



**Community Standards for Public Land and Roads
Local Law 2023**

Moreton Bay City Council Community Standards for Public Land and Roads Local Law 2023

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Moreton Bay City Council

Community Standards for Public Land and Roads

Local Law 2023

Part 1 Preliminary

Division 1 Introductory provisions

1 Short title

This Local Law may be cited as the *Community Standards for Public Land and Roads Local Law 2023*.

2 Commencement

Subsection 10(1) and subsection 10(2) commence on the day that is 6 months from the commencement.

Division 2 Objects and achievement of Local Law

3 Objects

The objects of this Local Laws are to—

- (a) protect the health and safety of persons using public land and roads; and
- (b) preserve the fitness for use and amenity of public land and roads; and
- (c) preserve features of the natural and built environment.

4 How objects of Local Law are to be achieved

The objects of this Local Law are to be achieved by—

- (a) regulating the use of, and activities on, public land and roads; and
- (b) providing for and regulating the maintenance and repair of driveway crossovers, awnings and road verges; and
- (c) regulating the management and use of shopping trolleys; and
- (d) providing a framework to assess and approve the use of vehicles and vessels on public land; and
- (e) providing mechanisms for enforcement where there is non-compliance with conditions of approval or provisions of this Local Law.

Division 3 Interpretation

5 Definitions

The dictionary in Schedule 1 defines particular words used in this Local Law.

Division 4 Operation of Local Law

6 Relationship with other Acts

This Local Law is in addition to and does not derogate from—

- (a) any other laws that may regulate—
 - (i) the use or development of land; and
 - (ii) buildings and structures; and
 - (iii) the use of trust land and roads; and
- (b) any provision of the *Local Government Act 2009*.

Part 2 Regulated activities and maintenance obligations

Division 1 What this part is about

7 Overview

This part—

- (a) regulates the use and management of shopping trolleys; and
- (b) provides for the local government to designate areas of public land and road where an activity is allowed or prohibited; and
- (c) provides for the local government to prescribe conditions for public places designated under the *Liquor Act 1992*, section 173C; and
- (d) provides for and regulates the maintenance and repair of—
 - (i) road verges; and
 - (ii) driveway crossovers; and
 - (iii) awnings; and
- (e) provides a framework for self-assessable verge gardens.

Division 2 Regulation of shopping trolleys

8 Definitions for this division

In this division—

retail premises means the entire area owned, leased or utilised by a retailer including any area which is provided for the use of customers, including any car parking area, pedestrian walkways, common areas within a shopping centre or such other area declared by resolution of the local government.

retailer means any person who, in connection with a retail or wholesale business, owns, leases or otherwise makes shopping trolleys available for use by customers and includes any on-site or designated agent which provides the shopping trolleys for use by customers.

shopping trolley means a cart or wheeled basket used primarily for the carriage of goods by customers while on or in a retail premises.

shopping trolley containment system means a wheel lock system, or such other alternative system prescribed by Subordinate Local Law for section 10, to prevent shopping trolleys being removed from a retail premises, and to facilitate the return of the shopping trolleys to a designated location within the retail premises.

sufficient details means information or details that are—

- (a) legible; and
- (b) conspicuously displayed; and
- (c) permanently affixed and not easily removed.

wheel lock system means a disabling device which makes the trolley inoperable, including by locking the wheels of the shopping trolley, if it is removed from or within a certain distance of a retail premises.

9 Shopping trolleys to be sufficiently identified and remain within retail premises

- (1) A retailer must ensure that all shopping trolleys which the retailer owns, leases or otherwise makes available to customers are marked with sufficient details of—
 - (a) the name and contact details of the retailer; and
 - (b) the address or brand that indicates the address of the retail premises where the shopping trolley is ordinarily kept.

Maximum penalty— 50 penalty units.

- (2) A retailer must ensure that all shopping trolleys which the retailer owns, leases or otherwise makes available to customers remain within the retail premises.

Maximum penalty— 50 penalty units.

- (3) It is a defence to a proceeding for a contravention of subsection (2) for the retailer to prove that they took all reasonable measures to ensure that the shopping trolleys would remain in the retail premises.

Examples of reasonable measures include—

- *Development and implementation of a shopping trolley containment system.*

- Providing a system requiring the payment of a deposit to use a shopping trolley.
 - Daily round-up of shopping trolleys from the area surrounding the retail premises.
- (4) A person must not take a shopping trolley from a retail premises or leave a shopping trolley outside a retail premises.

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

10 Shopping trolley containment systems

- (1) A retailer must have and maintain a shopping trolley containment system—
- (a) if the number of shopping trolleys owned, leased or otherwise made available to customers by the retailer is more than 20; or
 - (b) if prescribed by Subordinate Local Law.
- (2) A retailer to which the requirement in subsection (1) applies must not make available for use, or allow to be used, a shopping trolley which is not controlled by a shopping trolley containment system.
- Maximum penalty— 850 penalty units.
- (3) The local government may, by resolution, exempt a retailer from the requirement in subsection (1) to have and maintain a shopping trolley containment system on such conditions it considers appropriate.
- (4) The local government may, by Subordinate Local Law, declare a system other than a wheel lock system to be a shopping trolley containment system.
- (5) The local government may, by resolution, declare an area as a retail premises for a shopping trolley containment system.

Division 3 Other regulated activities

Subdivision 1 Designated areas for activities

11 Definitions for this subdivision

In this subdivision—

road has the same meaning as in the *Local Government Act 2009*, at subsections 59(2) and 59(3).

12 Activities in designated areas

- (1) The local government may, by resolution, designate areas of public land or road where an activity is allowed (*activity designation*).
- (2) An activity designation may state the following—
- (a) the day the activity designation takes effect; and
 - (b) the activity allowed; and
 - (c) the area of public land or road designated for the activity (*designated activity area*); and
 - (d) the times when the activity may or may not be undertaken.

- (3) The local government may, by resolution, prescribe conditions for the use of a designated activity area.

Examples for subsection (3)—

- *No audible noise between certain hours.*
- *A helmet and other protective clothing must be worn.*

- (4) A person must not contravene the conditions for the use of a designated activity area prescribed under subsection (3).

Maximum penalty— 50 penalty units.

- (5) The local government must provide notice of an activity designation via a public notice.

- (6) A designated activity area and the conditions for the use of a designated activity area prescribed under subsection (3) must be clearly indicated by signs exhibited in prominent positions within the area.

13 Prohibited activities in designated areas

- (1) The local government may, by resolution, designate areas of public land or road where an activity is prohibited (***prohibited activity designation***).

- (2) A prohibited activity designation may state the following—

- (a) the day the prohibited activity designation takes effect; and
- (b) the activity prohibited; and
- (c) the area of public land or road designated for the prohibited activity (***designated prohibited activity area***); and
- (d) the times where the prohibited activity may not be undertaken.

- (3) A person must not contravene a prohibited activity designation.

Maximum penalty— 50 penalty units.

- (4) The local government must provide notice of a prohibited activity designation via a public notice.

- (5) A designated prohibited activity area must be clearly indicated by signs exhibited in prominent positions within the area.

Subdivision 2 Designated public places under the *Liquor Act 1992*

14 Conditions for the use of designated public places

- (1) The local government may, by Subordinate Local Law or resolution, prescribe conditions for the use of a designated public place.

- (2) Any conditions for the use of a designated public place must be—

- (a) published via a public notice; and
- (b) clearly indicated by signs exhibited in prominent positions within the designated public place.

- (3) A person must comply with the conditions for the use of a designated public place

prescribed under subsection (1).

Maximum penalty— 50 penalty units.

(4) In this section—

designated public place means a public place designated under the *Liquor Act 1992*, section 173C.

Division 4 Maintenance obligations

Subdivision 1 Road verges and driveway crossovers

15 Maintenance of road verges

- (1) This section applies where, in the reasonable opinion of an authorised person, a road verge is overgrown with vegetation to the extent that it poses a risk to public health or safety.
- (2) The authorised person may give a compliance notice to the owner or occupier of the adjacent land to require the owner or occupier to cut and remove the vegetation to an extent specified in the notice.
- (3) In this section—

adjacent land means the land immediately next to or adjoining the road verge.

vegetation includes a tree, bush, shrub, plant or grass, but does not include vegetation that is protected under another law of the State or Commonwealth or under the local government's planning scheme.

16 Self-assessable verge gardens

- (1) The local government may, by resolution, prescribe guidelines for gardens that can be installed or maintained in the road verge (*verge garden guidelines*).
- (2) A person who installs or maintains a garden in the road verge in compliance with the verge garden guidelines does not require an approval under another local law and does not contravene another local law.
- (3) A person who installs or maintains a garden in the road verge must comply with the verge garden guidelines, unless the person is authorised or required under another local law or law of the State or Commonwealth to install or maintain the garden in the road verge and the person does so in accordance with any conditions of that authorisation or requirement.

Maximum penalty— 20 penalty units.

(4) This section 16 does not apply to a State-controlled road.

17 Good repair and safe condition requirement for driveway crossovers

- (1) An owner of land to which a driveway crossover provides access from a road must maintain and keep the driveway crossover in—

(a) safe condition; and

Example for paragraph (a)—

- *Repairing a driveway crossover so that it will not be a risk or danger to pedestrians.*
- (b) good working order, repair and condition, including so that the driveway crossover continues to be effective for its intended function.
- (2) An authorised person may give a compliance notice to the owner of land to require the owner to take specified action if the driveway crossover—
- (a) has not been maintained in a safe condition and in good working order, repair and condition; or
 - (b) is no longer required to provide access from a road to the land.
- (3) The specified action may include action to—
- (a) carry out maintenance of the driveway crossover; or
 - (b) carry out repairs to the driveway crossover; or
 - (c) if the driveway crossover is no longer required to provide access from a road to the land— remove the driveway crossover and carry out other work reasonably necessary in consequence of the removal; or
 - (d) carry out any other work reasonably required.

Examples for paragraph (d)—

- *Construction or reinstatement of roadside drainage.*
- *Construction or reinstatement of kerb and channel.*

- (4) In this section—

driveway crossover means a crossing designed to provide vehicle access between a road and land adjoining or adjacent to or near a road.

Subdivision 2 Awnings

18 Definitions for this subdivision

In this subdivision—

attached means affixed to or protruding from.

awning means a permanent, roof like structure, which—

- (a) is attached to a building or other structure, and includes anything connecting the awning to the building or other structure, whether or not it is supported by a column; and
- (b) overhangs public land or road.

responsible person means the owner of land upon which a building or other structure is located, where an awning is attached to that building or structure.

19 Good repair and safe condition requirement for awnings

- (1) A responsible person must maintain and keep the awning in—

- (a) safe condition; and

Example for paragraph (a)—

- *Repairing an awning so that it will not be a risk or danger to persons.*
- (b) good working order, repair and condition.
- (2) For subsection (1), maintain includes—
- (a) undertaking regular inspections of the awning, including removing parts of the awning if required to sufficiently inspect the support system for the awning, to determine whether it is in a safe condition and good working order, repair or condition; and
 - (b) undertaking repairs and other preventative actions to the awning, which shall be undertaken by an appropriately qualified person, to ensure the awning is in a safe condition and in good working order, repair or condition; and
 - (c) having regard to the nature and life expectancy of the awning, obtaining a maintenance report, when reasonably prudent, to determine whether maintenance is required to ensure the awning is in a safe condition and in good working order, repair and condition.
- (3) An authorised person may give a compliance notice to a responsible person to require the person to take specified action if, in the reasonable opinion of an authorised person, it appears the awning has not been maintained in a safe condition and in good working order, repair or condition.
- (4) The specified action may include action to—
- (a) carry out the maintenance of the awning; or
 - (b) carry out repairs to the awning; or
 - (c) if the authorised person reasonably believes it is not possible or practical to take steps to comply with subsection (4)(a) or (4)(b)— remove the awning and carry out other work reasonably necessary as a result of the removal; or
 - (d) carry out any other work reasonably required.

Examples for paragraph (d)—

- *Demolishing unsafe items attached to the awning.*
- *Mending the awning connection to the building.*
- *Temporarily prop the awning.*

- (5) In this section—

maintenance report means a report prepared by a person who is a registered professional engineer under the *Professional Engineers Act 2002*.

20 Awning inspection report

- (1) The local government may give a notice (an *awning inspection report notice*) to a responsible person requiring the person to obtain and give the local government an awning inspection report, or a copy, within a reasonable period stated in the notice.
- (2) The local government may, in an awning inspection report notice given under subsection (1), and without limiting the requirements for an awning inspection report under subsection (3), specify any other matter or thing reasonably required to be considered and included in an awning inspection report.
- (3) An awning inspection report must comply with the following requirements—
 - (a) the report must state whether the awning and any items attached to the awning—
 - (i) is in a safe condition; and
 - (ii) is in good working order, repair and condition; and
 - (iii) in any respect, presents a danger to any person or property; and
 - (iv) requires any specific repairs or other works to ensure that the awning and any items attached to the awning is in a safe condition and good working order, repair and condition; and
 - (v) should be removed; and
 - (b) if the report states that the awning or any items attached to the awning needs specific repairs or other works or should be removed— the report must state an approximate time by which the repairs or other works (including any removal works) should be carried out, having regard to any danger to any person or property that the awning or any items attached to the awning may present.
- (4) Subject to subsection (5), the local government may not give a responsible person an awning inspection report notice more than once every 5 years after the commencement.
- (5) The local government may give a responsible person an awning inspection report notice after an emergency event.
- (6) A person must comply with an awning inspection report notice.
Maximum penalty— 50 penalty units.
- (7) If a responsible person does not comply with an awning inspection report notice, the local government may obtain an awning inspection report.
- (8) Subsections (9) and (10) apply if the local government decides to obtain an awning inspection report.
- (9) The local government may recover the amount that the local government properly and reasonably incurs in obtaining an awning inspection report as a debt payable by the responsible person who failed to comply with the awning inspection report notice.

(10) The responsible person must provide the local government with all relevant and reasonable assistance to enable the local government to obtain the awning inspection report.

Maximum penalty for subsection (10)— 50 penalty units.

(11) In this section—

awning inspection report means a report about an awning that—

- (a) complies with—
 - (i) the requirements outlined in subsection (3); and
 - (ii) any other matter or thing reasonably required by the local government as stated in the awning inspection report notice; and
- (b) is prepared by a person who—
 - (i) is a registered professional engineer under the *Professional Engineers Act 2002*; and
 - (ii) can competently address the matters specified in paragraph (a).

body corporate has the same meaning as in the *Body Corporate and Community Management Act 1997*.

emergency event includes—

- (a) an earthquake, cyclone, bushfire, flood, landslide, severe thunderstorm, severe winds, or other natural disaster occurring at, or in the surrounds of, the location of the awning or the building or other structure to which the awning is attached; and
- (b) a fire occurring at, or in the surrounds of, location of the awning or the building or other structure to which the awning is attached; and
- (c) a vehicle collision involving or impacting the awning or the building or other structure to which the awning is attached.

Part 3 Other uses of public land and roads

Division 1 What this part is about

21 Overview

This part provides for the local government to—

- (a) restrict activities on public land and roads; and
- (b) declare opening hours for public land; and
- (c) temporarily or permanently close public land; and
- (d) require an owner of land adjoining road to fence the land; and

- (e) regulate the numbering of premises and allotments adjoining a road.

Division 2 Use of public land and roads

22 Restricted activities

- (1) The local government may, by Subordinate Local Law, prescribe an activity as restricted on public land or roads or an area of public land or road (a ***restricted activity***).

Example for subsection (1)—

- *The local government may declare that cleaning any fish on a landing, ramp or jetty is a restricted activity except where there are facilities provided for that purpose..*

- (2) The local government must take reasonable measures to provide notice to members of the public regarding the restricted activities prescribed for public land or roads.
- (3) A person must not engage in a restricted activity outside the extent permitted under a Subordinate Local Law.

Maximum penalty— 20 penalty units.

- (4) In this section—

reasonable measures may include, as a minimum—

- (a) where the local government considers practical, the display of a notice at a prominent place within the area of public land or road for which a restricted activity has been prescribed under subsection (1); or
- (b) the Local Law made available to be inspected and purchased at the local government’s public office; or
- (c) the Local Law made available on the local government’s website; or
- (d) public education.

Examples for paragraph (d)—

- *Fact sheets.*
- *Newspapers and other media.*

23 Opening hours of public land

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

Maximum penalty— 20 penalty units.

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

24 Power to close areas of public land

- (1) The local government may, by resolution, temporarily close an area of public land to public access—
 - (a) to carry out construction, maintenance, repair or restoration work; or
 - (b) to protect the health and safety of a person or the security of a person's property; or
 - (c) because of a fire or other natural disaster; or
 - (d) to conserve or protect the cultural or natural resources of the area or native wildlife.
- (2) A resolution—
 - (a) under subsection (1)(a) or (1)(b)— must state a period, not greater than 6 months, during which the area will be closed; and
 - (b) under subsection (1)(c) or (1)(d)— must state a period, not greater than 24 months, during which the area will be closed; and
 - (c) must be revoked by the local government as soon as practicable after the local government becomes satisfied that the reason for making the resolution no longer exists.
- (3) The local government may, by Subordinate Local Law, permanently close an area of public land to public access for any of the following reasons—
 - (a) the conservation of the cultural or natural resources of the area; or
Examples for paragraph (a)—
 - *To protect significant cultural or natural resources.*
 - *To enable the restoration or rehabilitation of the area.*
 - *To protect a breeding area for native wildlife.*
 - *To manage a significant Aboriginal area, as that term is defined in the Aboriginal Cultural Heritage Act 2003, in the area in a way that is consistent with Aboriginal tradition.*
 - (b) protection of the health and safety of members of the public; or
 - (c) protection of a facility or service in the area; or
Examples of a facility or service for paragraph (c)—
 - *Infrastructure.*
 - *Water supply facilities.*
 - *Power generating equipment.*
 - (d) protection of the amenity of an area adjacent to the area; or
 - (e) the orderly or proper management of the area.
- (4) If the local government closes an area of public land under subsections (1) or (3), it must place at each public entrance to the area a notice of the closure, including a statement of the duration of the closure.
- (5) If the local government closes an area that is part of a wider area of public land, it must place notices at each public entrance to the closed area.

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

Maximum penalty for subsection (6)— 50 penalty units.

Division 3 Matters affecting roads

25 Power to require owner of land adjoining road to fence land

- (1) This section applies if, in the reasonable opinion of an authorised person, it is necessary for land adjoining a road to be fenced to prevent the risk of interference with the safe movement of traffic or the safe use of the road.
- (2) An authorised person may give a compliance notice to the owner of the land—
- (a) if the land is not currently fenced— to require the owner to fence the land in accordance with any minimum standards; or
 - (b) if a current fence on the land is in disrepair or does not satisfy any minimum standards— require the owner to repair, modify or replace the fence.
- (3) The local government may, by Subordinate Local Law, prescribe minimum standards with which a fence required under this section must comply.
- (4) In this section—

minimum standards means the minimum standards for a fence prescribed under subsection (3).

26 Numbering of premises and allotments adjoining a road

- (1) An owner of land must not adopt a number for a premises or allotment that is inconsistent with a numbering system adopted by the local government.

Maximum penalty— 10 penalty units.

Note—

Section 60 of the Local Government Act 2009 gives the local government control of all roads in its local government area, including being able to name and number roads.

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

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

Part 4 Approvals for vehicle or vessel access to public land

Division 1 What this part is about

27 Overview

This part details—

- (a) the circumstances in which an approval is required to drive a vehicle or vessel on public land; and
- (b) the process for obtaining an approval to drive a vehicle or vessel on public land under this Local Law.

Division 2 Approvals

Subdivision 1 Application process

28 Need for approval

- (1) Subject to subsection (2), a person must obtain an approval under this part to drive a vehicle or a vessel on public land (*approval*).
- (2) A person is not required to obtain an approval in circumstances where the person—
 - (a) drives the vehicle through a designated access point and on defined roads and car parks within an area of public land; or
 - (b) parks the vehicle in a car space approved by an official traffic sign; or
 - (c) is authorised or required under an Act to drive the vehicle or vessel on public land and does so in accordance with any conditions of that authorisation or requirement; or
 - (d) uses a motorised mobility device, a wheelchair, a wheeled recreational device, a wheeled toy or a personal mobility device; or
 - (e) drives an essential services vehicle or an essential services vessel; or
 - (f) is an employee, agent or contractor of the local government and drives the vehicle or vessel on public land in the course of their duties for the local government; or
 - (g) has a contract with the local government which allows the driving of vehicles or vessels on public land; or

Example for paragraph (g)—

- *Lease or management agreement with the local government.*
- (h) drives a vehicle or vessel on public land for a purpose allowed under an authorisation mentioned in paragraph (c) or a contract mentioned in paragraph (g); or

Example for paragraph (h)—

- A guest drives a vehicle onto a site at a caravan park on public land.
- A contractor, engaged by person with an authorisation under another local law to hold an event, drives a vehicle onto public land to set up for the event.

(i) drives a vessel on—

- (i) a canal; or
- (ii) the Bribie Gardens Estate waterways.

(3) In this section—

motorised mobility device has the same meaning as in the TORUM Act.

official traffic sign has the same meaning as in the TORUM Act.

personal mobility device has the same meaning as in the TORUM Act.

wheelchair has the same meaning as in the TORUM Act.

wheeled recreational device has the same meaning as in the TORUM Act.

wheeled toy has the same meaning as in the TORUM Act.

29 Making an application

(1) An application for an approval (***application***) must be—

- (a) made in the form prescribed by the local government; and
- (b) accompanied by—
 - (i) the documents required by the prescribed form; and
 - (ii) the prescribed fee for the application.

(2) The local government—

- (a) must accept an application that the local government is satisfied complies with subsection (1); and
- (b) may accept an application that the local government is satisfied does not comply with subsection (1).

(3) An application that complies with subsection (1), or that the local government accepts under subsection (2)(b), is a properly made application (***properly made application***).

(4) The local government may prescribe forms for this Local Law.

Subdivision 2 Timeframes for deciding applications

30 Timeframe for deciding applications when no further information is needed

(1) This section applies if the local government—

- (a) receives a properly made application; and
- (b) does not require any further information in relation to the application.

- (2) The local government must decide the application within 21 business days of receiving it, or a further period agreed with the applicant.

31 Timeframe for deciding applications when further information is needed

- (1) This section applies if the local government—
 - (a) receives a properly made application; and
 - (b) requires further information in relation to the application.
- (2) The local government may make an information request to the applicant within 21 business days of receiving an application, or a further period agreed with the applicant.
- (3) An applicant must respond to an information request within 10 business days of receiving it, or a further period agreed with the local government (*information request response period*).
- (4) The local government must decide the application within 21 business days of the earlier of—
 - (a) an information request response being received; or
 - (b) the information request response period ending.
- (5) In this section—

information request means a notice to the applicant, requiring them to provide further information or documents in relation to the properly made application.

information request response means a response to an information request.

32 Timeframe for dealing with applications that are not properly made

If the local government receives an application which is not a properly made application, the local government must—

- (a) provide the applicant with written notice to that effect within 21 business days of receiving the application, or a further period agreed with the applicant; and
- (b) take no further action in relation to the application.

Subdivision 3 Deciding an application

33 Deciding an application

- (1) The local government must, after carrying out an assessment of a properly made application, decide to—
 - (a) approve the application; or
 - (b) approve the application, but impose conditions on the approval; or
 - (c) refuse the application.
- (2) The local government may refuse an application under subsection (1)(c) if it considers that approving the application would be inconsistent with the objects of this Local Law.

- (3) For a decision made under subsection (1), the local government must give a decision notice to the applicant.

34 Effect of failure to decide application on time

The local government is taken to have refused an application if the local government fails to decide a properly made application in accordance with—

- (a) section 30(2); or
- (b) section 31(4).

35 Third-party certification

- (1) In deciding an application under this part, the local government may accept the certificate of a third-party certifier as evidence about any application requirement that is mentioned in a Subordinate Local Law for this subsection.
- (2) In this section—

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

third-party certifier means—

- (a) an individual or organisation declared under a Subordinate Local Law for this paragraph as a third-party certifier for particular application requirements; or
- (b) an individual or organisation that has the qualifications prescribed under a Subordinate Local Law for this paragraph as necessary to provide a certificate about particular application requirements.

36 Permitted conditions

Any condition imposed on an approval must relate to the objects of this Local Law.

37 Term of approval

An approval is valid for the term specified in the approval.

Subdivision 4 Administering approvals

38 Definitions for this subdivision

In this subdivision—

show cause notice means a written notice stating—

- (a) the proposed action; and
- (b) the grounds for the proposed action; and
- (c) an outline of the facts and circumstances that are the basis of the grounds; and

- (d) if the proposed action is suspension of the approval— the proposed suspension period; and
- (e) that the approval holder may make written submissions within the stated reasonable time as to why the proposed action should not be taken.

39 Renewal and transfer of approval

- (1) Subject to subsections (4) and (5), an approval holder may, before the end of the term of the approval granted under section 33 (the *existing approval*), apply to the local government to transfer the approval (*transfer application*), or renew the approval (*renewal application*).
- (2) An application under this section must be—
 - (a) made in the form prescribed by the local government; and
 - (b) accompanied by—
 - (i) the documents required by the prescribed form; and
 - (ii) the prescribed fee for the application.
- (3) For a transfer application, the approval holder must apply together with the person to whom the approval is proposed to be transferred (*proposed transferee*).
- (4) An approval holder may not apply to renew an existing approval where the local government has given the approval holder written notice that the existing approval is not renewable.
- (5) An approval holder may not apply to transfer an existing approval where the local government has given the approval holder written notice that the existing approval is not transferable.
- (6) For a renewal application, the local government may determine the term of the renewal.
- (7) Subdivision 2 applies to a renewal application or a transfer application as if it were a properly made application.
- (8) The local government must, after carrying out an assessment of a renewal application or transfer application, decide to—
 - (a) grant the application; or
 - (b) grant the application and amend the conditions of the existing approval; or
 - (c) refuse the application.
- (9) In deciding a renewal application or a transfer application under subsection (8), the local government may have regard to—
 - (a) the objects of this Local Law; and
 - (b) if the application is a renewal application— whether the conditions of the existing approval have been or are being complied with by the applicant.
- (10) For a decision made under subsection (8), the local government must give a decision notice to—
 - (a) for a renewal application— the applicant; or

- (b) for a transfer application— the applicant and proposed transferee.
- (11) The local government may amend the conditions of the existing approval under subsection (8)(b) without following the procedure in section 41.
- (12) If an approval holder makes a renewal application, the existing approval remains in force until—
- (a) if the renewal application is granted, with or without amendment of the conditions—the date the renewal application is granted; or
 - (b) if the renewal application is refused—
 - (i) and the applicant applies for a review of the decision under part 6— the date the applicant is given notice of the review decision; or
 - (ii) and the applicant has not applied for a review of the decision under part 6— 15 business days after the applicant is given a decision notice under subsection (10).

40 Approval holder may apply to amend conditions

- (1) An approval holder may apply to the local government to amend the conditions of the approval (*amendment application*).
- (2) An amendment application must be—
 - (a) made in the form prescribed by the local government; and
 - (b) accompanied by—
 - (i) the documents required by the prescribed form; and
 - (ii) a statement of the proposed amendment and reasons for it; and
 - (iii) the prescribed fee.
- (3) Sections 30 and 31 apply to an amendment application as if it were a properly made application.
- (4) The local government must, after carrying out an assessment of an amendment application, decide to—
 - (a) grant the application; or
 - (b) refuse the application.
- (5) In deciding an amendment application under subsection (4), the local government may have regard to—
 - (a) the objects of this Local Law; and
 - (b) whether the conditions of the existing approval have been or are being complied with by the applicant.
- (6) For a decision made under subsection (4), the local government must give a decision notice to the applicant.
- (7) The local government may amend the conditions of the approval under this section without following the procedure in section 41.

41 Local government may amend, suspend or cancel approval

- (1) This section applies if the local government is satisfied that one of the following grounds for amending, suspending or cancelling an approval exists—
 - (a) amendment, suspension or cancellation is necessary—
 - (i) for the protection of public health or safety; or
 - (ii) to prevent environmental harm; or
 - (iii) to prevent property damage or loss of amenity; or
 - (iv) to allow for works on roads or public land; or
 - (v) to improve access to a road; or
 - (vi) to improve the efficiency of vehicle or pedestrian traffic; or
 - (vii) for the protection of animals; or
 - (b) another approval required to drive the vehicle or vessel on public land under an Act has been suspended or cancelled; or
 - (c) in driving the vehicle or vessel on public land, the approval holder has failed to comply with an Act; or
 - (d) the approval holder has failed to comply with a condition of the approval; or
 - (e) the approval holder has failed to comply with—
 - (i) a direction under section 51; or
 - (ii) a compliance notice; or
 - (iii) a stop order; or
 - (f) the approval was granted because of a document or representation that was—
 - (i) false or misleading; or
 - (ii) obtained or made in another improper way.
- (2) Before taking action to amend, suspend or cancel an approval (***proposed action***), the local government must give the approval holder a show cause notice.
- (3) If a show cause notice is issued, the approval holder may, within a stated reasonable time of at least 15 business days after the notice is given (***stated reasonable time***), make written submissions to the local government as to why the proposed action should not be taken.
- (4) Notwithstanding subsection (3), where the approval holder consents or agrees to the proposed action, they may waive their right to provide written submissions within the stated reasonable time.
- (5) The local government must consider all submissions made in accordance with subsection (3).
- (6) If the local government decides that—
 - (a) a ground under subsection (1) no longer exists to take the proposed action, the local government must take no further action in respect of the show cause notice; or

- (b) a ground exists to take the proposed action, the local government may—
 - (i) if the proposed action was to amend the approval— amend the approval; or
 - (ii) if the proposed action was to suspend the approval— suspend the approval for no longer than the period stated in the notice; or
 - (iii) if the proposed action was to cancel the approval— amend the approval, suspend it for a period or cancel it.
- (7) For any decision made under subsection (6), the local government must give a decision notice to the approval holder.
- (8) This section does not limit the power a local government may have apart from this section to amend, suspend or cancel an approval.

42 Procedure for immediate suspension of approval

- (1) Despite section 41, the local government may immediately suspend an approval if the local government believes that the continuation of driving the vehicle or vessel on public land by the approval holder poses—
 - (a) an urgent and serious threat to public health or safety; or
 - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity; or
 - (c) a serious obstruction to urgent works on roads or public land; or
 - (d) a serious obstruction to road access; or
 - (e) a serious or urgent threat to the safety of vehicle or pedestrian traffic; or
 - (f) an urgent and serious threat to animal welfare.
- (2) The local government must give a notice to the approval holder about the decision to immediately suspend the approval (*suspension notice*), together with a show cause notice about proposed action under section 41.
- (3) The suspension operates immediately upon the notices in subsection (2) being given to the approval holder.
- (4) The suspension continues to operate until the earliest of the following occurs—
 - (a) the local government cancels the suspension; or
 - (b) the local government gives the approval holder a decision notice under section 41(7) for a decision made under section 41(6); or
 - (c) 15 business days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice; or
 - (d) 15 business days have passed since the approval holder notifies the local government that it has made its final written submissions regarding the show cause notice.

Part 5 Offences and enforcement

Division 1 What this part is about

43 Overview

This part outlines—

- (a) further offences relating to this Local Law; and
- (b) the enforcement mechanisms that can be utilised by the local government; and
- (c) offence proceedings in the Magistrates Court; and
- (d) defences for offences against this Local Law.

Division 2 Offences

44 Vehicle or vessel access to public land without an approval

- (1) A person must not drive a vehicle or vessel on public land without an approval.
Maximum penalty— 20 penalty units.
- (2) A person does not commit an offence under subsection (1) if the person is not required to obtain an approval under section 28.

45 Failure to comply with conditions of an approval

A person must not contravene an approval.
Maximum penalty— 50 penalty units.

46 Providing false or misleading information

A person must not give information in connection with this Local Law (either orally or in a document) that the person reasonably knows or ought to have known is false or misleading.
Maximum penalty— 20 penalty units.

47 Threatening an authorised person

A person must not threaten, insult or use abusive language to an authorised person.
Maximum penalty— 50 penalty units.

48 Attempts to commit offences

- (1) A person who attempts to commit an offence under this Local Law commits an offence.
Maximum penalty— half the maximum penalty for committing the offence.
- (2) The provisions of the *Criminal Code* (relevant to attempts to commit offences) apply to the attempt.

49 Liability of third parties

- (1) Any person involved in a contravention of this Local Law commits an offence.
Maximum penalty— the penalty for which any person who committed the contravention would be liable.
- (2) For subsection (1), a person involved in a contravention of this Local Law is any person who—
 - (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced, whether by a threat or a promise or otherwise, the contravention; or
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) has conspired with another person to effect the contravention; or
 - (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

Division 3 Powers of the local government

50 Appointment of authorised persons

The document that appoints an authorised person must state this Local Law, or the provisions of this Local Law, as the Local Law or the provisions for which the person is appointed as an authorised person.

51 Directions generally

- (1) An authorised person may direct a person contravening this Local Law to—
 - (a) cease any conduct or activity which contravenes this Local Law; and
 - (b) take such action determined by the authorised person to ensure that the person does not contravene this Local Law.
- (2) A person must comply with a direction of an authorised person given under subsection (1).

Maximum penalty for subsection (2)— 50 penalty units.

52 Compliance notice for contravention of Local Law

- (1) This section applies if a person contravenes this Local Law.
- (2) An authorised person may give a notice, in writing (*compliance notice*), to—
 - (a) a person who contravenes this Local Law; or
 - (b) any person involved in the contravention of this Local Law under section 49.
- (3) The compliance notice may require a person to—
 - (a) stop a contravention, if the contravention is of a continuing or recurring nature; or

- (b) take reasonable steps necessary to stop or remedy the contravention, by the date and time specified in the compliance notice, whether or not the contravention is of a continuing or recurring nature.
- (4) The compliance notice must state the following—
- (a) the particular provision of this Local Law the authorised person believes is being, or has been, contravened; and
 - (b) briefly, how the provision of this Local Law is being, or has been, contravened; and
 - (c) the date and time by which the person must stop or remedy the contravention; and
 - (d) the reasonable steps necessary to remedy the contravention or avoid further contravention; and
 - (e) that it is an offence to fail to comply with the compliance notice; and
 - (f) the maximum penalty for failing to comply with the compliance notice.
- Examples of reasonable steps to avoid further contravention in paragraph (d)—*
- *The repetition of a specified action at stated intervals for a certain period.*
 - *Stopping taking an action that is prohibited by this Local Law.*
- (5) The date and time under subsection (4)(c) must be reasonable having regard to—
- (a) the action required to remedy the contravention; and
 - (b) the risk to public health and safety, the risk of impacts on fitness for use of public land and roads, the risk of damage to property or loss of amenity and the risk of environmental harm posed by the contravention; and
 - (c) how long the person has been aware of the contravention.
- (6) The compliance notice must include, or be accompanied by, a decision notice.
- (7) A person who is given a compliance notice must comply with the compliance notice.
- Maximum penalty for subsection (7)— 50 penalty units.

53 Compliance notice authorised by Local Law

- (1) This section applies if—
- (a) this Local Law provides that an authorised person may give a compliance notice to a person; and
 - (b) the authorised person gives a notice, in writing, (*compliance notice*) to a person.
- (2) The compliance notice must state the following—
- (a) the provision of this Local Law that authorises the authorised person to give a compliance notice; and

- (b) the specified action that the person must take to comply with the notice; and
 - (c) the date and time by which the person must comply with the notice; and
 - (d) if relevant, a day by which a development permit under the Planning Act, or an approval under another Act, must be applied for to take the specified action (including to use or occupy any other land, for example); and
 - (e) that it is an offence to fail to comply with the notice; and
 - (f) the maximum penalty for failing to comply with the notice.
- (3) The specified action in subsection (2)(b) must not be inconsistent with action required, by a remedial notice, to be taken under another Local Government Act.
- (4) The date and time under subsection (2)(c) must be reasonable having regard to the risk to public health and safety, the risk of impacts on fitness for use and amenity of public land and roads and the risk of environmental harm that may result from failure to comply with the notice.
- (5) The compliance notice must include, or be accompanied by, a decision notice.
- (6) The recipient must comply with the compliance notice.

Maximum penalty for subsection (6)— 50 penalty units.

- (7) In this section—

person includes a responsible person under section 18.

Note—

a compliance notice may be a remedial notice under the Local Government Act 2009, chapter 5, part 2, division 2.

54 Stop orders

- (1) This section applies if a person is—
- (a) driving a vehicle or vessel on public land in accordance with an approval; or
 - (b) undertaking an activity allowed under an activity designation; or
 - (c) undertaking a restricted activity.
- (2) An authorised person may give a person an order to immediately stop the activity, if the authorised person believes that the continuation of the activity causes, exacerbates or impedes the local government’s ability to respond to—
- (a) an urgent and serious threat to public health or safety; or
 - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity; or
 - (c) a serious obstruction to urgent works on roads or public land; or
 - (d) a serious obstruction of access to a road; or
 - (e) a serious or urgent threat to the safety of vehicle or pedestrian traffic; or

- (f) an urgent and serious threat to animal welfare; or
 - (g) a serious obstruction to the use of the public land for its intended purpose.
- (3) An order under this section—
- (a) may be given orally or in writing; and
 - (b) operates until the earliest of the following happens—
 - (i) the expiry of the period, of no more than 5 business days, specified by the authorised person when the order is given; or
 - (ii) where there is an approval— the local government immediately suspends the approval under section 42.
- (4) An authorised person must confirm an oral order in writing by the next business day following the giving of the order.
- (5) A person who receives an order under this section must comply with the order.
Maximum penalty for subsection (5)— 50 penalty units.
- (6) This section does not affect the local government’s powers under another law.

55 Abandoned items

- (1) A person must not abandon—
- (a) a vehicle on public land; or
 - (b) a vessel on public land or a road.
- Maximum penalty— 50 penalty units.
- (2) Subject to subsection (3), if, in the reasonable opinion of an authorised person, an item has been abandoned on public land or road, the authorised person may seize and impound the item.
- (3) Subsection (2) does not apply to a vehicle abandoned on a road.

Note—

If a vehicle is abandoned, left or found on a road in the circumstances mentioned in the TORUM Act, section 100 (12)—

- *This section does not apply to the removal or disposal of the vehicle; and*
- *TORUM Act, section 100(3) to (11), applies to the removal and disposal of the vehicle (including any goods, equipment or thing contained in, on or about the vehicle pursuant to section 100(8)).*

56 Local government power to seize and cost recover

- (1) An authorised person may seize, by dismantling if necessary, and impound an item where the item has been brought onto or installed in, on, across, under or over land or road within the local government area in a manner that contravenes this Local Law, if—
- (a) in the reasonable opinion of the authorised person, the immediate removal of the item is necessary in the interests of public health or safety or to prevent environmental harm, property damage or loss of amenity; or

- (b) a person has not complied with a compliance notice requiring the person to remove the item.
- (2) The local government may recover the cost of action taken under this section as a debt from the person responsible for the item seized under subsection (1) being brought onto or installed in, on, across, under or over land or road within the local government area.

57 Dealing with impounded items

- (1) This section applies where an item has been seized and impounded under section 55 or section 56 (an *impounded item*).
- (2) If an impounded item is, in the reasonable opinion of an authorised person, perishable or of negligible commercial value, then the local government may immediately dispose of it as the chief executive officer directs.
- (3) If the local government possesses an impounded item, then a person may reclaim that impounded item from the local government by—
 - (a) making a written application to the chief executive officer to reclaim the impounded item; and
 - (b) producing proof, to the satisfaction of the chief executive officer, that the person is the owner of the impounded item; and
 - (c) paying the prescribed fee for the impounding of the impounded item.
- (4) If an impounded item is not reclaimed under subsection (3) within 20 business days of the item being seized and impounded under section 55 or section 56, that item is forfeited to the local government.
- (5) If an impounded item has been forfeited to the local government under subsection (4), then the local government may dispose of that impounded item—
 - (a) if, in the reasonable opinion of the authorised person, the commercial value of the impounded item is so slight that it would not cover the reasonable cost of seizing, impounding and selling the impounded item— as the chief executive officer directs; or
 - (b) by sale through a public auction; or
 - (c) if the impounded item has been offered for sale under paragraph (b) but has not been sold within a period that, in the reasonable opinion of the authorised person, is reasonable for the sale of that type of item as the chief executive officer directs.
- (6) Where an impounded item has been sold under this section, the proceeds of the sale must be applied in order—
 - (a) firstly, towards the direct and indirect costs of the sale; and
 - (b) secondly, towards the local government in an amount equivalent to the prescribed fee for the impounding of the impounded item as if it was to be reclaimed under subsection (3); and
 - (c) thirdly, if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cth)— in payment of the amount owing under the security interest; and

- (d) fourthly, to the former owner of the impounded item.
- (7) If no person establishes a valid claim for the amount to which the former owner of an impounded item that has been sold under this section is entitled to under subsection (6)(d) within 3 months of the date of that entitlement arising, the amount becomes the property of the local government.
- (8) Except where expressly stated, the local government incurs no liability to a person, and no person has any claim for relief or compensation against the local government, in respect of any action taken by the local government under this section or section 55 and section 56, if the local government has acted in good faith and without negligence.

58 Performance of work

- (1) A person must make good any damage caused directly or indirectly by the person's non-compliance with a provision of this Local Law.
- (2) The local government may perform work where a person has failed to perform work required to be performed by—
 - (a) subsection (1); or
 - (b) a compliance notice issued under this Local Law; or
 - (c) a condition of an approval.
- (3) An authorised person may perform the work that the local government is empowered to undertake under this section.
- (4) The local government may recover the amount that the local government properly and reasonably incurs in performing the work mentioned in subsection (2) as a debt payable by the person who failed to perform the work.
- (5) If the local government seeks to recover the cost as a debt under subsection (4), then the local government must give the person who failed to perform the work a notice of the amount of the debt.
- (6) Subsection (4) does not limit the ways in which the local government may recover the amount that the local government properly and reasonably incurs in taking all necessary steps to perform the work.

Note—

If a compliance notice is a remedial notice under the Local Government Act 2009, chapter 5, part 2, division 2, and the amount the local government properly and reasonably incurs in taking the action required under the compliance notice is not paid by the person who failed to take action, the local government may, if the debt is not paid within 30 days, recover the amount, as a debt, as if the debt were overdue rates under the Local Government Act 2009, section 142.

- (7) A Magistrates Court may order a person found guilty of an offence under this Local Law, to do one or more of the following—
 - (a) perform work required to be performed by—
 - (i) subsection (1); or
 - (ii) a compliance notice issued under a Local Law; or
 - (iii) a provision of this Local Law; or

- (iv) a condition of an approval; or
 - (b) pay to the local government all costs incurred by the local government in performing the work pursuant to this section as a debt owing to the local government.
- (8) If an authorised person performs any work that the local government may perform under this Local Law, the local government is taken to have performed the work for the purposes of any provision that says that the local government may recover the costs or expenses of performing the work from another person.
- (9) In this section—
person includes a responsible person under section 18.

59 Permission required to perform obligation

- (1) Subsection (2) applies if—
- (a) this Local Law or a compliance notice requires a person (the *liable person*) to perform an obligation (the *original obligation*); and
 - (b) performing the original obligation would be a development offence under the Planning Act or a contravention under another law unless the liable person obtained an approval or permission (the *permission*) to perform the original obligation; and
 - (c) the liable person has taken all reasonable steps to obtain the permission (in the period required, if the liable person is required to perform the original obligation under a compliance notice) but the permission has not been given by the relevant entity.
- (2) The liable person is not liable for an offence under this Local Law for failing to perform the original obligation.
- (3) Despite subsection (2)—
- (a) the local government may give the liable person a notice requiring the person to take other action in respect of the subject matter of the original obligation; and
 - (b) the liable person must continue to perform any part of the original obligation that may be performed without the permission.
- (4) A notice under subsection (3)(a) is taken to be a compliance notice under section 53.
- (5) Subsections (6) and (7) apply if a liable person can only lawfully perform an original obligation if there is a change to an existing permission which would permit the original obligation to be performed (the *change permission*).
- (6) Subject to subsection (8), nothing in this Local Law requires a person to perform the original obligation.
- (7) However, the liable person must take all reasonable steps to obtain the change permission.
Maximum penalty— 50 penalty units.
- (8) If—

- (a) the liable person complies with subsection (7), but the change permission is not given by the relevant entity, the liable person is not liable for an offence under this Local Law for failing to perform the original obligation; or
 - (b) the change permission is given by the relevant entity, the liable person must perform the original obligation in accordance with the change permission (and any other lawful requirement).
- (9) To remove any doubt—
- (a) the local government may, at any time, apply for, and be given, a permission; and
 - (b) the liable person will, except where subsection (7) or (8)(a) applies but subject to subsection (2) and to the extent that the original obligation is not otherwise performed, be taken to have failed to perform the original obligation, including, if applicable, work required to be performed to fulfil that obligation for the purposes of this Local Law; and
 - (c) a liable person is not required to perform an original obligation under this Local Law if performing the original obligation is prohibited under a law made by the State; and
 - (d) 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, or belief of the local government, relating to the specified action is not, and does not involve, an assessment of development.
- (10) In this section—

alternative development process has the same meaning as in the *Local Government Act 2009*, section 37.

development has the same meaning as in the Planning Act.

existing permission means a permission that existed immediately before the original obligation arose.

Division 4 Offence proceedings in Magistrates Court

60 Enforcement orders

- (1) After hearing proceedings for an offence against this Local Law, a Magistrates Court may make an order (an *enforcement order*) for the defendant to take stated action within a stated period.
- (2) The enforcement order may be in terms the Court considers appropriate to secure compliance with this Local Law.
- (3) An enforcement order must state the period within which the defendant must comply with the order.
- (4) An enforcement order may be made under this section in addition to the imposition of a penalty.

61 Joint and several liability

- (1) Where this Local Law imposes a liability on an owner or occupier of land, or a person engaged in a particular activity, and 2 or more persons are the owners or occupiers of the relevant land, or are jointly engaged in the relevant activity, the liability is joint and several.
- (2) This section applies both to civil liabilities and liabilities enforced by summary proceedings under the *Justices Act 1886*.

Division 5 Defences

62 Defence of reasonable excuse

If a person is charged with an offence involving a contravention of this Local Law, it is a defence to prove that the person had a reasonable excuse for the contravention.

63 Owners and occupiers must ensure compliance with this Local Law

- (1) Except where the owner and occupier of land is the local, State or Commonwealth government, the owner and occupier of the land must ensure that an offence is not committed in or on land.
- (2) If an offence is committed in or on land, the owner and occupier of the land also commit an offence, namely the offence of failing to ensure that an offence is not committed in or on the land.

Maximum penalty— the penalty for the commission of the offence in or on the land.

- (3) Evidence that an offence has been committed on land is evidence that the owner and occupier of the land committed the offence of failing to ensure that the offence is not committed in or on the land.
- (4) However, it is a defence for an owner or occupier to prove that—
 - (a) the owner or occupier exercised reasonable diligence to ensure that an offence was not committed in or on the land; and
 - (b) the offence was committed in or on the land without that person's knowledge or consent.

Part 6 Reviewing decisions

64 Application for review

- (1) A person who is given, or is entitled to be given, a decision notice may apply to the local government for a review of the decision (a **review application**).
- (2) The review application must be made within 15 business days of—
 - (a) if the person is given a decision notice— the day the person receives the notice; or
 - (b) If paragraph (a) does not apply— the day the person otherwise becomes aware of the decision.

- (3) The review application must be in writing and accompanied by a statement of the grounds on which the applicant seeks the review of the decision.

65 Review decision

- (1) The local government must review the original decision within 20 business days of receiving a review application and make a decision (the *review decision*) to—
 - (a) confirm the original decision; or
 - (b) amend the original decision; or
 - (c) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision unless that person was the chief executive officer.
- (3) The local government must, within 5 business days of the review decision being made, give the applicant notice of the decision (the *review notice*).
- (4) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.
- (5) If the local government does not give the review notice to the applicant in accordance with subsection (3), the local government is taken to have made a review decision confirming the original decision.

66 Stay of operation of original decision

A review application does not stay the original decision that is the subject of the application.

Part 7 Administrative provisions

67 Fees

- (1) If this Local Law provides for payment of a fee, and does not itself fix the amount of the fee, the fee is to be fixed by resolution under the *Local Government Act 2009*, chapter 4, part 2.
- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.
- (3) Unless specific provision to the contrary is made in this Local Law or resolution fixing a fee, the local government may, in an appropriate case, waive or partially remit a fee.

68 Rewards

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of a person for an offence against this Local Law.
- (2) The amount of the reward, and the conditions on which it is payable, must be decided by resolution of the local government.

69 Subordinate Local Laws

The local government may make Subordinate Local Laws about—

- (a) retailers that must have and maintain a shopping trolley containment system under section 10; and
- (b) a shopping trolley containment system other than a wheel lock system under section 10; and
- (c) conditions of use for a designated public place under section 14(1); and
- (d) the permanent closure of an area of public land to public access under section 24(3); and
- (e) any application requirement for which a third-party certifier's certificate may be accepted by the local government under section 35(1); and
- (f) declaring an individual or organisation as a third-party certifier for particular application requirements under section 35(2)(a); and
- (g) prescribing qualifications necessary for an individual or organisation to provide a certificate about particular application requirements under section 35(2)(b); and
- (h) another entity specified as an essential services employee under Schedule 1; and
- (i) repeal and transitional provisions under part 8.

70 Extrinsic material

- (1) The local government may make an explanatory note to assist in the interpretation of this Local Law.
- (2) The local government makes an explanatory note by—
 - (a) passing a resolution to make the explanatory note; and
 - (b) publishing the explanatory note on the local government's website.
- (3) An explanatory note made in accordance with this section is declared to be a relevant document for the purposes of section 14B of the *Acts Interpretation Act 1954* (as modified by section 15 of the *Statutory Instruments Act 1992*).

Note—

Pursuant to part 4, division 1 of the Statutory Instruments Act 1992, the Acts Interpretation Act 1954 (AIA) is modified so that a document declared by a Local Law to be a "relevant document" for the purposes of section 14B of the AIA is extrinsic material which may assist in the interpretation of a provision of this Local Law.

Part 8 Transitional and repeal provisions

71 Local Law repeal

The provisions of *Moreton Bay Regional Council Local Law No. 4 (Local Government Controlled Areas and Roads) 2011* and its Subordinate Local Law are repealed (***repealed Local Law***).

72 Transitional provisions for the repealed Local Law

(1) A decision made under the repealed Local Law that was in force immediately before the commencement, continues in force as if the decision were made under this Local Law.

(2) In this section—

decision means—

- (a) a declaration, other than a declaration by Subordinate Local Law; or
- (b) a notice; or
- (c) a resolution; or
- (d) a decision.

Examples—

- *Where the local government declares the opening hours for an area of public land.*
- *Where the local government has, by resolution, temporarily closed an area of public land to public access.*
- *Where the local government has placed a notice showing the opening hours at each public entrance to an area of public land.*

73 Other transitional provisions

The transitional provisions for decisions made under the repealed *Moreton Bay Regional Council Local Law No. 1 (Administration) 2011*, as they relate to the repealed Local Law, are set out in *the Commercial Use of Public Land and Roads Local Law 2023*, part 7.

Schedule 1 Dictionary

Section 5

Act—

- (a) has the same meaning as in the *Acts Interpretation Act 1954*, sections 6 and 7; and
- (b) includes a local law made by the local government.

activity designation see section 12(1).

adjacent land see section 15(3).

alternative development process see section 59(10).

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

amendment application see section 40(1).

application see section 29(1).

application requirement see section 35(2).

approval see section 28(1).

attached see section 18.

authorised person means a person—

- (a) appointed by the chief executive officer as an authorised person under section 202 of the *Local Government Act 2009*; and
- (b) whose instrument of appointment provides that they are an authorised person for this Local Law, or provisions of this Local Law.

awning see section 18.

awning inspection report see section 20(11).

awning inspection report notice see section 20(1).

body corporate see section 20(11).

Bribie Gardens Estate waterway means—

- (a) Lot 202 on CG4932; and
- (b) Lot 201 on RP203222; and
- (c) Lot 303 on RP218692; and
- (d) Lot 147 on RP852171; and
- (e) Lot 606 on SP100197; and
- (f) Lot 613 on SP145654; and
- (g) Lot 614 on SP145654; and
- (h) Lot 481 on SP171580.

building has the same meaning as in the *Building Act 1975*.

canal has the same meaning as in the *Coastal Protection and Management Act 1995*, sections 9(1) and 9(2).

change permission see section 59(5).

chief executive officer means the chief executive officer of the local government.

compliance notice means a compliance notice given under (as the context requires)—

- (a) section 52; or
- (b) section 53.

decision means—

- (a) for section 72— see section 72(2); or
- (b) a decision made by the local government under sections 33, 39, 40 or 41; or
- (c) a decision made by an authorised person to give a compliance notice under section 52 or section 53.

decision notice, for a decision, means a written notice stating the following—

- (a) the decision; and
- (b) any relevant details about the decision; and
- (c) the reasons for the decision; and
- (d) that the person to whom the notice is given may apply for a review of the decision within 15 business days after the notice is given; and
- (e) how to apply for a review.

Examples for paragraph (b)—

- *Conditions on an approval.*
- *The date on which the decision takes effect or actions required under the notice must be taken.*

designated activity area see section 12(2).

designated prohibited activity area see section 13(2).

designated public place see section 14(4).

development see section 59(10).

drive includes to park or to ride a vehicle or vessel.

driveway crossover see section 17(4).

emergency event see section 20(11).

enforcement order see section 60(1).

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

essential services employee means an officer or employee of—

- (a) the Queensland Police Service; or
- (b) the Queensland Ambulance Service; or
- (c) the Queensland Fire and Emergency Service; or
- (d) an on-supplier who supplies gas under the *Gas Supply Act 2003*; or
- (e) an electricity entity under the *Electricity Act 1994*; or
- (f) a carrier or service provider licensed under the *Telecommunications Act 1997* (Cth); or
- (g) a life-saving club; or

- (h) the local government; or
- (i) the Department of Transport and Main Roads; or
- (j) any other department or body (whether or not incorporated) that has a function or power conferred on it under an Act; or
- (k) another entity specified by Subordinate Local Law,

carrying out the duties assigned to that officer or employee.

essential services vehicle means a vehicle that is in the care or control of an essential services employee.

essential services vessel means a vessel that is in the care or control of an essential services employee.

existing approval see section 39(1).

existing permission see section 59(10).

footpath has the same meaning as in the TORUM Act.

impounded item see section 57(1).

information request see section 31(5).

information request response see section 31(5).

information request response period see section 31(3).

item means any material thing, including a building, structure, vehicle or vessel, other than an animal.

land—

- (a) has the same meaning as in the Planning Act, Schedule 2; and
- (b) includes land occupied by water.

liable person see section 59(1).

local government means Moreton Bay City Council.

Local Government Act has the same meaning as in the *Local Government Act 2009*.

local government area means the local government area of the local government under the *Local Government Act 2009*, including an area taken to be part of a local government area under a Local Government Act.

Examples of areas taken to be part of a local government area—

- *Bathing reserves.*
- *Foreshores.*

Local Law includes any Subordinate Local Laws made under this Local Law.

maintenance report see section 19(5).

minimum standards see section 25(4).

motorised mobility device see section 28(3).

occupier, of land, means—

- (a) the person who occupies, or has the control or management of, or is apparently in charge of, the land; and

- (b) includes a person who has a lease, licence, permission, approval, right or authority to occupy the land, including under an Act.

official traffic sign see section 28(3).

opening hours see section 23(1).

original decision means a decision the subject of a review application under section 64.

original obligation see section 59(1).

owner, of land, means the person for the time being entitled to receive the rent for the land or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

person means—

- (a) for section 53— see section 53(7); or
(b) for section 58— see section 58(9).

personal mobility device see section 28(3).

permission see section 59(1).

Planning Act means the *Planning Act 2016*.

prescribed fee means a fee fixed by the local government under section 67 or under the *Local Government Act 2009*, section 97.

prescribed form means a document which the local government makes available at its administration centres or on its website for the purpose of making an application, an amendment application, a transfer application or a renewal application under this Local Law.

prohibited activity designation see section 12(1).

properly made application see section 29(3).

property has the same meaning as in the *Acts Interpretation Act 1954*.

proposed action see section 41(2).

proposed transferee see section 39(3).

public land means the whole or part of any land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road.

Examples of public land—

- *Parks, reserves and gazetted foreshores.*
- *Camping grounds or caravan parks on land owned or controlled by the local government.*
- *Local government swimming pools.*
- *Local government cemeteries.*
- *Council Chambers and local government offices.*
- *Boat ramps, barge ramps and landings (including jetties, pontoons, wharfs, floating walkways or fixed sloping walkways).*
- *Canals.*

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

reasonable measures see section 22(4).

renewal application see section 39(1).

repealed Local Law see section 71.

responsible person see section 18.

restricted activity see section 22(1).

retailer see section 8.

retail premises see section 8.

review application see section 64(1).

review decision see section 65(1).

review notice see section 65(3).

road—

- (a) for section 12 and section 13— see section 11; or
- (b) for section 22—
 - (i) subject to paragraph (b)(ii), **road** has the same meaning as in the *Local Government Act 2009* at subsections 59(2) and 59(3); and
 - (ii) despite subsection 59(3)(a) of the *Local Government Act 2009*, **road** includes a State-controlled road listed in Schedule 2, table 1, columns 1 to 4 in relation to the matters outlined in Schedule 2, table 1, column 5, in relation to the activities outlined in Schedule 2, table 1, column 6; or
- (c) for the definition of road verge—
 - (i) includes an area that is—
 - (A) open to or used by the public and is developed for, or has as one of its uses, the driving or riding of vehicles, whether on payment of a fee or otherwise; or
 - (B) dedicated to public use as a road; but
 - (ii) does not include—
 - (A) bicycle paths, footpaths, shared paths or nature strips; or
 - (B) an area declared under a regulation under the TORUM Act not to be a road; or
- (d) otherwise, **road** has the same meaning as in the *Transport Infrastructure Act 1995* and includes a footpath.

road verge means the area of land between the front property boundary of land adjacent to a road and—

- (a) the back of the road kerb; or
- (b) if there is no road kerb— the table drain; or
- (c) if there is no road kerb and no table drain— the line of the roadside guide posts.

responsible person see section 18.

shopping trolley see section 8.

shopping trolley containment system see section 8.

show cause notice see section 38.

stated reasonable time see section 41(3).

State-controlled road has the same meaning as in the *Transport Infrastructure Act 1994*.

stop order means an order given under section 54.

structure—

(a) has the same meaning as in the *Local Government Act 2009*; and

(b) includes a structure as defined in the *Building Act 1975*.

sufficient details see section 8.

suspension notice see section 42(2).

third-party certifier see section 35(2).

TORUM Act means the *Transport Operations (Road Use Management) Act 1995*.

transfer application see section 39(1).

vegetation see section 15(3).

vehicle includes any type of transport that moves on wheels and a trailer, hovercraft, or helicopter.

verge garden guidelines see section 16(1).

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

wheelchair see section 28(3).

wheeled recreational device see section 28(3).

wheeled toy see section 28(3).

wheel lock system see section 8.

Schedule 2 State-controlled roads to which this Local Law applies

Schedule 1

Definitions for Schedule 2

In table 1, column 5 of this Schedule, all terms have the same meaning as in the TORUM Act.

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Road ID	Road Name	Local Name	Section	Matters	Activity
10A	Bruce Highway	Bruce Highway	Brisbane - Gympie	(a) The regulation of the washing or cleansing, painting, repairing, alteration or maintenance of vehicles in, on or over a road, as per section 66(3)(d) of the TORUM Act; and (b) The regulation of roadside vending, as per section 66(3)(f) of the TORUM Act; and (c) The regulation of parking a type of vehicle, as per section 101(1)(b) of the TORUM Act.	(a) Wash, cleanse, degrease or paint a vehicle; and (b) Carry out vehicle maintenance or servicing; and (c) Display or advertise a vehicle or vessel for sale; and (d) Park or cause to be left unattended an unregistered vehicle.
40A	D'Aguilar Highway	Caboolture Bypass	Bruce Highway - Old Gympie Road		
40A	D'Aguilar Highway	D'Aguilar Highway	Mary Street in Kilcoy		
120	Redcliffe Road	Anzac Avenue	Intersection at Dayboro Road - Intersection with Redcliffe Parade		
121	Deception Bay Road	Deception Bay Road	Bruce Highway - Anzac Avenue		
122	Brighton - Redcliffe Road	Houghton Highway	From Hornibrook Highway - Intersection of Elizabeth Avenue		
122	Brighton - Redcliffe Road	Hornibrook Esplanade	Intersection of Elizabeth Avenue - Intersection of Oxley Avenue		
122	Brighton - Redcliffe Road	Oxley Avenue	Intersection of Oxley Avenue - Intersection of Klingner Road		
123	Clontarf - Anzac Avenue	Elizabeth Avenue	Intersection of Hornibrook Esplanade - Intersection of King Street		
123	Clontarf - Anzac	Snook Street	Intersection of King Street -		

	Avenue		Intersection of Korsch Street		
123	Clontarf - Anzac Avenue	Elizabeth Avenue	Intersection of Korsch Street - Intersection of Anzac Avenue		
126	Caboolture - Bribie Island Road	Bribie Island Road	Bruce Highway - Intersection of Welsby Parade		
127	Beerburrum Road	Beerburrum Road	Intersection of King Street - Intersection of Steve Irwin Way		
128	Caboolture - Beachmere Road	Beachmere Road	Intersection of Bribie Island Road - Intersection of Bishop Road		
128	Caboolture - Beachmere Road	Main Street	Intersection of Bishop Road - End of Main Street		
401	Brisbane - Woodford Road	Gympie Road	South Pine River - Intersection of Anzac Avenue		
401	Brisbane - Woodford Road	Dayboro Road	Intersection of Anzac Avenue - Intersection of Fingerboard Road		
401	Brisbane - Woodford Road	Hay Road	Intersection of Fingerboard Road - Intersection William Street		
401	Brisbane - Woodford Road	Mt Mee Road/Brisbane -Woodford Road	Intersection of William Street - D'Aguiar Highway		
402	Samford - Mount Glorious Road	Mt Glorious Road	Intersection of Samford Road - Intersection of Mt Nebo Road		
403	South Pine Road	South Pine Road	Intersection of Gympie Road - Intersection of Flamingo		

			Drive		
403	South Pine Road	Albany Creek Road	Intersection of Flamingo Drive - Albany Creek		
406	Burpengary - Caboolture Road	Morayfield Road/Burpengary Caboolture Road	Intersection of King Street - Intersection of Uhlmann Road		
406	Burpengary - Caboolture Road	Uhlmann Road	Intersection of Uhlmann Road - Bruce Highway		
407	Samford Road	Samford Road	Intersection of Mt Glorious Road - Kedron Brook		
490	Glass House Mountains Road	Steve Irwin Way/Glass House Mountains Road	Southern Intersection of Bruce Highway - Intersection of Bell Road		
490	Glass House Mountains Road	Steve Irwin Way	Intersection of Bell Road - Northern Intersection of Bruce Highway		
492	Kilcoy Beerwah Road	Kilcoy Beerwah Road	Intersection of Maleny Stanley River Road to Intersection D'Aguliar Road		
493	Maleny - Stanley Road	Maleny Stanley River Road	Intersection of Myrtle Street and Beech Street, Maleny - Intersection of Peachester Road		
900	Everton Park - Albany Creek Road	Old Northern Road	Intersection of Flamingo Drive - Bennetts Road		
901	Burpengary Service Road	Morayfield Road/Burpengary Caboolture Road	Intersection of Uhlmann Road - Intersection of Station		

			Road		
901	Burpengary Service Road	Old Gympie Road	Intersection of Station Road - Intersection of Deception Bay Road		
902	Linkfield Connection Road	Linkfield Connection Road	South Pine River - Intersection of South Pine Road		
1204	Pumicestone Road	Pumicestone Road	Intersection of Bruce Highway Off Ramp - Intersection of Freeman Road		
1204	Pumicestone Road	Freeman Road	Intersection of Bruce Highway Off Ramp - Intersection of Freeman Road		
4023	Mount Glorious Road	Mt Glorious Road	Intersection of Mt Nebo Road - Intersection of Laceys Creek Road		
4023	Mount Glorious Road	Northbrook Parkway	Intersection of Laceys Creek Road - Intersection of Wivenhoe Somerset Road		
4032	Strathpine - Samford Road	Eatons Crossing Road	Intersection of South Pine Road - Intersection of Mt Samford Road		
4032	Strathpine - Samford Road	Mt Samford Road	Intersection of Mt Samford Road - Intersection of Serendipity Drive		
4032	Strathpine - Samford Road	Main Street	Intersection of Serendipity Drive - Intersection of Mt Glorious Road		

9905	Caboolture Connection Road	Caboolture Connection Road	Intersection of Bruce Highway - Intersection of Burnett Road		
9905	Caboolture Connection Road	Lower King Street	Intersection of Burnett Road - Intersection of Charles Street		
9905	Caboolture Connection Road	King Street	Intersection of Charles Street - Intersection of D'Aguilar Highway		

Endnotes

1 Index to Endnotes

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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before 2 February 2024.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation
amd	= amended
ch	= chapter
def	= definition
div	= division
hdg	= heading
ins	= inserted
om	= omitted
p	= page
pt	= part
renum	= renumbered
rep	= repealed
s	= section
sch	= schedule
sdiv	= subdivision

4 Table of reprints

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this Local Law.

Reprint No.	Amendments included	Reprint date
1	<i>Amendment Local Law (State-controlled Roads) 2024</i>	2/2/2024

5 List of legislation

Amendment Local Laws

Amendment Local Law (State-controlled Roads) 2024 date of public notice 2 February 2024.

6 List of annotations

PART 1 PRELIMINARY

Definitions

s 5 om/ins Amendment Local Law (State-controlled Roads) 2024, s 26.

PART 4 APPROVALS FOR VEHICLE OR VESSEL ACCESS TO PUBLIC LAND

Overview

s 27(c) om Amendment Local Law (State-controlled Roads) 2024, s 27.

PART 5 OFFENCES AND ENFORCEMENT

Permission required to perform obligation

s 59(10) om/ins def *development* Amendment Local Law (State-controlled Roads) 2024, s 28(1).

om/ins def *existing permission* Amendment Local Law (State-controlled Roads) 2024, s 28(2).

PART 7 ADMINISTRATIVE PROVISIONS

Subordinate Local Laws

s 69(h) om/ins Amendment Local Law (State-controlled Roads) 2024, s 29.

SCHEDULE 1 DICTIONARY

hdg/om/ins Amendment Local Law (State-controlled Roads) 2024, s 30(1).

om/ins def *road* Amendment Local Law (State-controlled Roads) 2024, s

om/ins 30(2).
def **road verge** Amendment Local Law (State-controlled Roads)
2024, s 30(3).

**SCHEDULE 2 STATE-CONTROLLED ROADS TO WHICH THIS LOCAL LAW
APPLIES**

ins Schedule 2 Amendment Local Law (State-controlled Roads) 2024, s 31.