs and the minimum conditions for these signs;
- a framework for assessing and granting approvals to use licensable signs; and
- compliance and enforcement options for Council in dealing with contraventions of this Local Law.

(1) *Self-assessable signs*

Self-assessable signs which comply with the minimum conditions do not need an approval. These types of signs and the minimum conditions for each sign, are listed in Schedule 1 of this Local Law. The minimum conditions are consistent with the object of this Local Law. Establishing self-assessable signs aims to reduce red tape and make it easier for the community to install low-risk signs without completing a lengthy application

process.

(2) Licensable signs

Licensable signs require an approval. Any sign that is not listed as self-assessable (or where a person cannot comply with the minimum conditions of a self-assessable sign) or is not otherwise excluded from the Local Law under section 5(2), will be licensable. For this reason, this Local Law does not list all the types of licensable signs. The assessment and approval process for licensable signs is clearly set out in the Law, with a focus on employing a flexible approach to conditioning the use of these signs in a manner consistent with the object of the Law.

(3) Compliance and enforcement measures for Council officers in dealing with contravention of this Local Law

This Local Law contains compliance and enforcement measures that are necessary for Council to enforce the Local Law. Under this Local Law, it is an offence:

- not to comply with minimum conditions for self-assessable signs;
- to install and display a licensable sign without an approval; and
- not to comply with conditions of a licensable sign approval.

Where a person has contravened the Local Law, enforcement mechanisms are available to Council, including: issuing an oral direction to cease a contravention;

- issuing a compliance notice (to give the person an opportunity to take certain steps to remedy the contravention);
- issuing a fine (which aims to deter the person from continuing to contravene the law);
- prosecution (which aims to both deter and punish the person for either continuing to contravene the law, or contraventions of a more serious nature); and
- seizing and impounding signs in certain circumstances (aims to give Council power to address risks arising from unapproved signs, or signs that do not comply with conditions).



Who did Council seek feedback from in forming this law?

Council undertook extensive internal, external and community consultation prior to establishing this Local Law.

In March 2021, Council sought feedback from the community to identify key issues with the local law regulating signs and invited recommendations on how these issues could be addressed. This consultation took the form of a public survey, as well as invitations to relevant peak body organisations and State departments.¹ Council reviewed all responses and identified issues that were the most prevalent for the community.

In July 2021, targeted consultation on these specific issues occurred via a second public survey and further invitations to the relevant peak bodies and State departments. An overview of the community feedback on the issues relevant to the regulation of signs is provided below.

Signs		
Survey question	Responses received ²	Outcome
1. Should Council be easing restrictions, or imposing more restrictions on temporary signage across the Region (e.g., event information signs, garage sale signs, real estate signs, etc)?	451	Easing restrictions = 34.7% Increasing restrictions = 36.6% Unsure = 28.7%
2. Should car-wrapped vehicles be allowed to park (lawfully) in prominent places to advertise businesses?	417	Yes = 67.3% No = 28.3% Unsure = 4.3%

The feedback received by Council during consultation was considered in developing this Local Law. Given there was no clear preference by the community in the way that signs should be regulated, this Local Law allows for some self-assessable signs, while requiring an approval for all other signs. This approach aims to balance the desire to ease some restrictions where appropriate whilst also ensuring that the use of signs remains appropriately regulated so impacts can be properly managed.

The results from Question 2 demonstrate that the community is supportive of allowing car-wrapped vehicles to be parked for advertising purposes. This will continue to be regulated by State legislation (e.g., *Traffic Regulation 1962*).

In addition to the above, the following key matters were raised via consultation:

- the law regulating signs needs to be easier to understand and navigate;
- there is a need for further powers to seize and impound non-conforming signs;

¹ Australian Association of National Advertisers, Australian Automotive Dealer Association, Australian Constructors Association, Australian Sign and Graphics Association, Board of Professional Engineers Queensland, Chamber of Commerce and Industry Queensland, Community Council for Australia, Council of Mayors (SEQ), Department of Employment, Small Business and Training, Department of Transport and Main Roads, Housing Industry Association, Interactive Images, Moreton Bay Business Association, Moreton Bay Region Industry and Tourism, Motor Trades Association of Australia, Queensland Building and Construction Commission, Queensland Major Contractors Association, Real Estate Institute of Queensland, Urban Development Institute of Australia.

² Council also consulted the public on this question via social media. While the responses provided via social media were considered, they were not counted in these totals.

- signs can cause road safety, public safety and amenity issues if there is not appropriate regulation;
- there is a need for more “self-assessable” signs to support community needs;
- conditions or requirements imposed on signs need to be current, flexible and reflective of the object of this Local Law; and
- signs are an essential, in-expensive method of advertising for local businesses, community groups and individuals within the Moreton Bay community.

Plain English explanations of each section of the Local Law

Note: The relevant sections of *Local Law No.1 (Administration) 2011* and the *Subordinate Local Law No.1 (Administration) 2011* (which deal with advertising devices) will be referred to throughout this section as ‘the **2011 Local Law**’ and ‘the **2011 Subordinate Local Law**’, respectively.

Part 1 - Preliminary

Division 1 - Introductory provisions

Section 1 - Short title

This section establishes the short title of this Local Law.

Division 2 - Object and achievement of Local Law

Section 2 - Object

This section sets the broad context and scope for each provision within the Local Law. The content of these provisions must be consistent with the object of this Local Law.

This Local Law aims to regulate the installation and display of “regulated signs” on public land and private land to—

- avoid, where possible, or minimise risks—
 - *to public health and safety*— signs need to be installed and displayed in accordance with minimum conditions (for self-assessable signs) or conditions of approval (for licensable signs), to ensure public health and safety. If a sign is not installed or displayed correctly, it could fall, or become detached, threatening the safety of the broader community. For example, if a large sign is inappropriately installed, it may fall over and injure pedestrians.
 - *to road safety*— some signs can pose unique road safety risks, either due to their size, design (e.g., electronic or flashing) or location. If a sign is too large, or in an unsuitable location (e.g., near a road, driveway or intersection), it can block a motorists view of oncoming traffic. If a sign is electronic, flashing or otherwise distracting, it may divert the attention of motorists from the road, creating a hazard for all road users and pedestrians. These risks are in addition to the general public safety risks and arise when signs of a certain design or size are located on or near roads.
 - *of environmental harm*— the location of a sign or the materials with which a sign is made may present a risk of environmental harm, as that term is defined in the *Environmental Protection Act 1994*.
- preserves fitness for use and the visual and public amenity of public land—
 - “fitness for use” as a concept in this Local Law, relates to the ability for public land and road to be used in the ordinary way the community expects it to be. For example, a public playground is fit for use as a place for children to play. So, the fitness for use of public land is diminished where it becomes inconvenient for the community to use land in the ways they ordinarily expect to be able to; and
 - “amenity” as a concept in this Local Law, relates to the desirability of public land and roads in relation to its purpose. For example, a public nature walk has high amenity if it is in a state of relatively undisturbed natural beauty. So, the amenity of public land is diminished where it becomes

less desirable in relation to its purpose. While Council recognises that signs are essential to informing the community and delivering goods, services, events and activities across Moreton Bay, too many signs lead to visual pollution. This affects the visual amenity of the City.

Section 3 - How object of Local Law is to be achieved

This section sets out how the object of the Local Law will be achieved. This includes through:

- allowing the installation and display of self-assessable signs without an approval where minimum conditions are met;
- establishing a framework to grant approvals for licensable signs; and
- providing mechanisms for enforcement where there is non-compliance with conditions of an approval or provisions of this Local Law.

This allows the community to install certain “low-risk” signs without onerous approval processes and conditions, which reduces red tape. The process also gives Council the flexibility to assess and condition other types of signs, to ensure any risks to public and road safety, amenity or private and public property are minimised.

Division 3 - Interpretation

Section 4 - Definitions

This section states that the dictionary in Schedule 2 defines particular words in the Local Law.

Section 5 - Regulated sign

This section defines a **‘regulated sign’** as a sign located on public or private land and designed to advertise to the public or attract public attention. “Public” is not defined in the Local Law. The Macquarie dictionary says “public” means ‘of, relating to, or affecting the people as a whole or the community, state, or nation’ and ‘open to all the people’ The ordinary meaning of the word as defined in the dictionary should be considered in determining whether a sign is designed to advertise to the “public” or to attract “public” attention. For example, it may be that a sign on land leased from the local government (which is public land) and designed to only advertise to or attract the attention of members of a private group of people (as opposed to the public at large) is not a regulated sign under this Local Law.

By defining a regulated sign, Council aims to make it clear the types of signs this Local Law intends to regulate. However, this Local Law does not intend to regulate:

- how-to-vote cards;
- clothing;
- lapel buttons or badges;
- stationary;
- newspaper advertisements;
- business or visiting cards; or
- letters or posted leaflets.

The following kinds of signs are specifically excluded from the definition of a **‘regulated sign’** and are not regulated by this Local Law:

(a) Election Sign

An **‘election sign’** has the same definition as in the *Local Law No.8 (Election Signs) 2019 (Election Signs Local Law)*. These signs are not regulated under this Local Law, because they are regulated under the Election Signs Local Law.

(b) Permanent sign

A **'permanent sign'** is defined to mean:

1. a sign installed and displayed on public or private land in a manner that constitutes development; or
2. a sign installed and displayed on public land in a manner that cannot be readily removed or relocated.

1. A sign that constitutes development

Where the installation and display of a sign constitutes development, it will be regulated by Council's Planning Scheme. This relates to the installation and display of permanent signs (whether on public or private land). The Local Law is not intended to regulate permanent signs.

2. Signs installed and displayed on public land in a manner that cannot be readily removed or relocated

This may capture signs like large billboards, bus shelter signs and illuminated street signs with commercial advertising. Council considers that the installation and display of these kinds of signs on public land can be managed through a contract with Council, rather than a Local Law. However, an approval under other legislation such as the *Planning Act 2016*, may still be required.

Council considers a sign cannot be readily removed or relocated if, for example, it needs to be unscrewed, dug out of the ground or deconstructed. It would also not be able to be readily removed or relocated if it is welded or concreted on land or road. However, a sign could be readily removed or relocated if, for example, it is on wheels, can easily be pulled out of the ground (i.e., if it is installed via a stake in the ground) or can be easily taken down (i.e., it is only attached via a string, tape or zip tie). A sign could also be readily removed or relocated if it is only placed on, and not attached to property, land or road (i.e., an A-frame sign).

If a sign is installed and displayed on public land in a manner that cannot be readily removed or relocated, it will be regulated under the *Alteration of Public Land Local Law 2023*. Under that law, a person must not undertake an alteration of land unless an exception applies. An **'alteration'** is defined to include "erecting, installing...any sign". It is not an offence if the alteration (i.e., the installation of the sign) is undertaken in accordance with a contract with the local government.

(c) Public facility directional sign

A **'public facility directional sign'** is defined in this section as a sign which—

- provides directional assistance to locate a non-commercial community service; and
- advises of services on a road ahead or on a side road; and
- is necessary to inform a significant number of persons who may be unfamiliar with the area.

For example, a sign advising persons of a rest stop.

(d) Statutory Sign

A **'statutory sign'** is defined in this section as a sign which is installed and displayed by a person in accordance with a requirement under other legislation.

For example, a sign advising of a road closure.

Because these signs are required by other legislation, it would be inconsistent for this Local Law to also regulate them.

(e) Vehicle sign

A **'vehicle sign'** means:

- a sign regulated by the *Traffic Regulation 1962*, section 126(1)(b); or
- a sticker, signwriting or other wrapping on a vehicle that advertises goods or services in circumstances

where the use of the vehicle is not for the primary purpose of advertising the goods or services.

Council appreciates that many businesses put stickers or signwriting on their vehicles and then use those vehicles to drive to appointments (for example). While the stickers and signwriting may be for the purpose of advertising, the primary purpose of the use of the vehicle is to get from A to B. The advertising is a secondary purpose. Council does not intend to regulate advertising on vehicles where the advertising is a secondary purpose. For that reason, such advertising is excluded from the Local Law (through the definition of “vehicle sign” in section 5(2)(e)). This is consistent with regulation under State legislation (i.e. *Traffic Regulation 1962*, s 126).

If there are stickers or signwriting on a vehicle, or an advertisement displayed alongside a vehicle, and the use of the vehicle is for the primary purpose of business advertising (for example, the vehicle is stopped on the road all day for no other reason than to advertise), then it will be regulated by the *Traffic Regulation 1962*, s 126(1)(b)). This Local Law does not regulate this activity because it is already regulated under State legislation.

Section 6 - Self-assessable sign

This section defines a **‘self-assessable sign’** with reference to those signs specified in Schedule 1. The definition is relevant in determining which regulated signs require an approval under this Local Law.

A self-assessable sign is one which:

- is listed as self-assessable in Schedule 1, table 1, column 1; **and**
- is installed and displayed at the location specified in Schedule 1, table 1, column 2; **and**
- satisfies the minimum conditions listed in Schedule 1, table 1, column 3.

A sign must meet each of these requirements to be considered self-assessable and not require an approval under this Local Law.

Self-assessable signs are intended to capture those types of regulated signs that are commonly used within the community and considered low-risk. By allowing for these signs to be self-assessable, Council aims to reduce red tape by removing onerous application requirements. Requiring self-assessable signs to meet minimum conditions ensures these signs are available for the community to install and display, in a manner consistent with the object of this Local Law.

If a regulated sign is not listed in Schedule 1 or is listed but a person cannot satisfy the relevant minimum conditions, it will be considered a licensable sign, requiring an approval under part 2 of this Local Law.

It is an offence under section 26 of this Local Law to install and display a self-assessable sign without complying with the minimum conditions, unless the person has an approval.

Section 7 - Licensable sign

This section defines a **‘licensable sign’** as any regulated sign that is not “self-assessable” under this Local Law. A licensable sign requires an approval.

Licensable signs are intended to capture signs that:

- pose a greater risk to the community and which require assessment and conditioning to ensure the object of this Local Law is achieved; and
- low-risk signs, which are not commonly used within the community.

The 2011 Subordinate Local Law listed various kinds of licensable signs requiring approval, with a catch all ‘miscellaneous’ sign type. The effect of this was that any sign that was not self-assessable (or could not satisfy the minimum conditions for a self-assessable sign), was licensable. The definition in section 7 of this Local Law has the same effect. Where the 2011 Subordinate Local Law contained minimum conditions for

licensable signs, this law instead gives Council discretion to determine those conditions, having regard to the object of this Local Law (see section 18).

Division 4 - Operation of Local Law

Section 8 - Relationship with other Acts

This section clarifies that this Local Law is intended to be consistent with and in addition to any laws regulating the use or development of land (e.g., the *Planning Act 2016*) and buildings and other structures (e.g., the *Building Act 1975*) and any provision of the *Local Government Act 2009*.

The installation and display of signs that constitute development is regulated by Council's Planning Scheme. Nothing in this Local Law is intended to establish an alternative development process and any obligation or requirement imposed by or under this Local Law does not involve an alternative development process. To the extent that the installation and display of a regulated sign constitutes development as that term is defined in the *Planning Act 2016*, that ought to be assessed pursuant to the development process in that Act. This Local Law should not be relied on to regulate any activity dealt with, or that could have been dealt with, under a development approval or an existing land use right.

Part 2 - Licensable sign approvals

Division 1 - What this part is about

Section 9 - Overview

This section sets out the matters dealt with in part 2.

Division 2 - Approvals

Subdivision 1 - Application process

Section 10 - Need for approval

This section retains section 7 of the 2011 Local Law, which provides that an approval is required to install and display a licensable sign. Under section 27 of this Local Law, it is an offence to install or display a licensable sign without an approval. Council requires approvals to be obtained for licensable signs to ensure Council is aware of licensable signs across the City and to ensure these signs are installed and displayed in a way that is consistent with the object of this Local Law.

The requirement for an approval does not apply where a regulated sign is a "self-assessable sign", installed and displayed in accordance with the relevant minimum conditions under this Local Law. If the minimum conditions cannot be met, the sign will require approval under part 2.

The words *install* and *display* are defined in the dictionary Schedule of this Local Law. The word *on* is also defined for the purpose of the definition of *install* to include 'in, into or over'.

Section 11 - Making an application

This section partly retains section 8 of the 2011 Local Law with respect to installing and displaying licensable signs. It sets out the way in which an application for an approval needs to be made to Council and what it must be accompanied by. Under the 2011 Subordinate Local Law, Council imposed several application requirements, including mandating extensive documents and materials to accompany an application. In this Local Law, Council has aimed to achieve more flexibility, removing excessive application requirements so that only essential documents are required. The intention of this amendment is to ensure the community has a simple, straightforward application process to navigate.

Subdivision 2 - Timeframes for deciding applications

Section 12 - Timeframe for deciding applications when no further information is needed

This section sets out the timeframe within which Council must decide a properly application where no further information is required from the applicant. This timeframe may be extended where both parties agree. Previously, Council did not have a set time within which it had to decide an application. However, Council recognises that timeframes provide accountability and keep the decision-making process progressing for both parties.

Section 13 - Timeframe for deciding applications when further information is needed

This section sets out the timeframe within which Council must decide a properly made application where Council requires further information from the applicant to make a decision. Under this section, Council can make an information request to the applicant and the applicant must respond within the timeframe stated in the section. Council then has further time to consider this information and make a decision. If the further information is not provided by the applicant within the timeframe, Council can still decide the application. The purpose of this section is to allow the parties to request and provide further information necessary for Council to properly assess and decide the application.

For example, if an applicant wishes to install a licensable sign but they have not included any details of the materials the sign is made from, Council may request this further information. This information may be necessary for Council to determine how best to condition the sign to ensure it minimises risks to public safety.

Section 14 - Timeframe for dealing with applications that are not properly made

This section applies where Council receives an application that is not properly made. It requires Council to advise the applicant in writing that the application is not properly made. Following this, Council is not required to take any further action. The consequence of this section is that the applicant will need to make a fresh application under section 11. This provision is intended to ensure applications are being properly made and that Council is not required to assess and decide an application if there is insufficient information to do so.

Subdivision 3 - Deciding an application

Section 15 - Deciding an application

This section requires Council to decide an application by either approving it, approving it subject to conditions or refusing it. Council can refuse an application if approving it would be inconsistent with the object of the Local Law.

For example, Council receives an application for a large electronic licensable sign, proposed to be located near a road. Council believes this sign will obstruct and distract motorists. An alternative location would not minimise this risk as, due to its size and electronic display, it will still be visible from a road. As such, Council may refuse the application.

If there are risks that need to be mitigated, Council can approve the application but impose conditions to ensure the approval is consistent with the object of this Local Law. See section 18 regarding the conditions that may be imposed on an approval.

If it is not possible to condition an approval in a way which sufficiently mitigates risks or ensures the object of this Local Law, Council can refuse the application.

When Council makes a decision under this section, it must provide a notice of the decision to the applicant. This means the applicant may apply to review the decision under section 46. The requirements for a decision notice are set out in the definition of **'decision notice'** in the dictionary Schedule of this Local Law.

Section 16 - Effect of failure to decide application on time

This section provides that if an application is not decided by Council in the timeframes specified in section 12 and section 13 of this Local Law, or such further period as agreed to by the applicant, the application is taken to be refused. This means that an applicant cannot install or display the proposed licensable sign in the absence of Council's approval, even if the time in which the decision should have been made has passed.

This ensures that licensable signs cannot be installed and displayed unless Council has properly assessed an application. If a decision is taken to be refused because Council did not make a decision on time, the applicant will need to re-apply. Where an applicant reapplies, the timeframes for deciding an application will re-commence.

Section 17 - Third-party certification

This section retains section 12 of the 2011 Local Law, which gives Council the power to accept evidence from a qualified third-party that a particular application requirement is met. It also enables Council to specify (by Subordinate Local Law):

- individuals or organisations that are considered to be third-party certifiers; or
- particular qualifications that individuals or organisations must have to be considered third-party certifiers under the Local Law.

The purpose of this section is to enable Council to rely on external expertise in assessing certain application requirements. This may assist Council's consideration of the application.

Section 18 - Permitted conditions

Under section 15, Council may approve an application subject to conditions. Council may condition an approval to mitigate risks and to ensure an approval is undertaken in a manner consistent with the object of the Local Law. Section 18(1) provides that any condition imposed on an approval must relate to the object of this Local Law. This differs from the approach in the 2011 Subordinate Local Law, which imposed onerous mandatory conditions on approvals. This approach was in-flexible, which sometimes made it difficult to achieve the best outcomes for both the community and Council. This new section gives Council greater flexibility to impose tailored, purpose-based conditions.

For example, an approval for a licensable sign may impose conditions relating to the maximum permitted size for that type of sign. Such a condition would be necessary to ensure the licensable sign is of an appropriate size, so as not to detract from the visual amenity of the area.

Section 19 - Term of approval

This section specifies that an approval is valid for the term specified by Council in the approval. This section gives Council more flexibility to determine an appropriate length of time for displaying a licensable sign, having regard to the object of the Local Law and the nature of the sign approved.

For example, it may be that a licensable sign advertising an event should only be displayed for enough time to notify the community of the event and for a short period of time after the event. Any longer and the sign may threaten the visual amenity of the area. However, it may be appropriate for a licensable sign on a construction site fence to be displayed for a longer period of time, while the construction is being completed.

Subdivision 4 - Administering approvals

Section 20 - Definitions for this subdivision

This section defines a '**show cause notice**'.

Section 21 - Renewal or transfer of approval

This section provides approval holders with the flexibility to renew or transfer their approval to be able to continue to display a licensable sign. It also gives Council the ability to reconsider an approval to ensure it continues to meet the object of this Local Law.

An application to renew or transfer must be submitted before the expiry of the existing approval (subsection (1)). If the approval holder is seeking to transfer the approval to another person, this person must be part of the application process (subsection (3)). This is to ensure an approval is not transferred to another person without their knowledge or consent.

However, an approval holder cannot apply to renew or transfer their approval if Council has given the approval holder written notice that the approval is not renewable or transferable (subsections (4) and (5)). Written conditions of an approval or a decision notice will constitute written notice, such that if the conditions of an approval or a decision notice says that the approval is not renewable or transferable, then an approval holder cannot apply to renew or transfer the approval under this section.

Council must decide a renewal or transfer application by either approving it, approving it with amended conditions or refusing the application. Factors which Council may consider in deciding an application include the approval holder's history of compliance with approval conditions (where the application is a renewal application) and the object of this Local Law. For renewal applications, Council has complete discretion to determine the term of renewal (if it decides to renew) (subsection (6)).

For renewal applications, existing approvals will remain in effect for different periods of time depending on the outcome of the application. These timeframes preserve the applicant's right to seek review if Council refuses the renewal application.

When Council makes a decision under this section, it must provide a notice of the decision to the applicant. This means the applicant may apply to review the decision under section 46. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary Schedule of this Local Law.

Section 22 - Approval holder may apply to amend conditions

This section retains section 16 of the 2011 Local Law. It allows an approval holder to apply to Council to amend the conditions of an approval. This section recognises that circumstances may change and allows Council the flexibility to amend approval conditions to respond to those changes and enable the approval holder to continue to display a licensable sign despite those changed circumstances where it is appropriate for them to do so.

Council must decide an amendment application by either granting or refusing the application, having regard to the object of this Local Law and the approval holder's history of compliance with approval conditions. When Council makes a decision under this section, it must provide a notice of the decision to the applicant. This means the applicant may apply to review the decision under section 46. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary Schedule of this Local Law. Where an amendment is made at the request of the approval holder, Council can amend the approval without having to follow the process in section 23.

Section 23 - Local government may amend, suspend or cancel approval

This section allows Council to amend, suspend or cancel an approval in certain limited circumstances. This includes, for example, for the protection of public health and safety, or where the approval holder has failed to comply with the approval. Before making a decision, Council must provide the approval holder with a show cause notice. This gives the approval holder an opportunity to explain in writing why Council should not amend, suspend or cancel the approval, as proposed.

For example, the approval holder may have a reasonable excuse for not complying with a condition of an approval.

An approval holder does not have to make submission in response to the show cause notice and may waive their right to do so. An approval holder may choose to do this in circumstances where they consent or agree to the proposed action (for example, Council's proposal to amend conditions to mitigate risk of environmental harm) (see subsection (4)). In that case, Council does not need to wait for the time stated in the show cause notice to pass before it makes a decision under subsection (6).

Where a submission is made by the approval holder, Council must consider the submission and then decide whether a reason to amend, suspend or cancel the approval still exists. If a reason no longer exists, Council will not take further action, meaning the existing approval remains in effect. If a reason still exists, Council can take the action proposed in the show cause notice. However, if Council proposed to cancel the approval, it is open to Council to either amend, suspend or cancel the approval. This allows Council to consider the submissions made and determine whether amendment or temporary suspension of the approval would be more appropriate than a cancellation.

When Council makes a decision under this section, it must provide a notice of the decision to the approval holder. This means the approval holder may apply to review the decision under section 46. The requirements for a decision notice are set out in the definition of **'decision notice'** in the dictionary Schedule of this Local Law.

This section is not intended to restrict Council's power to amend, suspend or cancel an approval under other sections of the Local Law, such as through an immediate suspension under section 24 or a stop order under section 37.

Section 24 - Procedure for immediate suspension or approval

This section retains section 19 of the 2011 Local Law, which gives Council the power to immediately suspend an approval. Council recognises there are certain urgent circumstances which make it necessary for the display of a licensable sign to immediately cease. For example, where the continued display of a licensable sign poses an urgent and serious threat to public health and safety.

While this may impact the approval holder, it is intended to be used only where there is an urgent and/or serious need. The suspension can only operate for a limited period of time, until the risk is minimised, or Council decides to either amend, suspend or cancel the approval. As such, this provision is intended as a temporary measure while Council decides how to proceed with an approval.

Under this section, Council is required to give the approval holder both a suspension notice and a show cause notice. The show cause notice invites the approval holder to make written submissions to Council, as to why Council should not proceed to permanently amend, suspend or cancel the approval. This gives the approval holder an opportunity to demonstrate why permanently amending, suspending or cancelling the approval would be unjust. Council may then decide to either amend, suspend or cancel the approval, or alternatively lift the suspension. If Council lifts the suspension, the existing licensable sign approval continues.

Part 3 - Offences and enforcement

Division 1 - What this part is about

Section 25 - Overview

This section sets out the matters dealt with in part 3.

Division 2 - Offences

Section 26 - Install or display a sign in contravention of minimum conditions

This section creates the offence of installing or displaying a self-assessable sign in a way that contravenes the minimum conditions for the relevant sign type, as specified in Schedule 1 of this Local Law. However, a person will not commit an offence under this section if the person has an approval under this Local Law to install or display the sign in a way that does not comply with the minimum conditions in Schedule 1.

Council recognises that if a person does not obtain an approval, there is no "approval holder". As such, it may be difficult to determine the person responsible for installing or displaying the sign. This section provides that a person installs or displays a sign if the person satisfies any of the following:

- the person who installs or displays the sign;
- the person responsible for installing the sign;
- the person being promoted on the sign;
- the person responsible for the business, event or activity being promoted on the sign; or
- the owner or occupier of private land on which a sign is installed or displayed.

Examples of a person responsible for a business, event or activity promoted on a sign:

- *An event is being advertised by a sign, but the sign does not contain contact details. Council may identify the person responsible for the event as the person responsible for installing and displaying the sign.*
- *A sign directs the community to an open home and is displayed on public land. Council may identify the person responsible for the activity being promoted on the sign as the real estate business i.e., business manager, owner, CEO.*

This is intended to ensure Council is able to hold the appropriate person/s responsible for committing an offence under this section and quickly address the matter.

Section 27 - Install or display a licensable sign without approval

This section retains section 6 of the 2011 Local Law, making it an offence for a person to install or display a licensable sign without obtaining an approval under this Local Law. The purpose of this offence is to deter people from installing or displaying licensable signs without Council being able to regulate these signs and impose appropriate conditions consistent with the object of the Local Law.

Council recognises that if a person does not obtain an approval, there is no “approval holder”. As such, it may be difficult to determine the person responsible for installing or displaying the sign. This section provides that a person installs or displays a sign if the person satisfies any of the following:

- the person who installs or displays the sign;
- the person responsible for installing the sign;
- the person being promoted on the sign;
- the person responsible for the business or event or activity being promoted on the sign; or
- the owner or occupier of private land on which a sign is installed or displayed.

This is intended to ensure Council is able to hold the appropriate person/s responsible for committing an offence under this section and quickly address the matter.

Section 28 - Failure to comply with conditions of an approval

This section makes it an offence if a person fails to comply with an approval, including the conditions provided for in their approval. The power to impose conditions (see section 15 and section 18) enables Council to ensure licensable signs are installed and displayed in a manner that protects public safety, road safety and preserves fitness for use and the visual amenity of public land and road. This section aims to ensure that any risks posed by a licensable sign are minimised and deter those installing or displaying a licensable sign from ignoring the conditions imposed on their approvals by imposing penalties for non-compliance.

Section 29 - Providing false or misleading information

This section makes it an offence for a person to give information that they reasonably know or ought to have known is false or misleading in relation to this Local Law. This aims to ensure the community is aware of their obligations to provide correct and truthful information to Council and to deter the community from providing false or misleading information, through penalties. False or misleading information could result in Council making a decision that is not consistent with the object of this Local Law, or community expectations.

Section 30 - Threatening an authorised person

This section retains the offence in section 21 of the 2011 Local Law, which makes it an offence to threaten, insult or use abusive language to an authorised person. The intention of this provision is to protect the safety of authorised persons and enable them to perform their roles and responsibilities under the Local Law in a safe and effective manner. If a person commits an offence under this section, an authorised person can issue them with a penalty infringement notice.

Section 31 - Attempts to commit offences

This section provides that a person who attempts to commit an offence under this Local Law commits an offence. This means that even if a person unsuccessfully attempts to commit an offence, the person

has committed the offence of attempting to commit an offence. The 'attempt' offence is not intended to operate, or be capable of operating, in respect of all offences. The offence of 'attempt' will only apply to those offences where it is possible to attempt the offence. In other words, an 'attempt' cannot reasonably and sensibly apply to that which is not capable of being attempted. To illustrate, to avoid doing something is not attempting not to do the thing; it simply is not doing the thing.

An attempt to commit an offence will most likely be capable of occurring, and being identified, where the offence involves:

- the doing of a positive act;
- the person taking steps with the intention to perform or otherwise carry out the positive act (and whether or not they are all the steps necessary to carry out the offending act); or
- an intervening event (not being an act necessary to perform the positive act) such that the person does not do the offending positive act.

The maximum penalties which apply to the offence of attempt under this section depend on, and will be half the penalty that applies to the offence attempted.

Section 32 - Liability of third parties

This section provides that a person involved in a contravention of the Local Law (for example, by aiding a contravention) also commits an offence.

Division 3 - Powers of the local government

Section 33 - Appointment of authorised persons

This section establishes an additional requirement for how certain qualified persons are to be appointed as authorised persons under this Local Law. Under section 202 of the *Local Government Act 2009*, Council's CEO may appoint certain qualified persons to be authorised persons for specific Local Laws. For example, a Council employee who is a qualified person may be appointed as an authorised person for this Local Law.

Section 33 provides that the document that appointed an authorised person must state this Local Law, or the provisions of this Local Law, for which the person is appointed as an authorised person. This ensures that appropriately qualified persons are authorised to take certain actions under the Local Law and that the extent and limitations of an authorised person's powers are documented, transparent and well defined.

Section 34 - Directions generally

This section provides that an authorised person may give an oral compliance direction to a person contravening this Local Law. The direction may require a person to cease any conduct or activity which contravenes this Local Law or take other such action so the person does not contravene this Local Law. It is an offence for a person to not comply with such a direction.

Section 35 - Production of records

This section retains section 25 of the 2011 Local Law. Where an authorised person has entered a property under section 132 of the *Local Government Act 2009* to determine if conditions of a licensable sign approval are being complied with, they may ask the occupier to produce records for inspection that are required to be kept under an approval. The purpose of this section is to assist authorised persons with their enquiries, to ensure approval holders are complying with their obligations under this Local Law. Because this power is linked to the power of entry under section 132 of the *Local Government Act 2009*, the definitions of '**occupier**' and '**property**' in this section are consistent with that Act.

Section 36 - Compliance notice for contravention of Local Law

This section retains in part section 26 of the 2011 Local Law and applies if a person contravenes this Local Law. An authorised person may give the person who contravenes this Local Law, or who is involved in the contravention, a compliance notice. A contravention of this Local Law includes a contravention of any approval condition. A compliance notice must contain those matters stated in subsection (4), including the timeframe to remedy the breach and the consequences of failing to do so. It is an offence not to comply with a compliance notice.

An authorised person may 'give' a compliance notice by delivering it to the person personally, or by leaving it at, or sending it to the person's place of residence or business. See *Acts Interpretation Act 1954*, section 39.

The purpose of this section is to enable an authorised person to give a person responsible an opportunity to stop or remedy a breach of this Local Law (including an approval condition), if appropriate to do so.

For example, a person holds an approval for a licensable sign, and that approval requires the sign to be a specified distance from a footpath to allow community access and therefore maintain public amenity. However, the approval holder has failed to comply with this requirement, and put the licensable sign close to the footpath, in a location that impedes public access to this infrastructure. Council may choose to issue a compliance notice in this situation, requiring the approval holder to move the sign in accordance with the approval condition.

Compliance notices allow Council to work with the person to ensure activities within our community are being undertaken in a lawful manner. This aligns with Council's general enforcement approach, emphasising educating the community first and escalating to stronger methods of enforcement as required. Non-compliance with a compliance notice may result in Council amending, suspending or cancelling an approval, or issuing fines or commencing legal proceedings.

Where a compliance notice is given to the owner of a property and requires specific action to be taken in relation to that property, then it will constitute a remedial notice under the *Local Government Act 2009*, chapter 5, part 2, division 2. This means that if the person fails to take action specified in the notice, Council can, in certain circumstances, enter the property and take the specified action. If the amount Council properly and reasonably incurs in taking the action required under the notice is not paid by the person who failed to take the action, Council may, if the debt is not paid within 30 days of Council having given a person notice of the amount of such a debt, recover the amount, as a debt, as if the debt were overdue rates under the *Local Government Act 2009*, section 142.

When an authorised person issues a compliance notice under this section, they must provide a notice of the decision to the person. This means the person given the compliance notice may apply to review the giving of the notice under section 46. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary Schedule of this Local Law.

Section 37 - Stop orders

This section retains, in part, section 29 of the 2011 Local Law, which allows Council to issue a stop order to a relevant person requiring them to immediately stop installing or displaying a regulated sign, where the sign either:

- (a) causes;
- (b) exacerbates; or

(c) inhibits Council's ability to respond to, those urgent and/or serious threats specified in subsection (2)(a)-(f).

For section 37(2)(f), a serious obstruction to the use of the public land for its intended purpose relates to the object in section 2(b).

This section applies to both self-assessable signs (i.e., signs that do not require an approval provided certain minimum conditions are met) and licensable signs. Council can stop a person from installing or displaying a regulated sign for a period of no more than 5 business days.

Because this section applies to self-assessable signs where no approval is required, it may be difficult to determine the person responsible for installing or displaying the sign. As such, a "relevant person" for this section means:

- the person who installs or displays the sign;
- the person responsible for installing the sign;
- the person being promoted on the sign;
- the person responsible for the business or event or activity being promoted on the sign; or
- the owner or occupier of private land on which a sign is installed or displayed.

The intention of this provision is to act as an interim measure to immediately stop a person from installing or displaying a regulated sign, giving Council the opportunity to:

- attend to the urgent and/or serious matters giving rise to the stop order; or
- where an approval has been issued, commence the process for suspending the approval under section 24 and possibly cancelling it under section 23 (if required).

If a self-assessable sign meets the minimum conditions for the activity, but after the expiry of the stop order the risks are still present at the site, Council may need to take other action to address the risks (for example, Council may exercise its power under another local law to temporarily close the area until it is able to be used by the community again).

It is an offence not to comply with a stop order issued under this section, which may trigger other enforcement measures.

This section will usually be relied on where a person has an approval to install and display a licensable sign or installs and displays a compliant self-assessable sign. If an authorised person wishes to put an immediate stop to a person's activity that is a breach of this Local Law, then the authorised person could issue a compliance notice or a general direction requiring the person to cease the offending activity immediately.

Section 38 - Local government power to seize and cost recover

This section expands on section 28 of the 2011 Local Law and provides for circumstances in which an authorised person may seize and impound a regulated sign brought onto or erected or installed in, on, across, under or over land or road within the local government area in a manner that contravenes the Local Law. This section gives an authorised person the power to seize the regulated sign in three circumstances:

- where immediate removal of the regulated sign is necessary in the interest of public health or safety, or to prevent environmental harm, property damage or loss of amenity; or
- where a compliance notice has been issued to the owner to remove the regulated sign and the owner has failed to do so. In this circumstance, Council will need to wait for the review period for the compliance notice to expire, before seizing the regulated sign; or
- where in the reasonable opinion of the authorised person, the regulated sign is a low-value sign.

A '**low value sign**' is defined in the dictionary Schedule of this Local Law, to mean a sign that has been manufactured or constructed using low-value materials. Low-value materials are further defined, to include

cardboard, paper, corflute sheet or similar low-value materials.

Council has the power to recoup the cost of seizing and impounding a regulated sign under this section, as a debt from the person responsible for it being on the land or road. *For example, if a person installs a self-assessable or licensable sign on land in a manner that does not comply with this Local Law, Council can remove the sign, and bill the relevant person for the cost of removing it from the land.*

Section 39 - Dealing with seized and impounded regulated signs

This section retains in part section 37 of the 2011 Local Law which sets out:

- how a person can reclaim an impounded regulated sign;
- Council's powers to dispose of impounded regulated signs in certain circumstances; and
- how any proceeds from the sale or disposal of an impounded regulated sign must be dealt with.

A person can reclaim an impounded regulated sign by applying, providing proof of ownership of the item and paying the prescribed fee to Council. However, Council has powers to immediately dispose of regulated signs that are perishable a low-value sign. This allows Council to immediately dispose of items where they will not reasonably keep, or where the commercial value is insignificant. Whether an item is perishable or is a low-value sign, will be determined by the reasonable opinion of the authorised officer. The term '**low-value sign**' is defined in the dictionary Schedule.

If an impounded regulated sign (other than a regulated sign that is perishable or is a low-value sign) has not been reclaimed within 20 business days of the regulated sign being impounded, Council may:

- if in the reasonable opinion of the authorised person, the commercial value of the regulated sign is so slight that it would not cover the reasonable cost of seizing, impounding and selling, the regulated sign can be disposed of as the chief executive officer directs. The reasonable costs can be determined having regard to the costs associated with seizing, impounding and selling a regulated sign by auction, including an officer's time in facilitating this; or
- sell the item through a public auction. If the item does not sell at auction within a reasonable time, the item can be disposed of as the CEO directs (for example, by private sale, giving away the item or destroying the item).

In relation to the disposal of impounded regulated signs, Council's liability is limited. Council will only be liable under this section, where it is proved that Council has not acted in good faith or has been negligent.

This section aims to strike a balance between:

- Council's need to manage and responsibly maintain land within the local government area (by seizing and impounding regulated signs);
- Council's desire to have transparent processes for managing seized and impounded regulated signs; and
- Ensuring the owners of these regulated signs are not unreasonably deprived of their property and are given a reasonable opportunity to reclaim it before it is forfeited.

Section 40 - Remediation notice

This section allows Council to issue a notice to a relevant person requiring remediation work, even in circumstances where the installation and display of a regulated sign is allowed under this Local Law. This power is intended to allow Council to require a person to bring public land back up to the standard it was before the sign was installed and displayed (see subsection (1)) or to require a person to make sure the public land is safe after a regulate sign is installed and displayed. Without this section, Council may need to use public funds to remediate any damage caused by a regulated sign being installed and displayed on public land.

This section applies to licensable and self-assessable signs. Because no approval is required for a self-assessable sign, it may be difficult to determine the person responsible for installing or displaying the sign. As such, a "relevant person" for this section means:

- the person who installs or displays the sign;
- the person responsible for installing the sign;
- the person being promoted on the sign;
- the person responsible for the business or event or activity being promoted on the sign; or
- the owner or occupier of private land on which a sign is installed or displayed.

Section 41 - Power to take action required under a notice to act

This section provides that, where a person has been given a notice under this Local Law which requires them to take some action by a certain time (a 'notice to act'), and they have not done so by that time, Council may take whatever action was required to be done. Council may recover the cost for this from the person who was required to take the action under the notice after providing them with a notice of the amount of the debt.

This section makes it so that, if the process of education and voluntary compliance for a contravention made possible by various notice provisions of this Local Law fails, Council is able to step in to remedy the contravention. In such a case, Council will ordinarily incur some expense. This provision empowers Council to recover the expenses it properly and reasonably incurs in remedying a contravention from the person responsible for the contravention rather than that cost being born by the community.

Division 4 - Offence proceedings in Magistrates Court

Section 42 - Enforcement orders

This section gives the Magistrates Court discretion to make an enforcement order requiring a person to take certain action within a specified period. The purpose of this section is to give the presiding Magistrate power to order a person to comply with a direction to secure compliance with this Local Law. This is particularly useful where a person has previously been given opportunities to comply by Council officers but has refused to do so. This section also provides for further potential consequences that can be imposed by the court on the person if they fail to comply with the enforcement order.

Section 43 - Joint and several liability

This section retains section 32 of the 2011 Local Law. This section provides that where this Local Law imposes responsibility on multiple people that are either engaged in the activity or joint owners/occupiers of a place, each person can be held liable, with or separate from the other.

For example, where a licensable sign is displayed at a property that is owned by two people, and the sign contravenes this Local Law, both owners of that property are liable for that contravention.

The aim of this section is to ensure any and all responsible parties can be held accountable via compliance and enforcement mechanisms under this Local Law.

Division 5 - Defences

Section 44 - Defence of reasonable excuse

This section retains section 30 of the 2011 Local Law. It provides a defence for a person charged with an offence against this Local Law, where they can prove they had a reasonable excuse for the contravention. This defence is typically used where extenuating circumstances or circumstances outside a person's control have caused the contravention of the Local Law.

Section 45 - Owners and occupiers must ensure compliance with this Local Law

This section provides that owners and occupiers of places must ensure that an offence under this Local Law is not committed in or on a place. Failure to do so means the owner or occupier also commits an offence. The intent of this provision is to ensure persons take responsibility for activities occurring in places they own or occupy. This section retains the defence in section 31 of the 2011 Local Law by providing a defence for an owner or occupier of a place where the offence occurred to prove that they did not have knowledge of the

act/omission which led to an offence, and they could not have reasonably prevented it. Council recognises that there are some circumstances where it may not be reasonable or fair to hold the owner or occupier of a place responsible for an offence.

For example, a self-assessable sign is installed on private land. It does not comply with the prescribed minimum conditions for that type of self-assessable sign, and there is no approval under this law for the sign. This means an offence being committed under section 26 of this Local Law. The owner of the private property where the sign is displayed did not install the sign, and had no knowledge of, nor did they consent to, it being installed or displayed at their property and the lease for the property required the tenant to comply with all relevant laws, including Council's local laws. Such circumstances may give rise to the owner utilising this defence, meaning they will not be liable for committing an offence under section 26 of this Local Law.

The words **'place'**, **'owner'** and **'occupier'** are defined in the dictionary Schedule of this Local Law.

Part 4 - Reviewing decisions

Section 46 - Application for review

This section retains section 22 of the 2011 Local Law, which provides that a person who is given, or is entitled to be given a decision notice may apply to Council for a review of a decision. This gives the person a right to have the following types of decisions reviewed internally by Council:

- decisions in relation to licensable sign approvals (i.e., conditions imposed, refusals, etc.);
- decisions in relation to changing approvals (refusal to renew, refusal to amend conditions upon request, Council decisions to amend, suspend or cancel an approval); and
- decisions to issue compliance notices.

A review application must be made within the period stated in subsection (2) and be accompanied by a statement of grounds on which the applicant seeks the review of the decision. It is important to state the grounds so that Council can properly assess the application and review the relevant decision.

This section allows Council to take a fresh look at its original decision to determine whether it was correct. Internal reviews also help Council ensure consistency in decision-making. If a person wishes to complain about any other issues that do not attract a formal review right under this Local Law, they may do so through administrative actions complaints process, which Council must administer under the *Local Government Act 2009*.

Section 47 - Review decision

This section retains section 23 of the 2011 Local Law, which sets out requirements for Council's review of a decision. Council is required to either confirm or amend the original decision or substitute another decision. It is a requirement that the review application cannot be handled by the same person who made the original decision or a less senior person, unless the original decision was made by the CEO. This is to ensure the objectivity, impartiality and fairness of the review decision.

Section 48 - Stay of operation of original decision

This section retains in part, section 24 of the 2011 Local Law, providing that a review application does not stay the original decision. This means a person remains bound by the original decision unless and until the original decision is amended or substituted by another decision.

For example, if Council refuses an application for a licensable sign and the applicant applies for a review of that decision, Council's refusal is still valid while the review process is underway, and the person is not allowed to install or display the licensable sign.

Part 5 - Administrative provisions

Section 49 - Fees

This section retains section 35 of the 2011 Local Law. Chapter 4, part 2 of the *Local Government Act 2009* allows Council to set cost-recovery fees under a Local Law or by resolutions of Council. A cost recovery fee can be, for example, a fee for an application for a licensable sign or a fee for seizing property under a Local Government Act (which includes a Local Law). Where the Local Law provides for payment of a fee but does not specify the amount payable, this amount will need to be decided by resolution of Council.

The purpose of this section and the provisions of the *Local Government Act 2009* are to ensure that Council is transparent and accountable to the community in charging fees under this Local Law. Cost recovery fees cannot be more than the cost to Council of taking the action for which the fee is charged.

Subsection (2) gives Council the flexibility to determine, by resolution, appropriate circumstances for the reimbursement of a fee. *For example, where an approval is surrendered before the end of its duration, Council can resolve to give a partial reimbursement of the approval fee if considered appropriate.* Under subsection (3), the local government may, where appropriate, waive or partially remit a fee, unless specific provision to the contrary is made in a Local Law or resolution.

Section 50 - Rewards

This section retains section 33 of the 2011 Local Law and allows Council to offer a reward for information leading to conviction of a person for offences against this Local Law. This enables Council to, in appropriate circumstances, provide an incentive to the public, to provide information which can assist Council's enforcement of this Local Law.

Section 51 - Subordinate Local Laws

This section retains section 39 of the 2011 Local Law. It allows Council to make Subordinate Local Laws in relation to regulated signs. This includes, for example, specifying individuals or organisations considered to be third party certifiers or the particular qualifications required to be a third-party certifier. The purpose of this section is to define the scope of what Council can regulate by Subordinate Local Law.

Section 52 - Extrinsic material

This section enables Council to make an explanatory note (which includes this document), which can be used to assist in the interpretation of this Local Law. The explanatory note must be passed by a resolution of Council and published on Council's website. The effect of this provision is that, where the meaning of a section of the Local Law is unclear or debated, Council can refer to the explanation of that section in this Explanatory Note (or another Explanatory Note passed by Council resolution) to try and determine the meaning of the section. The information provided in the Explanatory Note should not be treated as an exhaustive statement on the subject, but rather a tool to inform of the operation and intent behind each provision.

Section 53 - Transitional provisions

The transitional provisions for decisions made under the 2011 Local Law are all contained in the *Commercial Use of Public Land and Roads Local Law 2023 (CUPLR LL)*. The CUPLR LL repeals the 2011 Local Law and for this reason, the transitional provisions for decisions made under the 2011 Local Law, including decisions about the installation of advertising devices, are contained in the CUPLR LL, part 7. This section 53 simply directs to reader to the CUPLR LL for the transitional arrangements.

Is this law consistent with fundamental legislative principles?

The Local Law is generally consistent with fundamental legislative principles. While section 26 and section 27 have the effect of deeming certain persons responsible for installing or displaying a sign (for example, if they are the owner or occupier of the private land on which the sign is installed or displayed, or if they are the person being promoted on the sign), there is a direct link between the sign in question and the person considered to be responsible for the sign. Given the nature of signage, and the difficulty in catching a person in the act of installing a sign, the provision is required to ensure there is a person who can be identified as responsible for the sign. The principles of natural justice are upheld, as the person will have an opportunity to respond to any compliance notice or penalty infringement notice by way of review or court election. The defence in section 45 is available to any person considered responsible for the installation or display of a sign under section 26 or section 27.

Is this law consistent with Human Rights?

This Local Law is generally compatible with the *Human Rights Act 2019* (the **HR Act**). It only limits human rights to the extent it is reasonable and justifiable in accordance with section 13 of the HR Act.

Council considers that property rights, protected by section 24 of the HR Act, may be limited by this Local Law. Generally, this section relates to the right to own, and not be arbitrarily deprived of property. However, Council notes this provision can extend to restrictions on the use of private property.

Under this Local Law, Council may prevent a person from installing a licensable sign on private land. However, Council considers licensable signs are only likely to be refused where they are inconsistent with the object of this Local Law, and Council is unable to impose sufficient conditions to minimise or prevent the inconsistency. Council is of the view that in most cases, the flexibility provided by this Local Law will allow conditions to be imposed that will mitigate any inconsistencies. Where this is not the case, refusal of the application will be necessary to protect the broader public, minimising risks to matters such as public safety and road safety. As such, Council would only be restricting a person's right to install a licensable sign on their property, and therefore only restricting the use of their property, in rare instances where it is necessary for greater public protection. Council considers this to be a reasonable and justifiable limit on a person's property rights in accordance with section 13 of the HR Act.

