

# Toowoomba Regional Council

## Local Law No. 1 (Administration) 2020

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 1 (Administration) 2020*.

### 2 Purposes and how they are to be achieved

- (1) The purposes of this local law are to provide a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and specified regulatory powers under legislation, and to provide for miscellaneous administrative matters.
- (2) The purposes are to be achieved by providing for—
  - (a) consistent and comprehensive processes for the local government to grant and regulate approvals to undertake prescribed activities; and
  - (b) authorised persons for enforcing local laws; and
  - (c) review of certain decisions made under local laws; and
  - (d) enforcement of local laws; and
  - (e) matters relating to legal proceedings; and
  - (f) miscellaneous administrative matters relating to meetings, fees, abandoned goods and seized and impounded items.

### 3 Definitions—the dictionary

The dictionary in schedule 1 defines particular words used in this local law.

### 4 Relationship with other laws<sup>1</sup>

This local law is—

- (a) in addition to, and does not derogate from, laws regulating land use planning and development assessment; and
- (b) applies to each of the local government's local laws subject to any specific provision in a local law that expresses a contrary intention.

## Part 2 Approvals for prescribed activities

### 5 Meaning of *prescribed activity*

*Prescribed activity* means—

- (a) an activity prescribed in part 1 of schedule 2 and defined in part 2 of schedule 2; or
- (b) an activity for which a Local Government Act authorises the local government to grant an approval but does not make any other provision, except provision that is consistent with this part, about the process for the

<sup>1</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

local government to grant the approval.

## 6 Offence to undertake local law prescribed activity without approval

- (1) This section applies to a prescribed activity mentioned in—
  - (a) section 5(a); or
  - (b) section 5(b) if the Local Government Act that authorises the local government to grant the approval is a local law.<sup>2</sup>
- (2) A person must not undertake the prescribed activity without a current approval granted by the local government.

Maximum penalty for subsection (2)—

- (a) for an activity for which no category has been declared by subordinate local law—50 penalty units; or
  - (b) for a category 1 activity—50 penalty units; or
  - (c) for a category 2 activity—200 penalty units; or
  - (d) for a category 3 activity—500 penalty units.
- (3) However, a local government may, by subordinate local law, declare that subsection (2) does not apply to a prescribed activity or a particular activity that is within the category of a prescribed activity.

*Examples—*

- A subordinate local law may declare that subsection (2) does not apply to installation of a specified type of advertising device (for example, a device prescribed as a ‘permitted advertising device’). These permitted advertising devices would not require an approval under this part but other types of advertising devices would continue to require an approval.
- A subordinate local law may declare that subsection (2) does not apply to the operation of a camping ground that meets certain criteria (for example, less than a certain size or in a particular location) or complies with certain conditions. A person operating such a camping ground would therefore not require an approval under this part.
- A subordinate local law may declare that subsection (2) does not apply to the establishment or operation of a temporary home in a particular part of the local government’s area.

- (4) In this section—

**category 1 activity** means a prescribed activity that is declared as a category 1 activity by a subordinate local law for this definition.

**category 2 activity** means a prescribed activity that is declared as a category 2 activity by a subordinate local law for this definition.

**category 3 activity** means a prescribed activity that is declared as a category 3 activity by a subordinate local law for this definition.

**current approval** means an approval that is in force and has not been suspended at the time the prescribed activity is being undertaken.

## 7 Approvals for prescribed activities to be obtained under this part

An approval required for a prescribed activity must be obtained under this part.

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<sup>2</sup> For the offence for undertaking a prescribed activity mentioned in section 5(b) without a current approval if the Local Government Act is not a local law, see the relevant Local Government Act that provides for the approval.



## 8 Form of application

- (1) An application for the local government's approval of a prescribed activity must be made in a form approved by the local government.

*Examples of a form approved by the local government—*

A written form or an online application process.

- (2) The application must be accompanied by—
- (a) documents and materials required under a subordinate local law for this paragraph; and
  - (b) proof that the applicant currently holds any separate approval relating to the prescribed activity that is required under another law; and
  - (c) the prescribed fee.

*Example for paragraph (a)—*

The local government may require an application to include site plans, management plans, relevant consents, evidence of public liability insurance etc.

*Example for paragraph (b)—*

A prescribed activity may require approvals under another Act in relation to development, building, liquor, carriage of goods, business licensing etc.

- (3) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.
- (4) The notice under subsection (3) must state—
- (a) the grounds on which the request is made; and
  - (b) an outline of the facts and circumstances forming the basis for the grounds; and
  - (c) a detailed description of the information requested; and
  - (d) the date, not less than 7 days after the applicant receives the notice, by which the applicant must provide the information.
- (5) If the applicant does not, without reasonable excuse, provide the further information by the stated date—
- (a) the application lapses; and
  - (b) the local government must give the applicant written notice stating that—
    - (i) under this section the application lapses; and
    - (ii) the applicant may make a new application.
- (6) However, the local government may extend the period for the applicant to provide the further information.
- (7) A person must not provide information in or in connection with an application that is, to the person's knowledge, false or misleading in a material particular.

Maximum penalty for subsection (7)—20 penalty units.

## 9 Local government's discretion in granting approvals

- (1) The local government may grant an approval for an applicant to undertake a prescribed activity only if it is satisfied that—
- (a) if the prescribed activity requires a separate approval under an Act, a law of the Commonwealth or the local government's planning scheme—the separate approval has been granted; and
  - (b) the proposed operation and management of the prescribed activity is adequate to protect public health, safety and amenity and prevent environmental harm; and
  - (c) the grant of the approval would be consistent with the purpose of any relevant local law; and
  - (d) the proposed operation and management of the prescribed activity would be consistent with any additional criteria prescribed for the activity under a subordinate local law for this paragraph; and
  - (e) if the application relates to trust land—the grant of the approval would be consistent with the terms and conditions of the trust; and
  - (f) if the application relates to a prescribed activity mentioned in section 5(b)—the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
  - (g) if the prescribed activity is the commercial use of a local government controlled area or road—the grant of the approval would be consistent with the following objectives —
    - (i) the restriction of the commercial use of local government controlled areas and roads, where such activities are permitted, in recognition of the fact that the activities may otherwise enjoy an unfair commercial advantage over competitive activities conducted from fixed premises in the local government area for which rates and other charges are paid, and to which planning and other regulatory legislation applies; and
    - (ii) the restriction of the conduct of commercial activities on local government controlled areas and roads in the commercial business district of the local government area and other similar areas to commercial activities which comprise part, or the whole, of an event of regional economic significance to the local government area of the local government.

*Example for paragraph (a)—*

An application for commercial use of a local government controlled area that is held in trust by the local government under the *Land Act 1994* may require registration of a trustee lease or issue of a trustee permit prior to the approval being granted for commercial use of the area.

*Example for paragraph (g)—*

Local markets, farmers markets and similar types of events are considered to have regional economic significance to the local government area of the local government as it encourages provision of local products and produce, creates vibrancy and atmosphere in the local government areas and attracts visitors to the local government area.

- (2) The local government may, by written notice to the applicant—

- (a) grant the approval unconditionally; or
- (b) grant the approval subject to conditions determined in accordance with section 10; or
- (c) refuse to grant the approval.

*Examples for paragraph (b)—*

- If an application for which the local government's approval is required may result in damage to property, the local government may, as a condition of giving its approval, require the applicant to give reasonable security (which may include a deposit of money, a guarantee or an insurance bond) to ensure that the damage is made good.
  - The local government may grant an approval subject to the standard conditions imposed on the approval pursuant to a subordinate local law made under section 10(3) of this law.
- (3) However, the local government's powers in deciding the application are subject to the provisions of any relevant local law.
  - (4) The local government must give the applicant an information notice if the local government—
    - (a) refuses to grant the approval; or
    - (b) grants the approval subject to a non-standard condition.
  - (5) In this section—

***non-standard condition*** means a condition that is not prescribed under section 10(3) as a condition that must be imposed on an approval or that will ordinarily be imposed on an approval.
  - (6) If the local government decides to grant an approval for an applicant to undertake a prescribed activity, the local government must give written notice of the grant to the applicant.

## 10 Conditions of approval

- (1) An approval may be granted on conditions the local government considers appropriate.
- (2) However, the conditions must—
  - (a) be reasonably necessary to ensure that the operation and management of the prescribed activity will be adequate to protect public health, safety and amenity and prevent environmental harm; and
  - (b) be consistent with the purpose of any relevant local law; and
  - (c) if the approval is for a prescribed activity mentioned in section 5(b)—be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
  - (d) not conflict with the conditions of any other relevant approval issued under an Act; and
  - (e) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the prescribed activity under an Act within 3 days of the relevant approval being suspended or cancelled.

- (3) Subject to subsection (2), the local government may, by subordinate local law, prescribe conditions that must be imposed on an approval or that will ordinarily be imposed on an approval.
- (4) To remove any doubt, it is declared that a condition of an approval may authorise an act or omission that—
  - (a) contravenes a noise standard; or
  - (b) causes an environmental nuisance.<sup>3</sup>

*Example for paragraph (a)—*

A condition of an approval for operation of a temporary entertainment event may authorise the operation of an amplifier device at specified times that would otherwise be a contravention of the noise standard in the *Environmental Protection Act 1994*, section 440Y.

- (5) In this section—

***environmental nuisance*** see *Environmental Protection Act 1994*, section 15.

***noise standard*** see *Environmental Protection Act 1994*, section 440K.

## 11 Compliance with conditions of approval

- (1) A holder of an approval must ensure each condition of the approval is complied with.

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

- (2) For a prescribed activity mentioned in section 5(b), this section does not apply if the Act that provides for the local government to grant an approval stipulates a penalty for contravening a condition of the approval.

## 12 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.

*Example—*

A subordinate local law under section 9(1)(d) might specify that a criterion to be met by applicants for approval to operate a public swimming pool is a management plan that complies with the Royal Life Saving Society's *Guidelines for Safe Pool Operation*. A subordinate local law under the current section could state that compliance with this requirement is a matter about which a third party certifier may provide certification. In deciding an application, the local government may then accept a certificate of a third party certifier (approved under a subordinate local law pursuant to subsection (2) – e.g. the Royal Life Saving Society) as evidence that this requirement has been met.

- (2) In this section—

***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.

<sup>3</sup> See *Environmental Protection Act 1994*, schedule 1, section 3(b).

**application requirement** means a matter that the local government must be satisfied about, or have regard to, before granting an application for approval for a prescribed activity.

### 13 Term of approval

Unless sooner cancelled or suspended, an approval remains in force for—

- (a) the term provided for the prescribed activity under a subordinate local law for this paragraph; or
- (b) if there is no term provided for under a subordinate local law—one year from the date the approval is granted.

### 14 Renewal of approval

- (1) An approval holder may, not later than 28 days before the end of the term of the approval, apply to the local government to renew or extend the approval for—
  - (a) a further term provided for the prescribed activity under a subordinate local law for this paragraph; or
  - (b) if there is no term provided for under a subordinate local law—a further term equal to the current term of the approval.
- (2) However, an approval holder may not apply to renew or extend the approval where the local government has given the approval holder reasonable written notice that the approval is one of a class of approvals that the local government does not intend to renew or extend.

*Example—*

The local government might give notice to the approval holder that, in order to prevent environmental harm to an endangered ecosystem, it does not intend to grant, renew or extend any approvals for the prescribed activity in a specified part of the local government area.

- (3) The application under subsection (1) must be—
  - (a) made in a form approved by the local government; and
  - (b) accompanied by the prescribed fee.
- (4) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.
- (5) Section 8(4) to (7) applies to the notice as if it was a notice under section 8(3).
- (6) The local government may, by written notice to the applicant—
  - (a) grant the application; or
  - (b) grant the application and amend the conditions of the approval; or
  - (c) refuse the application.
- (7) In deciding under subsection (6), the local government may have regard to—
  - (a) the matters mentioned in section 9(1); and
  - (b) whether the conditions of the approval are being complied with by the applicant.

- (8) The local government must give the applicant an information notice if the local government—
  - (a) refuses the application; or
  - (b) grants the application and amends the approval to include non-standard conditions.
- (9) The local government may amend the conditions of the approval under subsection (6)(b) without following the procedure in section 18.
- (10) If an approval holder applies to renew or extend the approval, the approval remains in force until—
  - (a) if the application to renew or extend is granted, with or without amendment of the conditions—the date the application is granted; or
  - (b) if the application is refused and the applicant applies for a review of the decision under part 4—the date the applicant is given notice of the review decision; or
  - (c) if the application is refused and the applicant has not applied for a review of the decision under part 4—14 days after the applicant is given an information notice under subsection (8).

## 15 Transfer of approval

- (1) The holder of an approval together with another person may apply to the local government for transfer of the approval to the other person (the *proposed transferee*).<sup>4</sup>
- (2) However, an approval cannot be transferred under this section if it is of a category declared as non-transferable under a subordinate local law for this subsection.
- (3) The application under subsection (1) must be—
  - (a) made in a form approved by the local government; and
  - (b) accompanied by the prescribed fee.
- (4) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.
- (5) Section 8(4) to (7) applies to the notice as if it was a notice under section 8(3).
- (6) The local government may grant an application to transfer an approval only if it is satisfied about the matters mentioned in section 9(1).
- (7) The local government may, by written notice to the approval holder and the proposed transferee—
  - (a) grant the application to transfer the approval; or
  - (b) refuse the application to transfer the approval.
- (8) If the local government decides to grant the application to transfer the approval, the local government may amend the existing conditions of the approval.
- (9) The local government may amend the conditions of the approval under subsection (8) without following the procedure in section 18.

<sup>4</sup> See the Act, section 97, for the power of a local government to fix cost-recovery fees for approvals.



- (10) The local government must state, in the notice given under subsection (7)(a), any amendments to the conditions of the approval and the day that they take effect.
- (11) The local government must give the approval holder and the proposed transferee an information notice if the local government—
  - (a) refuses the application; or
  - (b) grants the application and amends the approval to include non-standard conditions.

## **16 Amending conditions at request of approval holder**

- (1) An approval holder may apply to the local government to amend the conditions of the approval.
- (2) The application must be written and state—
  - (a) the proposed amendment; and
  - (b) the reasons for it.
- (3) The local government must consider and decide whether to grant or refuse the application.
- (4) If the local government decides to amend the conditions as requested, the local government must, within 14 days of the decision, give the approval holder written notice of the amended conditions and the day that they take effect.
- (5) If the local government refuses to amend the conditions, the local government must give the approval holder an information notice.
- (6) The local government may amend the conditions of the approval under this section without following the procedure in section 18.

## **17 Grounds for amending, suspending or cancelling approval**

Each of the following is a ground for amending, suspending or cancelling an approval—

- (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 local government controlled areas; or
  - (v) to improve access to a road; or
  - (vi) to improve the efficiency of vehicle or pedestrian traffic.
- (b) another approval required for the prescribed activity under an Act has been suspended or cancelled;
- (c) in undertaking the prescribed activity, the approval holder has failed to comply with a local law or an Act;
- (d) the approval holder has failed to comply with a condition of the approval;
- (e) the approval holder has failed to comply with a notice under sections 26 or 27 that relates to the conduct of the prescribed activity or has failed to comply



with a stop order under section 29;

- (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.

## 18 Procedure for amending, suspending or cancelling approval

- (1) This section applies if the local government considers there is a ground under section 17 to amend, suspend or cancel an approval (the *proposed action*).
- (2) Before taking the proposed action, the local government must give the approval holder a written notice (the *show cause 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 a stated reasonable time of at least 21 days after the notice is given, why the proposed action should not be taken.
- (3) If, after considering all submissions made within the stated time, the local government decides that a ground no longer exists to cancel, amend or suspend the approval, the local government must take no further action about the show cause notice and give written notice to the approval holder about the decision.
- (4) If, after considering all submissions made within the stated time, the local government still considers there is a ground to take the proposed action, the local government may—
  - (a) if the proposed action was to amend the approval—amend the approval; or
  - (b) if the proposed action was to suspend the approval—suspend the approval for no longer than the period stated in the notice; or
  - (c) if the proposed action was to cancel the approval—amend the approval, suspend it for a period or cancel it.
- (5) If the local government decides to amend, suspend or cancel the approval, the local government must give the approval holder an information notice.
- (6) The decision takes effect on the day the written notice mentioned in subsection (3) or (5) is given to the approval holder, or if a later day of effect is stated in the notice, the later day.
- (7) This section does not limit the power a local government may have apart from this section to amend, suspend or cancel an approval.

## 19 Procedure for immediate suspension of approval

- (1) Despite section 18, the local government may immediately suspend an approval if the local government believes that continuation of the prescribed activity 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.
- (2) The suspension—
- (a) can be effected only by the local government giving a notice to the approval holder about the decision to immediately suspend the approval, together with a show cause notice about proposed action under section 18; and
  - (b) operates immediately the notices are given to the approval holder; and
  - (c) continues to operate until the earliest of the following happens—
    - (i) the local government cancels the suspension;
    - (ii) the local government gives the approval holder notice under section 18(3) or (5) of its decision about the show cause notice;
    - (iii) 14 days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice;
    - (iv) 14 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 3 Authorised persons

### 20 Appointment

An authorised person's instrument of appointment<sup>5</sup> must state the local laws, or the provisions of local laws, for which the person is appointed as an authorised person.

### 21 Threatening etc an authorised person<sup>6</sup>

A person must not threaten, insult or use abusive language to an authorised person.

Maximum penalty—20 penalty units.

## Part 4 Review of decisions

### 22 Application for review

- (1) A person who is given, or is entitled to be given, an information notice for a decision under a local law (an *original decision*) may apply to the chief executive officer<sup>7</sup> for a review of the decision under this part.<sup>8</sup>

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<sup>5</sup> See the Act, chapter 6, part 6, for the power to appoint authorised persons.

<sup>6</sup> See also the Act, section 149, in relation to obstructing a person enforcing a local government Act and section 150 in relation to impersonating an authorised person.

<sup>7</sup> See definition of *chief executive officer* in the Act, schedule 4.

<sup>8</sup> Persons who are aggrieved by a local government decision for which they do not receive, and are not entitled to receive, an information notice may seek redress under the local government's complaints process, which is required by the Act, section 268.

- (2) The application (a *review application*) must be made within 14 days of—
  - (a) if the person is given an information notice for the decision—the day the person is given the notice; or
  - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the original decision.
- (3) However, the local government may, at any time, extend the time for making a review application.
- (4) The review application must be in writing and—
  - (a) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and
  - (b) supported by enough information to enable the local government to decide the application.

### **23 Review decision**

- (1) The local government must review the original decision within 28 days after 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 the original decision was made by the chief executive officer.
- (3) The local government must, within 5 days of making the review decision, 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 within the 5 days, the local government is taken to have made a review decision confirming the original decision.

### **24 Stay of operation of original decision**

- (1) A review application does not stay the original decision that is the subject of the application.
- (2) However, the applicant may, immediately after being given the information notice about the original decision, apply to the Magistrates Court for a stay of the original decision.
- (3) The court may stay the original decision to secure the effectiveness of the review.
- (4) A stay may be granted on conditions the court considers appropriate.

## **Part 5 Enforcement**

## 25 Production of records

- (1) This section applies where an authorised person has entered a property under the Act to find out whether the conditions of an approval have been complied with.<sup>9</sup>
- (2) The authorised person may require the occupier of the property to produce for inspection records that are required by the conditions of an approval.
- (3) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

## 26 Compliance notice for contravention of local law or approval condition

- (1) Subsection (2) applies if an authorised person is satisfied on reasonable grounds that—
  - (a) a person—
    - (i) is contravening a local law or a condition of an approval; or
    - (ii) has contravened a local law or a condition of an approval in circumstances that make it likely the contravention will continue or be repeated; and
  - (b) a matter relating to the contravention can be remedied; and
  - (c) it is appropriate to give the person an opportunity to remedy the matter.

*Examples for paragraph (b) of matters relating to a contravention that can be remedied—*

- If the contravention relates to a person's failure to take action that is required under a local law or a condition of an approval, then the matter can be remedied by the person taking that action.
  - If the contravention relates to a person taking action that is prohibited under a local law or a condition of an approval, then the matter can be remedied by the person stopping that action.
- (2) The authorised person may give<sup>10</sup> a written notice (a **compliance notice**) to the person (the **recipient**) requiring the person to remedy the contravention.<sup>11</sup>
  - (3) The compliance notice must state the following—
    - (a) the particular provision of the local law or condition of an approval the authorised person believes is being, or has been, contravened; and
    - (b) briefly, how it is believed the provision of the local law or condition of an approval is being, or has been, contravened; and
    - (c) the time by which the recipient must remedy the contravention; and
    - (d) that it is an offence to fail to comply with the compliance notice; and
    - (e) the maximum penalty for failing to comply with the compliance notice.
  - (4) The time under subsection (3)(c) must be reasonable having regard to—
    - (a) the action required to remedy the contravention; and

<sup>9</sup> See the Act, section 132.

<sup>10</sup> See the *Acts Interpretation Act 1954*, sections 39 and 39A, regarding the service of documents on a person.

<sup>11</sup> Where a compliance notice is given to the owner of a property and requires action to be taken in relation to that property, then it will constitute a **remedial notice** under the Act, section 138AA.

- (b) the risk to public health and safety, 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 recipient has been aware of the contravention.
- (5) The compliance notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention or avoid further contravention.

*Examples of reasonable steps to avoid further contravention—*

- The repetition of a specified action at stated intervals for a certain period.
  - Stopping taking an action that is prohibited by a local law or condition of an approval.
- (6) The compliance notice must include, or be accompanied by, an information notice.
- (7) The recipient must comply with the compliance notice.<sup>12</sup>

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

## **27 Compliance notice authorised by local law**

- (1) This section applies if—
- (a) a local law provides that an authorised person may give a compliance notice to a person;<sup>13</sup> and
  - (b) the authorised person gives<sup>14</sup> a compliance notice to the person (the *recipient*).<sup>15</sup>
- (2) The compliance notice must state the following—
- (a) the provision of the local law that authorises the authorised person to give a compliance notice; and
  - (b) the specified action that the recipient must take to comply with the notice; and
  - (c) the time by which the recipient must comply with the notice; and
  - (d) that it is an offence to fail to comply with the notice; and
  - (e) 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 time under subsection (2)(c) must be reasonable having regard to the risk to public health and safety, the risk of damage to property or loss of amenity 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, an information notice.

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<sup>12</sup> See also sections 17(e) and 18 regarding the local government's power to amend, suspend or cancel an approval where a notice is not complied with, and the Act, section 142, regarding the local government's power to enter property and take action that is required under a remedial notice.

<sup>13</sup> For example, see *Local Law No.4 (Local Government Controlled Areas, Facilities & Roads) 2018*, section 9(2) (Power to require owner of land adjoining road to fence land) and *Local Law No. 3 (Community & Environmental Management) 2011*, section 10(1) (Pest control notices), section 13(2) (Overgrown allotments), section 14(2) (Accumulation of objects and materials on allotments), section 16(2) (Fire hazards), section 19(2) (Community safety hazards).

<sup>14</sup> See also footnote 10.

<sup>15</sup> See also footnote 11.

- (6) The recipient must comply with the compliance notice.<sup>16</sup>

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

## 28 Power to remove and cost recovery

- (1) This section applies where—
- (a) a structure or other material thing has been brought onto a local government controlled area or road in contravention of a local law; or
  - (b) a structure has been erected or installed in, on, across, under or over a road in contravention of a local law.
- (2) An authorised person may seize (by dismantling if necessary) and impound the structure or thing if its immediate removal is necessary—
- (a) in the interests of public health or safety; or
  - (b) to prevent environmental harm, property damage or loss of amenity.
- (3) Where subsection (2) does not apply, an authorised person may seize (by dismantling if necessary) and impound the structure or thing if—
- (a) the owner, or person in possession, of the structure or thing has not complied with a compliance notice requiring the owner or person to remove it; and
  - (b) the time for making an application for review of the compliance notice under section 22 has expired.
- (4) The local government may recover the cost of action taken under this section as a debt from the person responsible for the activity mentioned in subsection (1).
- (5) In this section—
- thing* does not include an animal.

## 29 Stop orders

- (1) An authorised person may give a relevant person an order to immediately stop a prescribed activity if the authorised person believes that continuation of the activity 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.
- (2) An authorised person may also give a person an order to immediately stop a prescribed activity if the authorised person is satisfied on reasonable grounds that the person is undertaking the prescribed activity—
- (a) without a current approval granted by the local government; or
  - (b) under an approval granted by the local government, but has contravened a condition of the approval.
- (3) However, an authorised person may only give a person an order under subsection (2) if the authorised person believes that continuation of the activity poses—
- (a) an urgent and serious threat to public health or safety; or

<sup>16</sup> See also footnote 12.

- (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (4) 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 3 days, specified by the authorised person when the order is given;
    - (ii) the local government immediately suspends the approval for the prescribed activity under section 19.
- (5) An authorised person must confirm an oral order in writing by the next business day following the giving of the order.
- (6) A person who receives an order under this section must comply with the order.  
Maximum penalty for subsection (6)—50 penalty units.
- (7) This section does not affect the local government’s powers under another law.
- (8) In this section—  
*relevant person* means the approval holder for the prescribed activity or an employee or agent of the approval holder currently conducting the prescribed activity.

## Part 6 Legal proceedings

### 30 Defence of reasonable excuse

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

### 31 General defence for owners or occupiers of land

In a proceeding under a local law against the owner or occupier of land for an offence relating to an act or omission with respect to the land, it is a defence for the owner or occupier to prove that—

- (a) the act or omission occurred without the owner’s or occupier’s knowledge or consent; and
- (b) the owner or occupier could not, by reasonable diligence, have prevented the act or omission.

### 32 Joint and several liability

- (1) If a local law imposes a liability on an owner or occupier of property, or a person engaged in a particular activity, and 2 or more persons are the owners or occupiers of the relevant property, 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*.

### **33 Rewards**

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of a person for—
  - (a) an offence involving damage to, or theft of, property of the local government or under the local government's control; or
  - (b) an offence against a 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.

## **Part 7 Miscellaneous**

### **34 Maintenance of good order at meetings**

- (1) A person who is not a member of the local government or a local government committee must not obstruct the proper conduct of a meeting of the local government or committee.

Maximum penalty for subsection (1)—20 penalty units.

- (2) If a person (other than a member) obstructs the proper conduct of a meeting of the local government or committee, the chairperson may ask the person to withdraw from the meeting place.
- (3) A person asked to withdraw from a meeting place under subsection (2) must immediately withdraw from the place and remain away until the end of the meeting or for a lesser period fixed by the chairperson.

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

- (4) If a person contravenes subsection (3), an authorised person may, at the request of the chairperson, exercise reasonable force to remove the person, and keep the person away, from the meeting place.

### **35 Fees**

- (1) If a 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 Act, chapter 4, part 2.
- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.

*Example—*

Suppose that a person pays an approval fee appropriate to an approval of 1 year's duration but, because of unforeseen circumstances, surrenders the approval within 3 months after it is granted.

A resolution might provide that, in such a case, the former approval holder is to receive a partial reimbursement of the approval fee.

- (3) Unless specific provision to the contrary is made in the local law or resolution fixing a fee, the local government may, in an appropriate case, waive or partially remit a fee.

### **36 Abandoned goods**



- (1) This section applies where an authorised person considers on reasonable grounds that goods have been abandoned in a local government controlled area or on a road.
- (2) The authorised person may seize and impound the goods.

### 37 Dealing with seized and impounded items

- (1) This section applies where—
  - (a) an authorised person has exercised a power under a local law to seize and impound a structure, thing or goods (an *impounded item*);<sup>17</sup> or
  - (b) the local government has impounded an item that has been delivered into its custody pursuant to a local law (also an *impounded item*) and the local law states that this section is to apply.
- (2) However, this section does not apply to an impounded item that is an animal<sup>18</sup>
- (3) If the impounded item is perishable, it may be immediately disposed of as the chief executive officer directs and the proceeds applied in accordance with subsection (6).
- (4) A person may reclaim the impounded item if—
  - (a) written application is made to the chief executive officer; and
  - (b) proof is produced to the satisfaction of the chief executive officer that the applicant is the owner of the item; and
  - (c) the applicant pays the prescribed fee for the impounding of the item.
- (5) At the expiry of 1 month since the date of impounding, the impounded item is forfeited to the local government, which may dispose of the item—
  - (a) if it has no commercial value or has a value that would not cover the costs of the seizure, impounding, storage and sale of the item—as the chief executive officer directs; or
  - (b) by sale through—
    - (i) public auction or tender, following an advertisement published at least 14 days before the date of the proposed sale; or
    - (ii) an agent of the local government; or
    - (iii) an enterprise owned by the local government; or
  - (c) if it has been offered for sale under paragraph (b) but has not been sold within a reasonable period—as the chief executive officer directs.
- (6) The proceeds of the sale or disposal of the impounded item must be applied—
  - (a) firstly, towards the costs of the seizure, impounding, storage, sale and disposal of the impounded item; and
  - (b) secondly, to the former owner of the impounded item.

<sup>17</sup> See, for example, section 28 in relation to structures or things brought onto a local government controlled area or road in contravention of a local law and section 39 in relation to abandoned goods.

<sup>18</sup> See *Local Law No.2 (Animal Management) 2011*, part 4, in relation to the seizure of animals. See the *Animal Management (Cats and Dogs) Act 2008* in relation to the seizure of regulated dogs.



- (7) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (6)(b) within 1 year of the date of the sale or disposal, the amount becomes the property of the local government.

## Part 8 Subordinate local laws

### 38 Subordinate local laws

The local government may make subordinate local laws about—

- (a) prescribed activities in respect of which the requirement for an approval does not apply;<sup>19</sup> and
- (b) the categories of prescribed activities for the purposes of maximum penalties;<sup>20</sup>
- (c) the documents and materials that must accompany an application for an approval;<sup>21</sup> and
- (d) additional criteria for the granting of approvals for prescribed activities;<sup>22</sup> and
- (e) the conditions that must be imposed on an approval or that will ordinarily be imposed on an approval;<sup>23</sup> and
- (f) application requirements for which a third party certifier's certificate may be accepted by the local government;<sup>24</sup> and
- (g) the individuals or organisations that are declared as third party certifiers for particular application requirements;<sup>25</sup>
- (h) the qualifications that are necessary for an individual or organisation to provide a third party certificate about particular application requirements;<sup>26</sup> and
- (i) the term for which an approval for a prescribed activity remains in force;<sup>27</sup> and
- (j) the further term for which an approval for a prescribed activity may be renewed or extended;<sup>28</sup> and
- (k) categories of approvals that are non-transferable;<sup>29</sup> and

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<sup>19</sup> See section 6(3).

<sup>20</sup> See section 6(4).

<sup>21</sup> See section 8(2)(a).

<sup>22</sup> See section 9(1)(d).

<sup>23</sup> See section 10(3).

<sup>24</sup> See section 12(1).

<sup>25</sup> See section 12(2), definition of *third party certifier*, paragraph(a).

<sup>26</sup> See section 12(2), definition of *third party certifier*, paragraph(b).

<sup>27</sup> See section 13(a).

<sup>28</sup> See section 14(1)(a).

<sup>29</sup> See section 15(2).

- (l) complementary accommodation prescribed as appropriate for caravan parks;<sup>30</sup> and
- (m) a State-controlled road to which this local law applies;<sup>31</sup> and
- (n) public place activities prescribed as regulated activities on local government controlled areas and roads.<sup>32</sup>

## Part 9 Repeal

### 39 Repeal

This local law repeals *Local Law No. 1 (Administration) 2011*.

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<sup>30</sup> See schedule 1, definition of *complementary accommodation*, paragraph (b).

<sup>31</sup> See schedule 1, definition of *road*, subparagraph (b)(i).

<sup>32</sup> See schedule 2, part 2, definition of *undertaking regulated activities on local government controlled areas and roads*, paragraph (c).



## Schedule 1 Dictionary

### Section 3

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

**approval** includes a consent, permission, licence, permit or authorisation.

**authorised person** see the Act, schedule 4<sup>33</sup>.

**Note:** Examples of such authorised persons include Regulated Parking Officers, Local Law Compliance Officers, Animal Management Officers and Development Compliance Officers.

**caravan** means as follows—

- (a) a caravan is a trailer—
  - (i) designed principally for residential purposes; and
  - (ii) designed to be attached to and towed by a self-propelled vehicle; and
  - (iii) that, as originally designed, was capable of being registered under a law of the State about the use of vehicles on public roads;
- (b) also, a caravan is something—
  - (i) not fitted with wheels; and
  - (ii) not designed for permanent attachment to land but designed for attachment to a motor vehicle and for use for residential purposes;
- (c) in addition, a caravan is a self-propelled vehicle—
  - (i) that—
    - (A) is designed to be used both as a vehicle and for residential purposes; or
    - (B) was designed to be used solely as a vehicle but has been modified to be suitable for use both as a vehicle and for residential purposes; and
  - (ii) that, as originally designed, was capable of being registered under a law of the State about the use of vehicles on public roads;
- (d) a caravan includes a tiny home.

**complementary accommodation** means—

- (a) accommodation in an on-site caravan, a cabin or a tent or other structure that can be readily assembled and disassembled; or
- (b) other accommodation prescribed under a subordinate local law for this paragraph as appropriate to caravan parks.

**compliance notice** means a compliance notice given under—

- (a) section 26; or
- (b) another local law that authorises the giving of a compliance notice.

**disturbance**, of human remains, includes interfering with remains, removal of remains and opening of a site of burial

<sup>33</sup> See also section 20.

**DOGIT land** means land that is DOGIT land under the *Aboriginal Land Act 1991*, section 11, or the *Torres Strait Islander Land Act 1991*, section 10.

**entertainment** includes recreation and amusement.

**entertainment event** means an event that is open to the public for entertainment whether or not a charge for admission is made and whether or not the person who controls admission to the place reserves a right to refuse admission.

**environmental harm** see *Environmental Protection Act 1994*, section 14.

**exclusion notice** see section 35(6).

**goods** does not include animals.

**human remains** means the remains after death of a human body, or part of a human body, and includes the body of a stillborn child.

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

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person to whom the notice is given may apply for a review of the decision within 14 days after the notice is given; and
- (d) how to apply for a review.

**Local Government Act** see the Act, schedule 4.

**local government cemetery** means a cemetery under the control of the local government, including a cemetery located on land owned by the local government or on land for which the local government is the trustee.

**local government controlled area—**

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

*Examples of local government controlled areas—*

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

- 2 A *local government controlled area* includes part of a local government controlled area.

- 3 A *local government controlled area* does not include a residential lot on DOGIT land.

**network connection** see the Act, section 35(2).

**prescribed activity** see section 5.

**prescribed fee** means a cost-recovery fee fixed by the local government, by local law or by resolution, under the Act<sup>34</sup>.

**property** see *Acts Interpretation Act 1954*, section 36.

**proposed exclusion notice** see section 35(1).

**public notice** means a notice published in a newspaper circulating in the local government's area.

**public place** see the Act, section 125(5).

**residence** means human habitation on a short-term or long-term basis.

**review decision** see section 23(1).

**road** means—

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road—
  - (i) prescribed under a subordinate local law for this subparagraph as a road to which this local law applies unless otherwise provided; and
  - (ii) in respect of which the chief executive has given written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b).

**show cause notice** see section 18(2).

**structure**, for the purposes of this local law, includes each of the following—

- (a) a transportable or demountable building;
- (b) a tiny home;
- (c) a caravan which is not fixed to the ground or supported by footings.

**the Act** means the *Local Government Act 2009*.

**tiny home** means a small dwelling house built on a trailer (similar to a caravan).

**Note:** Local Laws do not apply to permanent tiny homes which are covered by the Planning Scheme and Building Codes

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<sup>34</sup> See the Act, section 97.

## Schedule 2 Prescribed activities

### Section 5

#### Part 1 Prescribed activities

alteration or improvement to local government controlled areas and roads  
commercial use of local government controlled areas and roads  
establishment or occupation of a temporary home  
installation of advertising devices  
keeping of animals  
operation of camping grounds  
operation of caravan parks  
operation of cemeteries  
operation of public swimming pools  
operation of temporary entertainment events  
undertaking regulated activities regarding human remains  
undertaking regulated activities on local government controlled areas and roads

#### Part 2 Definitions of prescribed activities

*alteration or improvement to local government controlled areas and roads*<sup>35</sup>  
means—

- 1 *Alteration or improvement to local government controlled areas and roads*  
means—
  - (a) installing, changing, damaging or removing a structure in a local government controlled area or on a road; or
  - (b) planting, clearing or damaging of vegetation in a local government controlled area or on a road.
- 2 *Alteration or improvement to local government controlled areas and roads* does not include an alteration or improvement—
  - (a) that constitutes development under the Planning Act<sup>36</sup>; or
  - (b) for which a tree clearing permit is required under the *Vegetation Management Act 1999*; or
  - (c) that involves a network connection; or
  - (d) for which written approval of the local government is required under section 75 of the Act.

<sup>35</sup> Where a local government controlled area comprises land held on trust by the local government under the *Land Act 1994*, the local government must take account of, and give precedence to, its rights, powers and responsibilities as a trustee under that Act.

<sup>36</sup> See the definition of *Planning Act* in the Act, schedule 4.

**commercial use of local government controlled areas<sup>37</sup> and roads** means the use of a local government controlled area or road for soliciting or carrying on the supply of goods and services (including food or drink) for profit, but does not include the following—

- (a) the provision of a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*;
- (b) a business on part of a road if the person carrying on the business is authorised by a permit under the *Land Act 1994* to occupy the relevant part of the road for carrying on the business;
- (c) a business that a person is authorised to carry on under the *Transport Infrastructure Act 1994*;
- (d) using a road for a particular purpose if the use constitutes development under the *Planning Act*;
- (e) operation of a temporary entertainment event;
- (f) undertaking a regulated activity on a local government controlled area or road where the activity is the holding of a public place activity.

**establishment or occupation of a temporary home** means the erection, construction, installation, positioning or placement of a lawful structure, tiny home or caravan used or intended for temporary use as a place of residence but does not include—

- (a) the establishment or occupation of a tiny home or caravan which is used as a place of residence for less than 60 days in any calendar year; or
- (b) the establishment or the occupation of a temporary home on or in a camping ground or caravan park.

**Editor's note;** a lawful structure is a structure that has been approved for use under the relevant legislation.

**installation of advertising devices** means the installation, erection or display of an advertisement or sign that is visible from a road or other public place.<sup>38</sup>

**keeping of animals** means the keeping of an animal or animals for which an approval is required under *Local Law No. 2 (Animal Management) 2011*.

**operation of camping grounds** means to permit access to, or use of, a commercial camping ground but does not include a caravan park.

**operation of caravan parks** means to operate, on a commercial basis, a place for parking and residing in caravans, including a place that provides also for complementary accommodation.

**operation of cemeteries** means to operate a place for disposing of human remains by—

- (a) burial; or
- (b) cremation; or
- (c) placement in a columbarium, mausoleum or vault.

<sup>37</sup> See footnote 36.

<sup>38</sup> See the Act, section 37(5), regarding the relationship between a local law about advertising devices and the local government's planning scheme.

**operation of public swimming pools** means the operation of a swimming pool that is made available for use to—

- (a) members of the public or a section of the public; or
- (b) participants in organised swimming or diving competitions or in training for organised swimming or diving competitions; or
- (c) persons who have a commercial relationship with the owner of the pool.

**operation of temporary entertainment events** means the opening to the public, or the preparation for opening to the public, of an entertainment event and for which the opening to the public does not constitute development under the Planning Act.

**undertaking regulated activities regarding human remains** means undertaking one of the following activities—

- (a) disturbance of human remains buried outside a cemetery; or
- (b) burial or disposal of human remains (excluding cremated remains) outside a cemetery.

**undertaking regulated activities on local government controlled areas<sup>39</sup> and roads** means undertaking one of the following activities on a local government controlled area or road—

- (a) driving or leading of animals to cross a road; or
- (b) depositing of goods or materials; or
- (c) holding of a public place activity prescribed under a subordinate local law for this paragraph, excluding the operation of a temporary entertainment event.

*Example for paragraph (c)*— A subordinate local law may prescribe that a display or information booth in a public park or on a footpath is a regulated activity.

This and the preceding 27 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 1 (Administration) 2020* prepared and adopted in accordance with section 32 of the *Local Government Act 2009* by Toowoomba Regional Council by resolution dated the 17<sup>th</sup> day of May 2022.



Acting Chief Executive Officer

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<sup>39</sup> See footnote 36.





# Toowoomba Regional Council

## Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2020

### Contents

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2020*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2020* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2020* (the **authorising local law**).

### 4 Subordinate local law repealed

This subordinate local law repeals *Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011*.

### 5 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 6 Matters regarding the prescribed activity—Authorising local law, sections 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of

schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **7 Approvals that are non-transferable—Authorising local law, section 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Schedule 1      Establishment or occupation of a temporary home

### Section 6

#### 1.      Prescribed activity

Establishment or occupation of a temporary home.<sup>1</sup>

#### 2.      Activities that do not require an approval under the authorising local law

The establishment of a temporary home on land upon which exists a permanent residence, if the owner of the temporary home or, when the owner of the temporary home cannot be located, the owner of the land upon which the temporary home is established, proves to the satisfaction of an authorised person that the temporary home—

- (a)      is merely being stored on the land; and
- (b)      is not being used as a place of residence.

#### 3.      Documents and materials that must accompany an application for an approval

- (1)      A drawing/s and documentation showing the design and dimensions of the proposed temporary home meeting the requirements of Queensland Development Code Mandatory Part 3.3 – Temporary Accommodation Buildings and Structures.
- (2)      Details of the materials out of which the temporary home is (or is to be) constructed and other structural details of the temporary home.
- (3)      If the temporary building to be used is a Class 10 building as defined by the National Construction Code, Building Code of Australia (BCA), details must be provided confirming approval and subsequently a final certificate has been issued.
- (4)      Details of the location of the temporary home.
- (5)      If the applicant is not the owner of the land on which the temporary home is (or is to be) located—the written consent of the owner.
- (6)      Details of the name of each person who is to occupy the temporary home.

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<sup>1</sup> See *Local Law No. 1 (Administration) 2020*, schedule 2, part 2, *establishment or occupation of temporary home* means the erection, construction, installation, positioning or placement of a lawful structure, tiny home or caravan used or intended for temporary use as a place of residence but does not include—

- (a)      the establishment or the occupation of a tiny home or caravan which is used as a place of residence for less than 60 days in any calendar year; or
- (b)      the establishment or the occupation of a temporary home on or in a camping ground or caravan park.

Editor's note; a lawful structure is a structure that has been approved for use under the relevant legislation.

- (7) Details of the operation of the proposed temporary home including toilet, bathing, laundry, water storage and refuse facilities.
- (8) For the permanent residence proposed to be constructed, altered or extended on the land the subject of the application—a copy of the development approval for—
  - (a) if the permanent residence is to be constructed — the permanent residence;
  - (b) if the permanent residence is to be altered or extended — the building work the subject of the alteration or extension.
- (9) If the applicant is an owner/builder—evidence that the applicant is the holder of an owner/builder permit granted by the Queensland Building and Construction Commission.
- (10) A progress chart or similar timetable showing significant milestones during the process of construction of each of the temporary home i.e.: start and completion timeframes of the project and, as the case may be, the permanent residence or the alterations or extensions to the permanent residence, so as to enable the term of the proposed approval to be fixed by the local government.

#### 4. Additional criteria for the granting of an approval

- (1) The temporary home will not be occupied as a place of residence permanently, or for an indefinite period.
- (2) The applicant proposes, within the period for which the approval is granted—
  - (a) to erect, or convert an existing structure into, a permanent residence; or
  - (b) to carry out building work on a permanent residence that will make the residence temporarily unfit for occupation as a place of residence.
- (3) An adequate source of water will be available to the proposed temporary home.
- (4) Adequate means of waste disposal and sanitation will exist to ensure that reasonable standards of health and hygiene can be maintained in accordance with the *Plumbing and Drainage Act 2018*.
- (5) The temporary home must be located on the land in such a way as to not impact adversely on the amenity of the owner or occupier of any adjoining land.
- (6) The local government may refuse an application for an approval on the ground that—
  - (a) the applicant has not made a genuine application for a development approval for—
    - (i) the proposed erection of, or conversion of, an existing structure into, a permanent residence; or
    - (ii) proposed building work on a permanent residence that will make the residence temporarily unfit for occupation as a place of residence; or

- (b) a development approval has been granted but is likely to expire before building work to be carried out under the approval has been completed.

## 5. Conditions that must be imposed on an approval

No conditions prescribed.

## 6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions of an approval may—
  - (a) regulate the design, dimensions, construction, and external appearance of the temporary home; and
  - (b) require the approval holder to provide, prior to the occupation of the temporary home as a place of residence—
    - (i) specified facilities for personal hygiene and sanitation, and for washing and drying clothes; and
    - (ii) specified equipment or facilities so as to ensure that—
      - (A) the temporary home is adequately supplied with water; and
      - (B) waste water and refuse from the temporary home are disposed of properly; and
  - (c) require the approval holder to dismantle and remove the temporary home by a specified date; and
  - (d) require the approval holder to keep the temporary home in good order and repair; and
  - (e) require the approval holder to ensure that the temporary home is not unsightly or unhygienic; and
  - (f) restrict the number of persons who may occupy the temporary home; and
  - (g) require the approval holder to advise the local government of any change of the name of the persons who are occupying the temporary home.
- (2) All water supplied for domestic purposes to the temporary home must be potable water.
- (3) All sewerage and waste water from the temporary home must be discharged safely and in accordance with the *Plumbing and Drainage Act 2018*.

## 7. Term of an approval

- (1) An approval may be granted for a term of up to 2 years, however, approvals relating to caravans and tiny homes (short term temporary accommodation) will be limited to a period not exceeding 112 days.

- (2) The term of an approval may be assessed by having regard to the information submitted by the applicant.
- (3) The term of an approval must not exceed the lawful period of the development approval for—
  - (a) if the development approval authorises the construction of a permanent residence—the construction of the permanent residence;
  - (b) if the development approval authorises the alteration or extension of the permanent residence—the alteration or extension of the permanent residence.
- (4) The term of the approval must be specified in the approval.
- (5) In any event, the term of an approval comes to an end on the earlier of—
  - (a) the date on which the term of the approval ends; and
  - (b) if the approval relates to the construction of a permanent residence—the date on which the permanent residence becomes fit for occupation as a place of residence; and
  - (c) if the approval relates to the alteration or extension of a permanent residence—the date on which the alterations or extensions have progressed to an extent that the permanent residence is fit for occupation as a place of residence.

## **8. Term of renewal of an approval**

- (1) An approval cannot be renewed.
- (2) However—
  - (a) the local government may extend the term of an approval to coincide with the expected completion date of the building work for the erection or alteration of, or conversion of an existing structure into, a permanent residence that is, when the application for extension is made, likely to be completed within a reasonable time; but
  - (b) the term of the extension must not exceed 6 months.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
Consistency of the proposed operation and management of the activity with the criteria in section 4(3) and (4) of this schedule.		<p>A licence to carry out building work (of the class BLR, BMR, BO or BPMS) issued by the Queensland Building and Construction Commission under the <i>Queensland Building and Construction Commission Act 1991</i></p> <p>OR</p> <p>A plumber's licence granted by the commissioner under the <i>Queensland Building and Construction Commission Act 1991</i></p>



## **Schedule 2      Categories of approval that are non-transferable**

### **Section 7**

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3 Dictionary

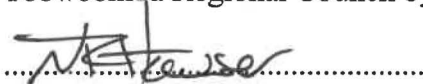
### Section 5

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

**development approval** has the meaning given in the *Planning Act*.

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

This and the preceding 9 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.3 (Establishment or Occupation of Temporary Home) 2020* prepared and adopted in accordance with section 32 of the *Local Government Act 2009* by Toowoomba Regional Council by resolution dated the 17<sup>th</sup> day of May 2022.



Acting Chief Executive Officer





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[No. 34

*Local Government Act 2009**Planning Act 2016*

**TOOWOOMBA REGIONAL COUNCIL**  
**(MAKING OF LOCAL LAW) NOTICE (NO. 1) 2022**

**Title**

1. This notice may be cited as *Toowoomba Regional Council (Making of Local Law) Notice (No. 1) 2022*.

**Commencement**

2. This Notice commences on the date it is published in the Gazette.

**Making of local law**

3. Toowoomba Regional Council (the "Council") has, by resolution dated the 17th day of May 2022, made *Administration (Amendment) Local Law (No. 1) 2022*.

**Making of subordinate local law**

4. Council has also, by resolution dated the 17th day of May 2022, made *Establishment or Occupation of a Temporary Home (Amendment) Subordinate Local Law (No. 1) 2022*.

**Local law amended**

5. *Administration (Amendment) Local Law (No. 1) 2022* amends *Local Law No. 1 (Administration) 2020*.

**Subordinate local law amended**

6. *Establishment or Occupation of a Temporary Home (Amendment) Subordinate Local Law (No. 1) 2022* amends *Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2020*.

Chief Executive Officer

**SCENIC RIM REGIONAL COUNCIL**  
**ADOPTION OF SCENIC RIM PLANNING SCHEME 2020**  
**AMENDMENT NO. 4 (MINOR AMENDMENT TO INCLUDE**  
**UPDATED FLOOD HAZARD OVERLAY MAPPING FOR THE**  
**CANUNGRA TOWNSHIP AND VERESDALE FLOOD STUDY AREAS)**

Notice is given that on 7 June 2022, Scenic Rim Regional Council adopted Minor Amendment No. 4 to the Scenic Rim Planning Scheme 2020 (Planning Scheme) made in accordance with Chapter 2, Part 2 of the Minister's Guidelines and Rules (Version 1.1).

The purpose of the Minor Amendment is to incorporate the updated flood mapping from the revised Canungra Township Flood Study and the Veresdale Flood Study adopted by Council on 26 April 2022. Other consequential amendments are made to the Flood Hazard Overlay Code and Administrative Definitions to improve clarity about the amended flood hazard mapping based on a localised flood study that has been undertaken by a Registered Professional Engineer Queensland and includes climate change projections.

The amended Planning Scheme will have effect on and from 17 June 2022.

Amendment No.4 is available for inspection and purchase at the Scenic Rim Regional Council's Customer Service and Administration Centre, 82 Brisbane Street, Beaudesert and can also be viewed on the Scenic Rim Regional Council website [www.scenicrim.qld.gov.au](http://www.scenicrim.qld.gov.au).

Jon Gibbons  
Chief Executive Officer  
Scenic Rim Regional Council  
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