

Toowoomba Regional Council

Subordinate Local Law No. 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2020

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 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4 Subordinate local law repealed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. 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 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), 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 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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 Carrying out works on a road or interfering with a road or its operation

Section 6

1. Prescribed activity

Carrying out works on a road or interfering with the road or its operation (*Local Government Act 2009*, section 75(2)).

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

No activities stated.

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

- (1) Full details of the proposed works or interference including plans and specifications.
- (2) Details of all building work, construction and maintenance activities, and other work to be carried out under the approval, including reference to any relevant development approvals.
- (3) Details of the time and place at which the prescribed activity will be undertaken.
- (4) The proposed term of the approval.
- (5) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic including documentation, compliant with relevant legislation, covering what traffic control measures and devices are able to be used to warn, instruct and guide road users in the safe negotiation of work sites on roads.
- (6) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.
- (7) Plans and specifications detailing—
 - (a) the relevant part of the road that is to be used for the undertaking of the prescribed activity; and
 - (b) the proposed location of each structure and item of equipment to be used in the undertaking of the prescribed activity; and
 - (c) the type and location of any utility, service or infrastructure to be used in the undertaking of the prescribed activity.
- (8) A copy of each policy of insurance of the applicant which is applicable to the undertaking of the prescribed activity including, without limitation, a public liability insurance policy which provides indemnity for each individual occurrence in an amount not less than \$10,000,000.00.

- (9) If the prescribed activity is the removal of a tree or other vegetation from a footpath—
- (a) details of the reason for requesting the removal of the tree or other vegetation from the footpath; and
 - (b) a report from a qualified arborist detailing—
 - (i) the qualifications of the arborist; and
 - (ii) the contact details for the arborist; and
 - (iii) the date of inspection of the tree or other vegetation by the arborist; and
 - (iv) the location of the tree or other vegetation; and
 - (v) the particulars of the tree or other vegetation, including—
 - (A) botanical name; and
 - (B) height; and
 - (C) average crown diameter; and
 - (D) useful life expectancy; and
 - (vi) a sketch plan drawn to scale showing the location of the tree or other vegetation including road names, location of buildings, power lines and services, the tree or other vegetation clearly identified, together with the identification of surrounding vegetation by reference to species and botanical name; and
 - (vii) the current state of health of the tree or other vegetation; and
 - (viii) the opinion or comments of the arborist—
 - (A) in relation to the applicant's concern about the tree or other vegetation; and
 - (B) about the removal of the tree or other vegetation; and
 - (C) about alternatives to removal of the tree or other vegetation; and
 - (D) if the recommendation of the arborist is the removal of the tree or other vegetation— about an alternative location suitable for re-planting a replacement tree or vegetation on the footpath adjoining the premises of the applicant; and
 - (c) and the applicant has requested the removal of a tree or other vegetation from a footpath because the tree or other vegetation is having a detrimental impact on the foundations of a building or structure,- an

engineer's report detailing how, and the extent to which, the tree or other vegetation is having a detrimental impact on the foundations of the building or structure.

4. Additional criteria for the granting of an approval

The carrying out of the work or interference with the road or its operation must not—

- (a) result in—
 - (i) harm to human health or safety; or
 - (ii) property damage or loss of amenity; or
 - (iii) nuisance; or
 - (iv) obstruction of pedestrian or vehicular traffic; or
 - (v) environmental harm; or
 - (vi) environmental nuisance; or
- (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken; or
- (c) penetrate, or be likely to penetrate, the obstacle limitation surface of any aerodrome in the local government area of the local government.

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) require compliance with specified safety requirements; and
 - (b) regulate the time within which the prescribed activity must be carried out; and
 - (c) specify standards with which the prescribed activity must comply; and
 - (d) require the approval holder to—
 - (i) carry out specified additional work such as earthwork and drainage work; and
 - (ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before commencement of the prescribed activity; and
 - (iii) give the local government specified indemnities; and

- (iv) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
 - (v) remove a structure erected or installed, under the approval, at the end of a stated period; and
 - (vi) exhibit specified signage warning about the conduct of the prescribed activity.
- (2) The conditions of an approval may require the approval holder to take specified measures to—
 - (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
 - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
 - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of pedestrian or vehicular traffic; and
 - (d) ensure that the works are carried out strictly in accordance with the information submitted to the local government; and
 - (e) minimise obstruction or inconvenience to the public by, for example, carrying out the work during a specified period or in a specified manner so as to avoid undue inconvenience to the public; and
 - (f) locate existing services, including utility services, situated in the vicinity of the area the subject of the work prior to the commencement of the work and comply with the requirements of service providers; and
 - (g) ensure that pedestrian and vehicular traffic is controlled in accordance with the requirements of part 3 of the Manual of Uniform Traffic Control Devices; and
 - (h) give notice to emergency services, bus and taxi operators and garbage collection service providers, as appropriate, prior to the commencement of the works; and
 - (i) if required by the local government—install scaffolding at the site of the works in a specified manner; and
 - (j) ensure that the scaffolding is located as required by the local government and, generally, located so as not to detrimentally impact on the safety and movement of vehicles on any road; and
 - (k) install 1 or more barriers adjacent to the site of the works which are capable of—
 - (i) safely containing all building materials within the site of the works; and

- (ii) preventing public use and access; and
- (l) ensure pedestrian and vehicular safety including, but not limited to, the installation and use of barricades, safety lighting, warning devices and other approved measures for providing for adequate pedestrian and vehicular access; and
- (m) ensure that access to all services, including local government services, for example water valves, fire hydrants, manholes and access pits is maintained at all times; and
- (n) if the prescribed activity requires the temporary closure of a road—give prior notice to adjoining and affected owners and occupiers of land and maintain the access of affected and adjoining owners and occupiers of land; and
- (p) monitor and restrict water usage associated with the undertaking of the prescribed activity; and
- (q) ensure the cleaning of each area of road, and adjacent buildings and land which are affected by the undertaking of the prescribed activity; and
- (r) ensure that the approval for the undertaking of the prescribed activity is available for inspection on demand by an authorised person; and
- (s) in the undertaking of the prescribed activity, ensure that all plant and equipment is used strictly in accordance with relevant manufacturers' specifications; and
- (t) ensure the removal of all hoardings and footpath closure devices and the resumption of normal road and footpath conditions; and
- (u) reinstate the site at which the prescribed activity is undertaken to its original condition at no cost to the local government within a specified period;
- (v) reimburse the local government in respect of all costs and expenses associated with repairs and reinstatement work which are a direct or indirect consequence of the undertaking of the prescribed activity in accordance with the requirements of the approval; and
- (w) ensure that an unobstructed pedestrian corridor or footpath having a width of not less than 1m is maintained at all times for pedestrian access (which may be subject to change to a greater width) and that no barrier or construction materials encroach onto the corridor or footpath area at any time whilst the prescribed activity is being undertaken; and
- (x) if the work relates to the installation of bait stations within the footpath—
 - (i) ensure that the bait stations are flush with the surface of the footpath and that any surface breakage or chipping around any bait station is reinstated; and

- (ii) deliver to the local government an as constructed plan of a specified size which accurately details the location of each bait station; and
- (y) if the prescribed activity is to be undertaken on a State controlled road—obtain relevant approvals from the State in respect of the undertaking of the prescribed activity prior to the commencement of the prescribed activity; and
- (z) record, and deliver to the local government on a daily basis, details of—
 - (i) the location and time of erection and removal of road work signage; and
 - (ii) the occurrence of any adverse incident incidental to the undertaking of the prescribed activity; and
- (aa) ensure that the prescribed activity is not undertaken during peak periods on high volume roads in urban areas and, if works continue overnight, measures to ensure that appropriate long term signage and delineation layout is implemented; and
- (ab) prepare a traffic control management plan for the undertaking of the prescribed activity, obtain the approval of the local government for the plan and, subject to approval of the plan, implement the plan in accordance with the conditions of the approval; and
- (ac) ensure the installation of specified hoardings adjacent to the site of the prescribed activity; and
- (ad) if the prescribed activity is to be undertaken over an awning—ensure that the structural integrity of the awning is assessed and certified by an engineer as capable of supporting or containing plant, workers, tools and materials used above the awning and produce a copy of the engineer's certification prior to the commencement of the prescribed activity; and
- (ae) if the undertaking of the prescribed activity involves a temporary road closure—give public notice of the temporary road closure, for example, by the publication of notice of the temporary road closure in a newspaper circulating generally in the local government area of the local government; and
- (af) if the undertaking of the prescribed activity involves a temporary road closure — an order under the *Transport Operations (Road Use Management) Act 1995*, section 96 is to be obtained and a copy provided to the local government; and
- (ag) if the undertaking of the prescribed activity involves a temporary road closure – temporary conflute signage is to be installed (1200mm (w) x 900mm (h) with text height of 100-150mm) advising motorists of the forthcoming closure at an approved time prior to the closure (ie. normally 7 days); and

- (ah) reimburse the local government all costs and expenses incurred by the local government which directly or indirectly relate to damage sustained to any road or footpath paving or underlying footpath slab which are a direct or indirect consequence of the undertaking of the prescribed activity; and
- (ai) ensure that all trees, shrubs and other vegetation which are affected, or may be affected, by the prescribed activity are retained and not damaged; and
- (aj) ensure that no chemical type material, oil, paint, bituminous product, fuel, cement, concrete or the like is placed or dumped on any tree, shrub or other vegetation as a direct or indirect consequence of the undertaking of the prescribed activity; and
- (ak) ensure that in the undertaking of the prescribed activity, no tree, shrub or other vegetation on a local government controlled area or road is removed, modified or disturbed, including the disturbance of any root system within the drip line, in the absence of an approval of the local government; and
- (al) if any tree, shrub or vegetation is damaged as a direct or indirect consequence of the undertaking of the prescribed activity—ensure the replacement of the damaged tree, shrub or other vegetation or pay compensation to the local government in an amount equal to the cost of replacement of the damaged tree, shrub or other vegetation; and
- (am) if the undertaking of the prescribed activity affects a designated parking space—prior to the commencement of the prescribed activity, obtain from the local government an approval in respect of the use of the designated parking space; and
- (an) ensure that the undertaking of the prescribed activity complies with erosion and sediment control requirements of the local government, for example—
 - (i) the construction of sediment fences, earth berms and temporary drainage designed to prevent sediment being transported to any adjoining land, road or drainage system; and
 - (ii) all disturbed areas must be mulched or turfed and grassed as soon as practicable during the undertaking of the prescribed activity; and
 - (iii) measures must be put in place to prevent vehicles used in the undertaking of the prescribed activity tracking sediment and other pollutants onto any road during the undertaking of the prescribed activity; and
 - (iv) any road or drainage system affected by the undertaking of the prescribed activity must be reinstated; and

- (v) stockpiles of topsoil, sand, aggregate, spoil and other material capable of being moved by the action of wind or running water must be stored clear of any drainage path, with appropriate measures to prevent entry onto any road or drainage system; and
- (ao) install and maintain synthetic grass and associated works on or adjacent to the area on which the prescribed activity is undertaken, including the undertaking of maintenance activities from time to time to meet current and future planning, safety, amenity and engineering requirements, including drainage; and
- (ap) remove synthetic grass and associated works if the owner or occupier of land affected by the undertaking of the prescribed activity obtains approval from the local government to have synthetic grass or associated works; and
- (aq) if the approval authorises the approval holder to use a specified part of a road for the undertaking of the prescribed activity — pay a specified rental to the local government at specified intervals; and
- (ar) if the undertaking of the prescribed activity involves open-trenching a road, a detailed report is to be provided with supporting reasons as to why the road crossing cannot be underbored; and
- (as) if the undertaking of the prescribed activity involves open-trenching a road, reinstatement of the road crossing is to meet specifications as detailed in the approval; and
- (at) if the undertaking of the prescribed activity involves installing private infrastructure, for example, the installation of water pipelines within a road reserve, the following conditions may be imposed—
 - (i) suitable above ground marker posts must be installed in line with the crossing point at the kerb of the road;
 - (ii) on completion of the pipework, as constructed data must be provided within 30 days, including the GPS coordinates of the above ground marker posts;
 - (iii) the minimum cover of road pavement on top of the private infrastructure is 900mm, however, depending on the location of the private infrastructure, the minimum cover of road pavement on top of the private infrastructure may be more than 900mm;
 - (iv) the approval holder may be required, at the expense of the approval holder alone, to alter, relocate, make safe or remove any works associated with, or impacted by, the installation of the private infrastructure.

7. Term of an approval

- (1) The term of an approval must be determined by having regard to the information submitted by the applicant.

- (2) The term of the approval must be specified in the approval.

8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by having regard to the information submitted by the approval holder.
- (2) The term of the renewal or extension must be specified in the written notice.

Table 1 – Third party certification

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirement stated		

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

aerodrome means a aerodrome within the meaning of the *Civil Aviation Act 1988 (Cwlth)*, section 3.

aircraft —

- (a) has the meaning given in the *Civil Aviation Act 1988 (Cwlth)*, section 3; and
- (b) includes any form of fixed wing aircraft or aeroplane, helicopter, ultra light, glider, hang-glider, dirigible, airship, hot air balloon, or any form of craft capable of carrying at least 1 person whilst sustaining itself off the ground.

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

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

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

footpath has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

obstacle limitation surface—

- (a) means the series of surfaces established by the local government in the air space around an aerodrome which limit the height above ground level of objects surrounding the aerodrome; and
- (b) an object which projects through the obstacle limitation surface for an aerodrome becomes an obstacle to the operation of aircraft at the aerodrome.

road—

- (a) has the meaning given in the authorising local law; and
- (b) includes—
 - (i) an area of land that—
 - (A) is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; and
 - (B) is open to, or used by, the public; and
 - (ii) a footpath or bicycle path.

structure has the meaning given in the *Local Government Act 2009*.

vegetation means trees, shrubs, plants and all other organisms of vegetable origin (whether living or dead).