

# **Local Law No.7**

## **(Council Property) 2008**

**Consolidated version**

**Reprint No. 2**

This and the following 32 pages is a certified copy of  
the CONSOLIDATED VERSION of *Local Law No. 7 (Council Property) 2008*  
made in accordance with the provisions of the *Local Government Act 2009*,  
by the Council of the City of Gold Coast by resolution dated 11 October 2019.

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Chief Executive Officer

# Council of the City of Gold Coast Local Law No. 7 (Council Property) 2008

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# **Council of the City of Gold Coast Local Law No. 7 (Council Property) 2008**

## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as *Local Law No. 7 (Council Property) 2008*.

### **2 Object**

The objects of this local law are to—

- (a) provide for the establishment of a council property; and
- (b) provide for the protection of a council property; and
- (c) confer the necessary powers for the management and control of a council property; and
- (d) protect the safety of persons using a council property; and
- (e) regulate activities in a council property and ensure appropriate standards of conduct; and
- (f) provide for appropriate public access to council property.

### **3 Definitions—the dictionary**

The dictionary in the Schedule (Dictionary) of this local law defines particular words used in this local law.

### **4 Relationship to other laws**

- (1) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
  - (a) the *Environmental Protection Act 1994*; and
  - (b) the *Planning Act 2016*; and
  - (c) the *Criminal Code Act 1899*; and
  - (d) the *Fire and Emergency Services Act 1990*; and
  - (e) the *Forestry Act 1959*; and
  - (f) the *Mineral Resources Act 1989*; and
  - (g) the *Nature Conservation Act 1992*; and

- (h) the *Recreation Areas Management Act 2006*; and
  - (i) the *Stock Route Management Act 2002*; and
  - (j) the *Health Act 1937*; and
  - (k) the *Land Act 1994*; and
  - (l) the *Building Act 1975*; and
  - (m) the *Transport Infrastructure Act 1994*; and
  - (n) the *Transport Operations (Road Use Management) Act 1995*; and
  - (o) the *Public Health Act 2005*; and
  - (p) the *Tobacco and Other Smoking Products Act 1998*; and
  - (q) the *Fisheries Act 1994*.
- (2) The local government may only exercise its powers under this local law over trust land, if the proposed exercise of power is consistent with—
- (a) the terms and conditions of the trust; and
  - (b) the *Land Act 1994*.

## **Part 2 Administration of council property**

### **5 Management authority**

- (1) The local government may by a subordinate local law—
- (a) establish a management authority to manage a council property; and
  - (b) specify the membership and structure of a management authority; and
  - (c) specify procedures governing the operation and use of a council property; and
  - (d) specify policies and guidelines governing the management of a council property by the management authority; and
  - (e) specify that the powers given to the local government pursuant to *Local Law No. 3 (Administration) 2008* to appoint a person to a position provided for under this local law may be exercised by a management authority on behalf of the local government; and
  - (f) specify the powers given to the local government pursuant to this local law that may be exercised by a management authority on behalf of the local government.

- (2) A management authority may exercise the powers of the local government pursuant to this local law that are specified in a subordinate local law.
- (3) A management authority must comply with this local law and all subordinate local laws.

Maximum penalty for subsection (3)—200 penalty units.

## **Part 3 Regulation of council property**

### **Division 1 Local government advertisements and signs**

#### **6 Local government advertisements and signs**

The local government may exhibit an advertisement and a sign on a council property notwithstanding the provisions of any local law.

### **Division 2 Contractual powers**

#### **7 Contractual powers**

The local government may enter a contract in respect of—

- (a) the use of council property; and
- (b) a matter the subject of an approval under this local law; and
- (c) a matter that is regulated by a subordinate local law pursuant to section 9 (Regulation of council property) of this local law.

### **Division 3 Use of council logo**

#### **8 Use of council logo**

- (1) A person must not use a council logo unless authorised by the prior written approval of the local government.

Maximum penalty for subsection (1)—200 penalty units.

- (2) Notwithstanding subsection (1), a person must comply with a direction of the local government in relation to the use of the council logo.

Maximum penalty for subsection (2)—200 penalty units.

- (3) A person must not use a symbol which—
  - (a) is substantially identical to a council logo; or

- (b) so nearly resembles a council logo that it is likely to deceive or cause confusion as to whether the symbol is a council logo.

Maximum penalty for subsection (3)—200 penalty units.

- (4) For the purposes of subsection (3)(a), a symbol may be substantially identical to a council logo, notwithstanding that the symbol is not comprised, in whole or part, of the same colour or colours as the council logo.

## **Division 4            Regulation of council property**

### **9            Regulation of council property**

- (1) The local government may, by a subordinate local law or a sign exhibited in the council property, regulate—
  - (a) the name of the council property; and
  - (b) the exclusion or admission of persons or goods from the council property; and
  - (c) the hours or days during which the council property or any part thereof is open; and
  - (d) the ingress and egress to the council property to a designated access; and
  - (e) the driving, parking or use of a regulated vehicle on a council property; and
  - (f) the bringing of an animal or a plant onto a council property; and
  - (g) the bringing of a regulated object onto a council property; and
  - (h) the carrying out of regulated conduct in a council property; and
  - (i) the interference with a council property; and
  - (j) the use by the public of the council property to ensure the protection of—
    - (i) the council property; or
    - (ii) any person using the council property; and
  - (k) the carrying on of a business specified in a subordinate local law.
- (2) A person must not contravene a restriction imposed pursuant to subsection (1) unless authorised by—
  - (a) a permit; or

- (b) the prior written approval of the local government or a direction of an authorised person if a subordinate local law specifies the requirement for the prior written approval of the local government or a direction of an authorised person.

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

- (3) A person does not commit an offence under subsection (2) if the person is an essential services officer and the contravention of a restriction imposed pursuant to subsection (1) is:
  - (a) authorised or required in the performance of an express duty or express power; and
  - (b) authorised under an Act.
- (4) An authorised person may give a direction in relation to a matter specified in a subordinate local law or a sign pursuant to subsection (1).
- (5) The local government must erect a sign on the council property advising of a restriction imposed by a subordinate local law pursuant to subsection (1).
- (6) Subsection (5) does not apply if the local government determines by resolution that a sign should not be exhibited advising of a restriction imposed by a subordinate local law.

## **Division 5            Prohibited conduct**

### **10        Prohibited conduct in council property**

A person must not—

- (a) take part in a protest or any other riotous, disorderly, indecent, offensive, threatening or insulting behaviour in a council property; or
- (b) carry or display a placard or any other sign bearing an offensive or threatening message or image in a council property; or
- (c) injure, misuse, deface, mark or otherwise damage a council property; or
- (d) interfere with a plant in a council property; or
- (e) carry out an activity in a council property which is prohibited by a sign; or
- (f) carry out an activity in a council property which is specified as prohibited conduct in a subordinate local law.

Maximum penalty—50 penalty units.



## **Division 6            Regulation of business in a council property**

### **11            Regulation of business in a council property**

A person (other than the local government) must not carry on business in a council property, unless the business does not involve the sale of a vehicle and—

- (a)        the business is—
  - (i)        not a type specified in a subordinate local law; and
  - (ii)       is authorised by the prior written approval of the local government; or
- (b)        the business is of a type specified in a subordinate local law and—
  - (i)        is authorised by a permit; or
  - (ii)       authorised by a sign exhibited in the council property under section 9(1).

Maximum penalty—50 penalty units.

## **Division 7            Regulation of photographic equipment in a council property**

### **12            Regulation of photographic equipment in a council property**

- (1)        The local government may, by a subordinate local law or a sign exhibited in a council property, regulate the exclusion and use of photographic equipment in a council property.
- (2)        A person must not contravene a restriction imposed pursuant to subsection (1) unless authorised by—
  - (a)        a permit; or
  - (b)        the prior written approval of the local government or a direction of an authorised person if a subordinate local law specifies the requirement for the prior written approval of the local government or a direction of an authorised person.

Maximum penalty for subsection (2)—200 penalty units.

- (3) A person must not use photographic equipment to take a photograph or other image in an amenity building such as a toilet block, shower block or change room in a council property unless authorised by a permit.

Maximum penalty for subsection (3)—200 penalty units.

- (4) Notwithstanding subsection (2) and (3), nothing in this section affects the ability of a council officer to carry or use photographic equipment in a council property if the council officer is lawfully exercising the authority of a council officer.

## **Division 8            Public use of council property**

### **13            Public use of council property**

- (1) A person may apply to the local government pursuant to Part 4 (Permits) of this local law to—
- (a) use a council property for the purpose of a recreational activity; and
  - (b) have exclusive access for the purpose of a recreational activity to a specified area of a council property not exceeding that which may be reasonably necessary for that recreational activity; and
  - (c) erect a facility, other than the erection of a facility which is carrying out development under the *Sustainable Planning Act 2009*, in a specified area of a council property.
- (2) A person must not use a council property contrary to a permit or the conditions of a permit referred to in subsection (1).

Maximum penalty for subsection (2)—400 penalty units.

- (3) The local government may, notwithstanding the existence of a permit, limit the use of a council property to—
- (a) ensure equal access by all sectors of the public; or
  - (b) protect a council property from overuse or damage.
- (4) A person must not, unless authorised by a permit, use a council property contrary to a limitation made pursuant to subsection (3).

Maximum penalty for subsection (4)—400 penalty units.

- (5) A person must not, without the prior written consent of the local government, carry out development, including erecting a facility in, on, across or over a council property.

Maximum penalty for subsection (5)—400 penalty units.

Note: Section 13(5) is intended to operate in the same way as the requirement under section 263 of the *Sustainable Planning Act 2009* that the consent of the owner of land the subject of an application is required before it is made.

## **Division 9            Entry to specified infrastructure**

### **14            Entry to specified infrastructure prohibited**

A person, other than an essential services officer, must not enter or interfere with a structure associated with the local government's water supply system, stormwater drain or sewerage system, including—

- (a) a drain; or
- (b) a pipe; or
- (c) a culvert; or
- (d) a manhole; or
- (e) an inlet; or
- (f) an outfall; or
- (g) a protective fence; or
- (h) a safety grate; or
- (i) a flood structure; or
- (j) a flood alert system or gauge; or
- (k) a lock and weir; or
- (l) a levee; or
- (m) a pollutant device.

Maximum penalty—165 penalty units.

## **Part 4                    Permits**

### **15            Requirement for a permit**

- (1) A person, other than the local government, must not undertake a regulated activity unless authorised by a permit granted pursuant to section 17 (Grant of a permit) of this local law.

Maximum penalty for subsection (1)—50 penalty units.

- (2) Notwithstanding subsection (1), a permit is not required under this local law if—

- (a) a subordinate local law specifies that a permit is not required in respect of the undertaking of the regulated activity; or
- (b) the operation of the regulated activity is authorised by an approval by a Local Government Act or required by a Local Government Act in the performance of an express duty or the discharge of an express power.
- (3) Notwithstanding subsection (1), the holder of a permit must not undertake a regulated activity until all approvals required under legislation in respect of the regulated activity have been obtained.

## **16 Application for a permit**

- (1) An application for a permit must be—
  - (a) made by the person who will be undertaking the regulated activity; and
  - (b) made in the prescribed form; and
  - (c) accompanied by—
    - (i) the prescribed fee; and
    - (ii) evidence that all approvals under the Local Government Acts required for undertaking of the regulated activity have been obtained; and
    - (iii) full details of the undertaking of the regulated activity including plans and specifications unless otherwise required by the local government; and
    - (iv) such other information and materials as are requested by the local government or specified in a subordinate local law.
- (2) The local government may waive a requirement of subsection (1)—
  - (a) in an emergency; or
  - (b) if there are special reasons for dispensing with the requirement; or
  - (c) in the circumstances specified in a subordinate local law.

## **17 Grant of a permit**

- (1) The local government may grant a permit if satisfied that the undertaking of the regulated activity—
  - (a) will not result in harm to human health or safety or personal injury; and
  - (b) will not result in property damage or a loss of amenity; and
  - (c) will not result in environmental harm or environmental nuisance; and

- (d) will not result in a nuisance; and
  - (e) will not result in the unsafe movement or obstruction of traffic or the unsafe use of a road; and
  - (f) complies with the provisions of the Local Government Acts that regulate the undertaking of the regulated activity; and
  - (g) complies with the assessment criteria; and
  - (h) complies with the prescribed criteria; and
  - (i) will not unreasonably interfere with the use by the public of the council property identified in the application for the purposes of ingress to, and egress from, a public passenger service, for example, a ferry service operated from the council property.
- (2) Before the local government decides an application for a permit, an authorised person may—
- (a) inspect any premises, vehicle, equipment, animal, plant or thing to be involved in the undertaking of the regulated activity; and
  - (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected; and
  - (c) request any further information or material which is required to assess the application.
- (3) For the purposes of determining whether the criteria specified in subsection (1) have been satisfied—
- (a) the local government may have regard to the results of any periodic inspection, testing or monitoring program undertaken in respect of the undertaking of the regulated activity; and
  - (b) the local government may have regard to the applicant's antecedents in terms of compliance or otherwise with this local law; and
  - (c) the local government is not obliged to look beyond—
    - (i) any information or materials submitted to the local government in respect of the application; and
    - (ii) any other information held by the local government which is relevant to the application.

## **18 Term of a permit**

- (1) A permit granted by the local government is for a term—
- (a) specified in the permit; or

- (b) otherwise specified in a subordinate local law.
- (2) A permit expires at the end of the day of the term specified in subsection (1) of this local law.

**19 Conditions of a permit**

- (1) A permit may be granted by the local government on conditions the local government considers appropriate.
- (2) The conditions of a permit may—
  - (a) require the holder of the permit to take specified measures to—
    - (i) prevent harm to human health or safety of persons who may be involved in or affected by the undertaking of the regulated activity; and
    - (ii) prevent personal injury, property damage or a loss of amenity resulting from the undertaking of the regulated activity; and
    - (iii) ensure that the undertaking of the regulated activity does not cause environmental harm or environmental nuisance; and
    - (iv) ensure that the undertaking of the regulated activity does not cause a nuisance; and
    - (v) ensure that the undertaking of the regulated activity does not cause the unsafe movement or obstruction of traffic or the unsafe use of a road; and
    - (vi) ensure that there is compliance with the provisions of the Local Government Acts that regulate the undertaking of the regulated activity; and
    - (vii) ensure that the undertaking of the regulated activity complies with the assessment criteria; and
    - (viii) ensure that the undertaking of the regulated activity complies with the prescribed criteria; and
  - (b) require compliance with specified safety requirements; and
  - (c) require the holder of the permit to carry out specified work; and
  - (d) regulate the time within which the regulated activity must be undertaken; and
  - (e) specify the standards with which the undertaking of the regulated activity must comply; and

- (f) require the holder of the permit to give the local government a specified indemnity and to take out specified insurance; and
  - (g) require the holder of the permit to take out specified insurance indemnifying a person who may suffer personal injury, loss or damage, as a result of the undertaking of the regulated activity; and
  - (h) require the holder of the permit to exhibit a specified sign containing a warning notice and to take other specified precautions; and
  - (i) require the holder of the permit, if the holder of the permit is a minor, to be accompanied by a person who is concerned with the care or welfare of the minor, such as a parent or legal guardian; and
  - (j) require the holder of the permit to notify the local government within a period specified in the permit that the holder of the permit is no longer undertaking the regulated activity or is undertaking the regulated activity other than in accordance with the permit; and
  - (k) require the certification by a person specified by the local government of a vehicle, equipment, animal, plant or thing involved in the undertaking of the regulated activity; and
  - (l) require the giving of a security or bond to secure compliance with the permit and the provisions of this local law; and
  - (m) require records to be kept at a place and for a time specified in the permit or a subordinate local law; and
  - (n) require the holder of the permit to prepare, provide, undertake or comply with a periodic inspection, monitoring or management program in respect of the undertaking of the regulated activity; and
  - (o) require that the number of persons involved in the undertaking of the regulated activity is not to exceed a number specified by the local government.
- (3) The local government may specify by subordinate local law, the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit for the undertaking of a regulated activity.

#### **19A Provision and return of security or bond**

- (1) If a local government requires the payment of a security or bond in a condition imposed on a permit pursuant to section 19(2)(1) of this local law, the payment must be made to the local government by the holder of the permit by the date, and in the manner, specified by the local government.

Maximum penalty for subsection (1)—50 penalty units.

- (2) If a bond or security has been paid by a permit holder in accordance with subsection (1), and the holder of the permit is considered by the local government

to have contravened a condition of the permit or a provision of this local law the local government may retain all or part of the security or bond.

- (3) The local government must within 90 days of the expiry of the term of the permit return to the permit holder—
- (a) if no part of the security or bond has been retained by the local government pursuant to subsection (2)—all of the security or bond paid to the local government pursuant to subsection (1); or
  - (b) any part of the security or bond not retained by the local government pursuant to subsection (2).

## **20 Power to change the conditions of a permit**

- (1) The local government may change a condition of a permit if<sup>1</sup>—
- (a) the holder of the permit agrees to the proposed change; or
  - (b) the change is urgently necessary to prevent—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or
    - (iii) environmental harm or environmental nuisance; or
    - (iv) a nuisance; or
    - (v) the unsafe movement or obstruction of traffic or the unsafe use of a road; or
  - (c) if the permit relates to the undertaking of a regulated activity on a council property—the change is necessary to ensure that the undertaking of the regulated activity on the council property does not unreasonably interfere with the use by the public of the council property for the purposes of ingress to, and egress from, a public passenger service, for example, a ferry service operated from the council property; or
  - (d) the change is necessary to ensure that the undertaking of the regulated activity complies with the prescribed criteria.
- (2) If the local government is satisfied it is necessary to change a condition of a permit, the local government must—
- (a) give the holder of the permit a written notice stating—

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<sup>1</sup> A change to a condition of a permit includes a change by omission, substitution or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).



- (i) the proposed change and the reason for the change; and
    - (ii) that the holder of the permit may make written representations to the local government about the proposed change; and
    - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which the written representations may be made; and
  - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (3) After considering any written representations made by the holder of the permit, the local government must give to the holder of the permit—
- (a) if the local government is not satisfied the change is necessary – a written notice stating that it has decided not to change the condition; or
  - (b) if the local government is satisfied that the change is necessary – a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the written notice was given to the holder of the permit—
- (a) under subsection (2)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
  - (b) under subsection (3)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the change is necessary.

## **21 Amendment, renewal or transfer of a permit**

- (1) The holder of a permit may make an application to the local government to—
- (a) amend the permit; or
  - (b) renew the permit; or
  - (c) transfer the permit to another person.
- (2) An application to amend, renew or transfer a permit must be—
- (a) made by the holder of the permit; and
  - (b) made in the prescribed form; and
  - (c) accompanied by the prescribed fee and such other information as is requested by the local government; and

- (d) accompanied by, in the case of a transfer of the permit, the consent of the person to whom the permit will be transferred.
- (3) The local government may renew or transfer a permit—
  - (a) if the undertaking of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
  - (b) subject to such conditions the local government considers appropriate.
- (4) The local government may amend a permit—
  - (a) if the undertaking of the regulated activity complies with the criteria specified in section 17(1) of this local law; and
  - (b) subject to such conditions as the local government considers appropriate.
- (5) The local government must not amend a permit that has been granted for a specific location if the amendment is to the location of where the regulated activity is to be undertaken.
- (6) For the purposes of determining whether the criteria specified in subsections (3) and (4) have been satisfied, the local government is not obliged to look beyond—
  - (a) any information or materials submitted to the local government in respect of the application; and
  - (b) any other information held by the local government which is relevant to the application.

## **22 Renewal of a permit**

- (1) The local government is taken to have requested the holder of a permit to renew the permit by giving to the holder of the permit a written notice.
- (2) If the local government does not issue a written notice under subsection (1) before the day the permit expires in accordance with section 18 of this local law, the permit expires at the end of that day.
- (3) The holder of a permit is taken to have made an application to the local government to renew the permit—
  - (a) if the written notice requires the payment of a prescribed fee, upon the payment of the prescribed fee; or
  - (b) if the written notice does not require the payment of a prescribed fee, if the local government is not otherwise notified by the holder of the permit within 30 days of the issue of the written notice.
- (4) The local government may renew a permit—

- (a) if the undertaking of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
  - (b) if satisfied that any requirement specified in the written notice given by the local government pursuant to subsection (1) has been complied with; and
  - (c) subject to the conditions of the permit unless otherwise determined by the local government; and
  - (d) subject to such conditions as the local government considers appropriate; and
  - (e) if the permit relates to the undertaking of a regulated activity on a council property—if satisfied that the undertaking of the regulated activity on the council property will not unreasonably interfere with the use by the public of the council property for the purposes of ingress to, and egress from, a public passenger service, for example, a ferry service operated from the council property.
- (5) For the purposes of determining whether the criteria specified in subsection (3)(a) have been satisfied, the local government is not obliged to look beyond—
- (a) any information or material submitted to the local government in respect of the renewal of the permit; and
  - (b) any other information held by the local government which is relevant to the renewal of the permit.
- (6) If the local government renews a permit subject to conditions pursuant to subsections (4)(c) or (4)(d), the local government must—
- (a) when giving the holder of the permit a written notice pursuant to subsection (1), give the holder of the permit a written notice stating—
    - (i) the proposed conditions of the permit; and
    - (ii) that the holder of the permit may make written representations to the local government about the proposed conditions of the permit; and
    - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which the written representations may be made; and
  - (b) consider any written representations made by the holder of the permit within the time stated in the written notice; and
  - (c) after considering any written representations made by the holder of the permit, give to the holder of the permit—

- (i) if the local government is satisfied the condition is not necessary – a written notice stating that it has decided not to impose the conditions; or
- (ii) if the local government is satisfied that the condition is necessary – a written notice stating that it has decided to impose the conditions.

## **23 Cancellation of a permit**

- (1) The local government may cancel a permit if—
  - (a) the holder of the permit agrees to the cancellation; or
  - (b) the cancellation is urgently necessary to prevent—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or
    - (iii) environmental harm or environmental nuisance; or
    - (iv) a nuisance; or
    - (v) the unsafe movement or obstruction of traffic or the unsafe use of a road; or
  - (c) the holder of the permit contravenes—
    - (i) this local law; or
    - (ii) a condition of a permit; or
    - (iii) a requirement of a compliance notice; or
  - (d) the undertaking of the regulated activity does not comply with—
    - (i) the provisions of the Local Government Acts that regulate the undertaking of the regulated activity; or
    - (ii) the prescribed criteria; or
  - (e) the permit was granted on the basis of false, misleading or incomplete information; or
  - (f) changes in circumstances since the permit was granted make the continued operation of the permit inappropriate; or
  - (g) the cancellation is necessary because the undertaking of the regulated activity on the council property unreasonably interferes with the use by the public of the council property for the purposes of ingress to, or egress

from, a public passenger service, for example, a ferry service operated from the council property.

- (2) The local government may specify by subordinate local law the changes in circumstances since a permit was granted that makes the continued operation of the permit inappropriate.
- (3) If the local government is satisfied it is necessary to cancel a permit, the local government must—
  - (a) give the holder of the permit a written notice stating—
    - (i) the reason for the proposed cancellation; and
    - (ii) that the holder of the permit may make written representations to the local government about the proposed cancellation; and
    - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which written representations may be made; and
  - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (4) After considering any written representations made by the holder of the permit the local government must give to the holder of the permit—
  - (a) if the local government is not satisfied that the cancellation is necessary – a written notice stating it has decided not to cancel the permit; or
  - (b) if the local government is satisfied that the cancellation is necessary – a written notice stating it has decided to cancel the permit.
- (5) Before the local government cancels a permit under subsection (4), the local government must consider the impact of the cancellation of the permit, other than a financial impact on the holder of the permit, on those persons who would be affected by the regulated activity ceasing to be undertaken.
- (6) The cancellation of the permit takes effect from the day the written notice was given to the holder of the permit—
  - (a) under subsection (3)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
  - (b) under subsection (4)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the cancellation is necessary.
- (7) When the local government has cancelled a permit, the holder of the permit must cease to undertake the regulated activity immediately.

Maximum penalty for subsection (7)—50 penalty units.

**24 General compliance provision**

- (1) The holder of an approval must ensure that the conditions of the approval are complied with.

Maximum penalty for subsection (1)—50 penalty units.

- (2) The holder of an approval and any person undertaking a regulated activity must ensure that the undertaking of the regulated activity—
- (a) does not result in harm to human health or safety or personal injury; and
  - (b) does not result in property damage or a loss of amenity; and
  - (c) does not result in environmental harm or environmental nuisance; and
  - (d) does not result in a nuisance; and
  - (e) does not result in the unsafe movement or obstruction of traffic or the unsafe use of a road; and
  - (f) complies with the prescribed criteria.

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

**Part 5 Enforcement**

**25 Records to be kept**

A subordinate local law may specify any records that are required to be kept for the undertaking of the regulated activity.

**26 Inspection, monitoring or management program**

A subordinate local law may specify any inspection, monitoring or management program required to be kept for the undertaking of the regulated activity.

**Part 6 Subordinate local laws**

**27 Subordinate local laws**

The local government may in a subordinate local law specify—

- (a) the assessment criteria for deciding an application for a permit pursuant to the Schedule (Dictionary) of this local law; and
- (b) an entity of which an officer is an essential services officer pursuant to the Schedule (Dictionary) of this local law; and

- (c) a symbol as a council logo pursuant to the Schedule (Dictionary) of this local law; and
- (d) the prescribed criteria with which the undertaking of a regulated activity must comply pursuant to the Schedule (Dictionary) of this local law; and
- (e) a thing as a structure pursuant to the Schedule (Dictionary) of this local law; and
- (f) a mall, square or court under the local government's control as a local government road pursuant to the Schedule (Dictionary) of this local law; and
- (g) a thing as a vehicle pursuant to the Schedule (Dictionary) of this local law; and
- (h) premises as a council property pursuant to the Schedule (Dictionary) of this local law; and
- (i) a thing as a regulated object pursuant to the Schedule (Dictionary) of this local law; and
- (j) a thing as a wheeled recreational device pursuant to the Schedule (Dictionary) of this local law; and
- (k) the rights and obligations in respect of a management authority pursuant to section 5 (Management authority) of this local law; and
- (l) the regulations that will apply to the use of council property pursuant to section 9 (Regulation of council property) of this local law; and
- (m) an activity which is prohibited conduct in a council property pursuant to section 10(1)(e) of this local law; and
- (n) the regulations that will apply to the exclusion and use of photographic equipment in a council property pursuant to section 12(1) of this local law; and
- (o) the information that must accompany an application for a permit for the undertaking of a regulated activity pursuant to section 16(1)(c)(iv) of this local law; and
- (p) the circumstances in which the local government may waive the requirements of section 16 (Application for a permit) of this local law pursuant to section 16(2)(c) of this local law; and
- (q) the term of a permit for a regulated activity pursuant to section 18(1)(b) of this local law; and

- (r) the records that must be kept, the place at which those records must be kept and the period for which those records must be kept pursuant to section 19(2)(m) of this local law; and
- (s) the conditions that must be imposed on a permit or that will ordinarily be imposed on a permit pursuant to section 19(3) of this local law; and
- (t) the changes in circumstances since a permit was granted that make the continued operation of the permit inappropriate pursuant to section 23(2) of this local law; and
- (u) the records that are required to be kept pursuant to section 25 (Inspection of a regulated activity) of this local law; and
- (v) the terms of a periodic inspection, monitoring or management program in respect of the undertaking of the prescribed activity pursuant to sections 26 (Inspection of a regulated activity) of this local law; and
- (w) such other matters as are provided for in this local law.

## **Part 7                      Application of Local Law No. 3 (Administration) 2008**

### **28            Application of Local Law No. 3 (Administration) 2008 to this local law**

- (1) To avoid any doubt, the provisions of *Local Law No. 3 (Administration) 2008* apply to this local law, including (but not limited to) the following parts of *Local Law No. 3 (Administration) 2008*—
  - (a) Part 7 (Enforcement); and
  - (b) Part 8 (Administration).

*Note*—

Part 7 (Enforcement) of *Local Law No. 3 (Administration) 2008* sets out the powers of the local government to deal with a contravention of a local law (including this local law) and the steps that the local government may take to remedy any non-compliance.

Part 8 (Administration) of *Local Law No. 3 (Administration) 2008* contains a number of provisions which clarify the liability of persons for actions taken contrary to a local law (including this local law).

This local law must be read with any relevant provisions of *Local Law No. 3 (Administration) 2008*.

- (2) If there is a conflict between a provision of this local law and *Local Law No. 3 (Administration) 2008*, the provision in this local law will prevail to the extent of any inconsistency.



## **Part 8                      Application of Local Law No. 21 (Major City Events) 2017**

### **29            Application of Local Law No. 21 (Major City Events) 2017 to this local law**

- (1)        This section applies if there is an inconsistency between a provision of this local law (a *standard provision*) and a provision of *Local Law No. 21 (Major City Events) 2017* (a *major city event provision*).
  
- (2)        If there is an inconsistency between a standard provision and a major city event provision, the major city event provision prevails to the extent of the inconsistency, but only if the inconsistency arises as a result of the application of the standard provision—
  - (a)        wholly or partly within a restricted access area; and
  - (b)        during the whole or any part of a restricted access period.
  
- (3)        In this section—

*restricted access area* has the meaning given in *Local Law No. 21 (Major City Events) 2017*;

*restricted access period* has the meaning given in *Local Law No. 21 (Major City Events) 2017*.

## Schedule      Dictionary

### section 3

***advertisement*** has the meaning given in *Local Law No. 16 (Licensing) 2008*.

***advertising*** includes the use of any fixed or moveable device, design, writing, structure, erection, publication, placard, signboard or sign of any kind whatsoever for the sale or exposing for sale of goods, a service or a vehicle.

***animal*** has the meaning given in *Local Law No. 12 (Animal Management) 2013*.

***approval*** means a consent, permit, licence, authorisation, registration, membership or approval under a Local Government Act or a local law and includes all the conditions of a consent, permit, licence, authorisation, registration, membership or approval.

***assessment criteria*** means the criteria specified in a subordinate local law for deciding an application for a permit for the undertaking of a regulated activity.

***authorised person*** means a person authorised by the local government pursuant to *Local Law No. 3 (Administration) 2008* to exercise the powers of an authorised person under this local law.<sup>2</sup>

***building*** has the meaning given in the *Building Act 1975*.

***business*** means the supply of goods or services and includes—

- (a) the display of goods; or
- (b) the sale of goods or a service; or
- (c) engaging in any trade or business; or
- (d) distributing a business advertising publication; or
- (e) touting; or
- (f) advertising goods or a service; or
- (g) a fete, market or stall; or
- (h) the exhibition of an advertisement; or
- (i) the exhibition of a sign; or

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<sup>2</sup> Section 21 (Appointment) of *Local Law No. 3 (Administration) 2008* provides for the local government to appoint a person to a position provided for under a local law and authorises a person appointed by the local government to a position provided for under a local law to exercise the powers attaching to that position under the local law unless otherwise stated in the appointment.

- (j) a business specified in a subordinate local law.

***business advertising publication*** has the meaning given in *Local Law No. 5 (Distribution of Business Advertising Publications and Touting) 2008*.

***council asset*** means—

- (a) a fixture, chattel, material, plant, animal, thing or other tangible property (other than a council facility) of which the local government is the owner or occupier; or
- (b) a council logo, any intellectual property right or other intangible property of which the local government is the owner.

*Example of a council asset—*

Art work placed on a council facility by the local government.

***council facility*** means trust land, premises of which the local government is the owner or occupier, or premises which are managed or controlled by the local government, which is not—

- (a) a road; or
- (b) a park or reserve as defined in *Local Law No. 9 (Parks and Reserves) 2008*; or
- (c) a bathing reserve as defined in *Local Law No. 10 (Bathing Reserves) 2004*; or
- (d) a library as defined in *Local Law No. 4 (Libraries) 2008*; or
- (e) part of the water supply system; or
- (f) part of the sewerage system; or
- (g) a council cemetery as defined in *Local Law No. 13 (Cemeteries) 2008*.

***council logo*** means a symbol used or intended to be used to represent or identify the local government and includes a symbol declared to be a council logo in a subordinate local law.

***council officer*** has the meaning given in *Local Law No. 3 (Administration) 2008*.

***council property*** means—

- (a) a council facility; or
- (b) a council asset; or
- (c) premises, other than a State-controlled road, specified as a council property in a subordinate local law.

***designated access*** means the gateway, opening, entrance or other means of ingress to or egress from the council facility designated by the local government by a sign exhibited in the council facility.

***designated smoking area*** means an area in a council facility designated by the local government by a sign exhibited in the council facility.

***device*** means a design, writing, drawing, depiction, structure, erection, placard, banner, notice, signboard, notice of sign, publication or sign of any kind.

***direction*** means a written or oral direction given by an authorised person pursuant to this local law.

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

***environmental nuisance*** has the meaning given in the *Environmental Protection Act 1994*.

***essential services officer*** means an officer of—

- (a) the Queensland Ambulance Service; or
- (b) a fire brigade; or
- (c) the police force; or
- (d) the State Emergency Service; or
- (e) Road Transport Construction Services (Department of Transport and Main Roads); or
- (f) the local government; or
- (g) another entity specified by a subordinate local law.

***exhibit*** includes in relation to a sign, the painting, writing, drawing, depiction, making, erection, affixing, putting up, operation or transport of a sign.

***facility*** means any building, structure, carparking area, pedestrian access, vehicle access, fence, picnic shelter, toilet block, playground equipment, park bench, pond, waterfall, fountain, monument, amenities or grounds or any other fixture or fitting and includes an electric power point.

***ferry service***—

- (a) has the meaning given in the *Transport Operations (Passenger Transport) Act 1994*; and
- (b) includes a proposed ferry service.

***goods*** includes an animal, a plant and a vehicle.

**interference** includes any damage, destruction, tampering, removal, alteration, defacement, change or inappropriate use and **interfere** has the corresponding meaning.

**land** has the meaning given in the *Planning Act 2016*.

**Local Government Act** has the meaning given in the *Local Government Act 2009* and includes approvals granted pursuant to Local Government Acts.

**local government road** means—

- (a) a road under the *Local Government Act 2009*; or
- (b) a mall, square or court under the local government's control that is specified in a subordinate local law to be subject to this local law; or
- (c) light rail land designated to be used as a road under section 359 of the *Transport Infrastructure Act 1994*.

**local law** includes any subordinate local laws and all approvals granted pursuant to this local law.

**lopping** has the meaning given in the *Planning Act 2016*.

**management authority** means the management authority established by the local government pursuant to section 5 (Management authority) of this local law.

**minor** means a person who is under the age of 18 years.

**newspaper** has the meaning given in the *Printing and Newspapers Act 1981*.

**nuisance** has the meaning given in *Local Law No. 8 (Public Health, Safety and Amenity) 2008*.

**permit** means a permit which has been granted pursuant to section 17 (Grant of a permit) of this local law or amended, renewed or transferred pursuant to section 21 (Amendment, renewal or transfer of a permit) of this local law or renewed pursuant to section 22 (Renewal of a permit) of this local law which—

- (a) has not expired pursuant to section 18(2) of this local law; or
- (b) has not been cancelled pursuant to section 23 (Cancellation of a permit) of this local law.

**photographic equipment** means an apparatus or equipment which is capable of taking a photograph or otherwise recording an image.

*Examples—*

Camera, digital camera, mobile phone and video recorder.

**planning scheme** has the meaning given in the *Planning Act 2016*.

**plant** means any tree, bush, shrub, grass, fungi, algae or other thing terrestrial or aquatic including all natural parts of it or things naturally produced of, by or from it.

**premises** means any road, land, building, structure or vehicle and includes any part thereof.

**prescribed criteria** means the criteria specified in a subordinate local law with which the undertaking of the regulated activity must comply.

**prescribed fee** means the fee prescribed by the local government.

**prescribed form** means the form prescribed by the local government.

**publication** means any printed matter or written matter and includes a book, pamphlet, leaflet, circular, handbill, notice, ticket, voucher, pass, advertisement, poster, magazine or other periodical publication but does not include a newspaper.

**publicise** means to draw to the attention of, make known, advertise or promote and **publicises** has the corresponding meaning.

**public passenger service** has the meaning given in the *Transport Operations (Passenger Transport) Act 1994*.

**recreation** means a pastime, amusement or occupation that refreshes or enlivens the mind, the spirits or the person.

**recreational activity** means an activity that involves the assembly of a person or persons for recreation or social purposes or for the purpose of conducting a meeting.

**regulated activity** means an activity the undertaking of which requires a permit under this local law.

**regulated conduct** means conduct which in the opinion of the authorised person is likely to give rise to—

- (a) harm to human health or safety or personal injury; or
- (b) property damage or a loss of amenity; or
- (c) environmental harm or environmental nuisance; or
- (d) a nuisance; or
- (e) harassment or disturbance of a person; or
- (f) interference with the reasonable use of the council property; or
- (g) interruption or obstruction of the exercise of the powers of the local government or a management authority; or
- (h) offence to a person; or

- (i) an interruption of the exercise of a power under an agreement with the local government or a management authority.

**regulated object** means a thing which in the opinion of the authorised person is dangerous or is specified in a subordinate local law.

**regulated vehicle** means—

- (a) a vehicle; or  
(b) a wheeled recreational device; or  
(c) a bicycle, cycle and a tricycle.

**road** means a local government road or a State-controlled road.

**sale** includes—

- (a) to sell; or  
(b) sell for resale; or  
(c) intend for sale; or  
(d) offer or expose for sale; or  
(e) agree or attempt to sell; or  
(f) receive, keep or have in possession for sale; or  
(g) cause or permit to be sold or offered or exposed for sale; or  
(h) send, forward for sale or deliver for sale; or  
(i) provide a sample; or  
(j) barter; or  
(k) auction; or  
(l) supply or have available for supply; or  
(m) already sold or supplied; or  
(n) provide for analysis; or  
(o) authorise, direct, cause, suffer or permit any of the above acts.

**sewerage system** has the meaning given in the *Plumbing and Drainage Act 2002*.

**sign** means a device that publicises a matter.

**State-controlled road** means a State-controlled road under the *Transport*

*Infrastructure Act 1994.*

***stormwater drainage*** has the meaning given in the *Local Government Act 2009*.

***structure*** has the meaning given in the *Local Government Act 2009* and includes a structure as defined under the *Building Act 1975* and any other thing specified in a subordinate local law.

***symbol*** includes the following or any combination of the following, namely, any letter, word, numeral, emblem, crest, badge, design, mark, logo or image.

***tout*** has the meaning given in *Local Law No. 5 (Distribution of Business Advertising Publications and Touting) 2008*.

***traffic*** has the meaning given in *Local Law No. 11 (Roads and Malls) 2008*.

***trust land*** means land dedicated as a reserve or granted in trust under the *Land Act 1994* and for which the local government is the trustee under the *Land Act 1994*.

***vehicle*** has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes anything specified as a vehicle in a subordinate local law.

***water supply system*** has the meaning given in the *Standard Plumbing and Drainage Regulation 2003*.



***wheeled recreational device*** has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes anything specified as a wheeled recreational device in a subordinate local law.