



BURDEKIN SHIRE COUNCIL



AGENDA

ORDINARY COUNCIL MEETING

**HELD AT COUNCIL ADMINISTRATION BUILDING,
145 YOUNG STREET, AYR**

on 26 July 2011

COMMENCING AT 9:00AM



<DATE>

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- **PRAYER**

- **DECLARATIONS OF INTEREST**

- **MINUTES AND BUSINESS ARISING**

ITEM-1 Ordinary Council Meeting Minutes - 12 July 2011

Recommendation

That the minutes of the Ordinary Council Meeting held on 12 July 2011 be received as a true and correct record.



MINUTES

ORDINARY COUNCIL MEETING

**HELD AT COUNCIL ADMINISTRATION BUILDING,
145 YOUNG STREET, AYR**

On 12 July 2011

COMMENCING AT 9:00AM



TUESDAY 12 JULY 2011

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Ordinary Council Meeting 12 July 2011



BURDEKIN SHIRE COUNCIL



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ATTENDANCE

Councillors L.A. McLaughlin (Mayor), L Loizou (Deputy Mayor), T.P List, E. Gazziola, P.M Dalle Cort, M.J Haynes and R. H. Lewis

Mr. K. Holt - Chief Executive Officer
Mr. D.P. Mulcahy - Director Corporate and Community Services
Mr. T. G. Williams - Director Environment and Operations
Mr. S. Great - Manager Planning and Development
Miss T. Jensen - Manager Environment and Health
Mr. W. Saldumbide - Manager Operations
Mr. M. Ingle – Acting Manager Technical Services

Minutes Clerk – Mrs. Vicki Walker

Apologies:

- **PRAYER**

The meeting prayer was delivered by Reverend Dway Goon Chew of the Anglican Church.

- **DECLARATIONS OF INTEREST**

The Mayor called for declarations of interest.

No declarations of interest were identified.

- **MINUTES AND BUSINESS ARISING**

ITEM-1 Ordinary Council Meeting Minutes - 28 June 2011

Recommendation

That the minutes of the Ordinary Council Meeting held on 28 June 2011 be received as a true and correct record.

Resolution

Moved Councillor Loizou, seconded Councillor Lewis that the recommendation be adopted.

CARRIED

BA-1 GB-3 - CEO provides Update on Pacific Court Waste Collection Issues

Chief Executive Officer, Mr. Holt reported on issues in relation to the petition received from residents of Pacific Court, Brandon in response to correspondence from Council regarding issues with the waste collection service in Pacific Court.

Mr. Holt advised there had been some mis-communication as the letter forwarded to the residents did not request that the bins be put out in a different place on collection day.

Contact will be made with all residents in the street to clarify the issue.

ITEM-2 Burdekin Shire Youth Council Minutes - 30 May 2011

Recommendation

That the minutes of the Burdekin Shire Youth Council Meeting held on 30 May 2011 be received and adopted.

Resolution

Moved Councillor Haynes, seconded Councillor Gazziola that the recommendation be adopted.

CARRIED

• REPORTS

Nil

• CORPORATE & COMMUNITY SERVICES

ITEM-7 Change to Library Hours Burdekin Library - Home Hill

Manager Library, Mr. John Scott attended the meeting at this stage.

Executive Summary

Currently the Home Hill Library opens on a Thursday night from 5 pm to 6 pm. This receives no patronage and the hour should be moved to Wednesday to support a uniform closing time during the week. A recent community submission as part of the Draft Strategic Plan consultation process supports this.

Recommendation

That Council approves the change to operating hours at the Home Hill Library as set out

below. The recommended changes have been highlighted in bold.

<u>Day</u>	<u>Existing Times</u>	<u>Recommended Times</u>
Monday	1-00 pm to 5-00 pm	1-00 pm to 5-00 pm
Tuesday	1-00 pm to 5-00 pm	1-00 pm to 5-00 pm
Wednesday	10-00 am to 12-00 noon 2-00 pm to 4-00 pm	10-00 am to 12-00 noon 2-00 pm to 5-00 pm
Thursday	1-00 pm to 6-00 pm	1-00 pm to 5-00 pm
Friday	1-00 pm to 5-00 pm	1-00 pm to 5-00 pm
Saturday	9-00 am to 12-00 noon	9-00 am to 12-00 noon

There is no change to the total hours the library is open at Home Hill.

Resolution

Moved Councillor Lewis, seconded Councillor Dalle Cort that the recommendation be adopted.

CARRIED

ITEM-8 Change to Library Hours Burdekin Library - Ayr

Executive Summary

During May 2011 a trial of new hours was conducted at the Burdekin Library, Ayr with a view to adopting permanently the proposed new hours subject to community feedback during the trial. No objections were received to the change in hours.

Recommendation

That Council approves the new opening hours for the Burdekin Library, Ayr as listed below:

<u>Day</u>	<u>New Opening Hours</u>	<u>Previous Opening Hours</u>
Monday	Closed	Closed
Tuesday	9-30 am to 5-00 pm	10-30 am to 5-30 pm
Wednesday	9-30 am to 5-00 pm	10-30 am to 5-30 pm
Thursday	9-30 am to 5-00 pm	11-45 am to 7-00 pm
Friday	9-30 am to 5-00 pm	10-30 am to 5-30 pm
Saturday	9-00 am to 4-00 pm	9-00 am to 4-00 pm
Sunday	Closed	
Total Opening Hours	37 hours	35 hours

Resolution

Moved Councillor Loizou, seconded Councillor Lewis that the recommendation be adopted.

CARRIED

ITEM-9 Burdekin Library Strategic Plan 2011-2015

Executive Summary

In October 2010 a strategic planning workshop was held involving staff, councillors and two community focus groups involving adults and youth. From this workshop a draft 5 year strategic plan was prepared and was adopted by Council on 19 April 2011. Community feedback was sought during May 2011. Two submissions were received.

Recommendation

That Council adopts the Burdekin Library Strategic Plan 2011-2015 as tabled.

Resolution

Moved Councillor Dalle Cort, seconded Councillor Lewis that the recommendation be adopted.

CARRIED

Mr. Scott left the meeting.

ITEM-10 RADF Funding - May 2011 Round

Executive Summary

On 18 and 19 May 2011, advertisements appeared in local newspapers inviting applications for funding under the Regional Arts Development program.

Recommendation

It is recommended that funding be provided under the Regional Arts Development Fund as follows:

Applicant	Project	Letter No	Requested Funding	Recommended Funding
The Tremadours	Conduct youth workshops in songwriting skills as part of regional tour	1076020	\$2,401	\$2,401
Burdekin Cultural Complex	Conduct drama workshops for 40 local teenagers.	1078802	\$5,000	\$5,000
Burdekin Art Society Inc	Conduct two day acrylic workshop with tutor, Jenni Kelly	1079742	\$984	\$984
Totals			\$8,385	\$8,385

Resolution

Moved Councillor Gazzola, seconded Councillor Dalle Cort that the recommendation be adopted.

CARRIED

• ENVIRONMENT & OPERATIONS

ITEM-3 **Robert and Barbara Stockdale - Development Application for Reconfiguring a Lot at Ramsden Road, Carstairs (Lots 32-34 on SP238868 Parish of Inkerman, County of Salisbury)**

Executive Summary

An application has been received from Cleve McGuane Surveys Pty Ltd on behalf of their client Robert and Barbara Stockdale seeking approval for Reconfiguring a Lot (boundary realignment) at 105 Ramsden Road, Carstairs (Lots 32-34 on SP238868 Parish of Inkerman, County of Salisbury). A Development Application (Code Assessable) has been triggered in accordance with the Burdekin Shire IPA Planning Scheme

Recommendation

That Council approves the Development Application for Reconfiguring a Lot (boundary realignment) at 105 Ramsden Road, Carstairs Lots 32-34 on SP238868 Parish of Inkerman, County of Salisbury, subject to the following conditions:

GENERAL

- 1.1 The Council will not release the formal Plan of Reconfiguration until all rates and charges in arrears in respect of the land, the subject of the application, are paid in full.
- 1.2 Pay the sum of \$71-70 calculated on the basis of a charge of \$23-90 per lot to be levied on the Council by the Department of Environment & Resource Management

for each new valuation.

- 1.3 The applicant must provide a certified statement from a licensed plumber that no existing interconnecting water supply plumbing cross the boundaries between the proposed lots.

ROADWORKS

2. The construction of any crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.

DRAINAGE

3. The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads;

WATER SUPPLY

4. The applicant must provide a certified statement from a licensed plumber that no existing interconnecting water supply plumbing crosses the boundaries between the proposed new lots.

PUBLIC UTILITY SERVICES

5. If any existing public utility service including telephone, electricity, water, sewerage or gas needs to be altered or relocated to complete the reconfiguration the developer must bear the cost of alteration or relocation.

ENVIRONMENT & HEALTH

6. Roads, fences, buildings or infrastructure that would otherwise require any clearing of native vegetation must not be located within the uncleared land adjacent to the Burdekin River.

Resolution

Moved Councillor Dalle Cort, seconded Councillor Loizou that the recommendation be adopted.

CARRIED

ITEM-4 Application for Permit to Occupy over Lot 10 on AP2853 - The Esplanade, Airdmillan

Executive Summary

A request has been received from Department of Environment & Resource Management (DERM), seeking Council's views in respect of the Permit to Occupy over land described as Lot 10 on AP2853, The Esplanade, Airdmillan (Parish of Antill, County of Gladstone), in

accordance with the Departments requirements.

Recommendation

That Council offers no objection to the request from Department of Environment and Resource Management for the Permit to Occupy over land described as Lot 10 on AP2853, (Parish of Antill, County of Gladstone).

Resolution

Moved Councillor Loizou, seconded Councillor Gazziola that the recommendation be adopted.

CARRIED

ITEM-5 Water Treatment - Ayr/Brandon

Executive Summary

The incidence of dirty water in the Ayr/Brandon water supply has increased dramatically in the past 12 months. The problem can be attributed to increased iron and manganese levels in the raw water supply at the South Ayr bore field.

Various alternatives are available to address the dirty water issue. The recommended alternative is to treat the raw water from the South Ayr bore field prior to entering the distribution system and also to air scour the mains in the distribution system to remove accumulated iron and manganese.

This treatment should be undertaken after successful community engagement.

Recommendation

- (1) Engage with the community on the benefits and costs of treating the raw water from the South Ayr bore field and cleaning the distribution mains most affected by iron and manganese.
- (2) Subject to assessment of the community engagement:
 - (a) commence and complete detailed planning and design for treating the raw water from the South Ayr bore field in the 2011/2012 budget year.
 - (b) Review capital budgets and undertake the construction of the recommended South Ayr water treatment process for the removal of iron and manganese in the 2012/2013 budget year.
- (3) Budget for air scouring of distribution mains in the 2012/2013 to 2015/2016 budget years.

Resolution

Moved Councillor Lewis, seconded Councillor Dalle Cort that Council:

-
1. Engages with the community on the benefits and costs of treating the raw water from the South Ayr bore field and cleaning the distribution mains most affected by iron and manganese.
 2. Commences and completes detailed planning and design for treating the raw water from the South Ayr bore field in the 2011/12 budget year.
 3. Reviews capital budgets and undertakes the construction of the recommended South Ayr water treatment process for the removal of iron and manganese in the 2012/2013 budget year.
 4. Budgets for scouring of distribution mains in the 2012/2013 to 2015/2016 budget years.

CARRIED

ITEM-6 Kirknie Road Landfill - Hours of Operation

Executive Summary

The Kirknie Road landfill is open weekdays and on a Saturday afternoon, with very limited utilisation on a Saturday. Surveys conducted of the few customers visiting the landfill on a Saturday afternoon has shown that they prefer morning hours and a change of hours to Saturday morning is now recommended.

Recommendation

That the Kirknie Road landfill operating hours be changed from to 1pm to 5pm on a Saturday afternoon to 8am to 12noon.

Resolution

Moved Councillor Loizou, seconded Councillor Dalle Cort that the Kirknie Road landfill operating hours be changed from 1pm to 5pm on a Saturday afternoon to 8am to 12 noon, commencing from 1 September 2011.

CARRIED

- **CORRESPONDENCE FOR INFORMATION**

- **NOTICES OF MOTION**

- **URGENT BUSINESS**

- **GENERAL BUSINESS**

Cr. Dalle Cort tabled a media release in relation to federal funding.

- **IN COMMITTEE DISCUSSIONS**

Council meets In Committee under Section 72 of Local Government (Operations) Regulation 2010

Resolution

Moved Councillor Loizou, seconded Councillor Gazzola that the Council meets in committee under the following sections of the Local Government (Operations) Regulation 2010:

72.1(h) – other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage,

for the purpose of discussing drainage matters.

CARRIED

ORDINARY MEETING OF COUNCIL RESUMED

Resolution

Moved Councillor Haynes, seconded Councillor Loizou that the ordinary meeting of Council be resumed.

CARRIED

- **DELEGATIONS**

11.00 a.m. – Jed Moore, Director Corporate Services, National Retail Association (NRA) to meet with Council regarding the Association's application for seven-day trading for Ayr.

Council meets In Committee under Section 72 of Local Government (Operations) Regulation 2010

Resolution

Moved Councillor Loizou, seconded Councillor List that the Council meets in committee under the following sections of the Local Government (Operations) Regulation 2010:

72.1(h) – other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage,

for the purpose of discussing:

1. Drainage issues at the Home Hill Golf Course
2. Planning Matters
3. Town Drainage matters

CARRIED

ORDINARY MEETING OF COUNCIL RESUMED

Resolution

Moved Councillor Haynes, seconded Councillor Gazziola that the ordinary meeting of Council be resumed.

CARRIED

GB-1 Council to correspond with Canegrowers Burdekin regarding Exemption under Sustainable Planning Act (SPA) in relation to Land Levelling

Resolution

Moved Councillor Lewis, seconded Councillor List that Council corresponds with Canegrowers Burdekin:

1. Confirming that an exemption exists under the provisions contained within the Sustainable Planning Act (SPA) in relation to land levelling of property; and
2. Advising that, due to this exemption, any on-going land levelling practices should be carried out responsibly to minimise negative impacts on surrounding land uses, including Council infrastructure, as Council is currently dealing with a number of issues whereby land levelling has occurred without due regard to the negative impacts of drainage on neighbouring properties.

FOR: Councillors Haynes, Lewis, Gazziola, List and McLaughlin

AGAINST: Councillors Dalle Cort and Loizou

CARRIED 5/2

There being no further business the meeting closed at 1.00 p.m.

These minutes were confirmed by Council at the Ordinary Council Meeting held on 26th July, 2011.

MAYOR

ITEM-2 Budget Meeting Minutes - 27 June 2011

Recommendation

That the minutes of the Budget Meeting held on 27 June 2011 be received as a true and correct record.

BURDEKIN SHIRE COUNCIL

MINUTES – BUDGET MEETING HELD ON 27 June 2011

Held in the John Drysdale Chamber
Commencing at 4.00 p.m.

ATTENDANCE

Councillors L.A. McLaughlin (Mayor), L. Loizou (Deputy Mayor), T.P. List, E. Gazziola, P.M. Dalle Cort, M.J. Haynes and R.H. Lewis

Mr. Ken Holt – Chief Executive Officer
Mr. D.P. Mulcahy – Director Corporate and Community Services
Mr. T.G. Williams – Director Environment and Operations
Mr. G. Pappalardo – Manager Operations (Incumbent)
Mr. W. Saldumbide – Manager Operations
Miss T. Jensen – Manager Environment and Health
Mr. S. Great – Manager Planning and Development
Mr. M. Ingle – Acting Manager Technical Services
Mr. B. Covolo – Manager Information and Customer Services
Mr. T. Cross – Manager Financial Services
Ms. P. Miller – Rates Supervisor
Mrs. R. Hook – Rates Officer
Miss M. Tuffin – Rates Officer

Purpose of Meeting

In accordance with the provisions of the Local Government Act 2009 and the Local Government (Finance, Plans and Reporting) Regulation 2010, the Council will adopt its Budget for the 2011-12 financial year. Council will consider, at the Budget Meeting, a document providing details of the Council's financial operations and financial position for the previous financial year; the 2011-12 financial year; the two (2) forecast years for 2012-13 and 2013-14; and relevant measures of financial sustainability for 2011-12 and the following nine (9) financial years.

ITEM 1 – Mayor’s 2011-12 Budget Address

The Mayor presented her 2011-12 budget address.

Recommendation

That the Mayor’s 2011-12 budget address be received.

Resolution

Moved Councillor Lewis, seconded Councillor Haynes that the recommendation be received.

CARRIED

2011-12 Mayor's Budget Address

Councillors, staff, ladies and gentlemen.

I present to you today the 2011-12 budget for the Burdekin Shire Council. The budget provides for services to the community, the maintenance of our assets and investment in new capital works. It also ensures that we have a sustainable financial future.

The Local Government Act and basic good management requires us to demonstrate long term financial sustainability. One of the keys to achieving financial sustainability is to ensure that our operating revenues (which include rates and charges) are greater than our operating expenses.

I am pleased to show that this budget and future forecast years continue to show operating surpluses. Operating at a surplus means our council is set up for a strong financial future.

We are mindful of the need to contain rate and charge increases to a minimum but we must also be realistic if we are to maintain our existing level of services and infrastructure.

Overview

Our total budgeted rates and charges increase compared to 2010-11 is 5.12%. This is quite an achievement considering our input costs such as electricity, insurance and construction costs have risen greater than this amount.

All of our funds have operating surpluses. The general fund which includes the general, special and separate rates shows a 4.66% increase. New land valuations have significantly impacted on individual properties, and I have explained this later in my address.

The minimum general rate has increased 4.99% from \$869 to \$912. The Environment Special Charge remains unchanged at \$16-50.

The waste service charges have increased about 7.3%. The residential three bin service has increased \$29 and the rural two bin service has increased \$25. The commercial two bin service has increased \$41. This increase includes a component paid to the State Government for their waste levy which applies to commercial/industrial waste deposited at the landfill from 1 December 2011.

The sewerage charge has increased \$28 or 6.0% from \$468 to \$496. The water access charge has increased \$18 or 5.0% from \$358 to \$376. The water consumption charges have increased 7.1% to 15 cents per kilolitre for usage up to 1,000 kl, and 75 cents per kilolitre for usage above 1,000 kl.

Another factor for a sustainable financial future is our debt levels. We are expecting to borrow only \$1.4 M this year and our expected debt level will be \$8.4 M. This compares to a debt level of \$12.1 M in 2005-06. The projected level is relatively low and gives us the capacity to raise additional borrowings in future years for infrastructure upgrades.

Main Highlights

The 2011-12 budget includes approximately \$48.3 M in operational expenditure (including about \$8 M in depreciation) and capital expenditure of approximately \$14.4 M. This is a significant spend in our local community. Some of the major projects include the following:

- Allocation of \$9.9 M for maintenance and capital works on roads, drainage and reseals.
- Allocation of \$11.1 M for flood damage restoration following recent flood events.
- Continuation of an 8 year programme to provide kerbing and channelling and bitumen widening to urban streets that do not require major underground drainage at a cost of \$627,000.
- Major drainage schemes for Andersen Street, Ayr at a cost of \$200,000 and Munro Street, Brandon \$100,000.
- Upgrading/completion of Pyott's Dam as part of the Ayr Flood Study – additional funds of \$390,000.
- Fluoridation of the water supply schemes at a cost of \$1.8 M which is imposed and funded by the State Government. An additional \$200,000 will be spent in 2012-13.
- Commencement of construction of sewerage reticulation to Sutcliffe Estate at a cost of \$990,000. An additional \$1.83 M is expected to be spent in 2012-13. Extensive community consultation will be undertaken in relation to this project.
- Sewerage projects of \$1.22 M include:-
 - the continuation of the sewerage pipe relining \$500,000;
 - upgrade of the sludge disposal system at the Ayr and Home Hill treatment plants;
 - general refurbishment of the sewerage pump stations;
 - and replacement of the sludge digester dome at the Ayr treatment plant.
- Water projects include general refurbishment of assets at \$200,000.
- Installation of a weighbridge, weighbridge office, roads, solar power supply, fencing and operational equipment at the Kirknie Road Landfill at a cost of \$200,000. The State Government will fund \$150,000.

-
- Refurbishment and rebranding of the Ayr and Home Hill Libraries at an estimated cost of \$123,000.
 - Installation of fibre optic cabling from the Jones Street Depot to the SES Headquarters in McCathie Street at a cost of \$65,000 which will improve the communications and resilience of our emergency response and activities.
 - Upgrade our information technology infrastructure including:
 - replace our electronic storage area network \$150,000;
 - implement an upgraded server solution \$140,000;
 - replace the existing UPS in the primary computer room \$45,000;
 - upgrade the tape library solution for back up and archive \$40,000;
 - upgrade the wireless WAN network \$38,300;
 - and upgrade core switches \$25,000.

These upgrades will provide greater reliability and availability for our business applications; improve our disaster recovery and business continuity ability; and reduce management and administrative time.

- Refurbishing the Queen Street Public Toilets at a cost of \$80,000 in addition to minor maintenance at our main public halls and buildings.
- Support for welfare and community. Support for pensioners through the Council Pensioner Remission is estimated at \$280,300. Funding estimated at \$645,000 will be distributed to various welfare, cultural, sporting and community based organisations in the Shire through grants, in-kind services or sewerage charge rebates.

Valuations and Rating

A significant factor influencing the amount of general rates paid by landowners is the recent property valuations undertaken by the Department of Environment and Resource Management (DERM) – the first in 5 years.

Council continues to apply a differential rating system to achieve a fairer and more equitable distribution of the rating burden. Using the new valuations determined under the new methodology with a mixture of site values (non-rural land) and unimproved values (rural land) was not a fair indicator for determining the rating burden between the categories.

We looked at the past 5 revaluations from 1996 and used a weighted average valuation as a fairer indicator to determine the amount of revenue to be derived from each rating category. We also used the rule that no category contributed less than 1% more than it did the previous year. We will continue to monitor and refine this process in future years. Council will be presenting information sessions for the community prior to the distribution of annual rating notices.

The new valuations provide some significant valuation changes within each category. Some ratepayers will enjoy reduced rates, while others will have to pay more. The general rate must be based on the valuation. Council has not used capping and continues to acknowledge that the property valuation is a fair indicator of the general rating burden to be met by that property.

Our current modelling indicates that 52% of all rateable properties experience either a decrease in rates and charges or at worst a 5% increase. 31% of all properties experience an increase of between 5% and 7.5%, and 17% experience an increase of more than 7.5%. These variations are due mainly to the variation in the new valuations within each category.

The net general rate and charge increases in the main rating categories based on an average valuation for that category, are as follows:

Category	\$ Increase/(\$ Decrease) Year	\$ Increase/(\$ Decrease) Week
Residential	\$105-27	\$2-02
Commercial & Industrial	\$129-85	\$2-50
Grazing & Livestock	(\$163-69)	(\$3-15)
Sugar Cane	\$977-85	\$18-80
Rural Other	\$282-79	\$5-44

53% of all residential properties experience either a decrease in rates and charges or at worst a 5% increase. 91% of residential properties experience at worst, a 7.5 % increase.

After many years of low increases, the sugar cane properties will generally experience a greater increase. Approximately 50% of properties will experience either a decrease in rates and charges or at worst a 10% increase.

This year we will undertake extensive community consultation to develop a 10 Year Community Plan. This will provide us with a picture of what our community wants for the future and what assets and services are both needed and very importantly, affordable to our community.

Currently, we need to take care of the assets we have and make sure they are well maintained to last for future generations. We also must ensure we can fund new essential infrastructure and services to meet the needs and expectations of the community.

I wish to sincerely thank the Chief Executive Officer, directors, managers, senior officers and finance officers for their continued cooperation, helpful guidance and professional input into the preparation of this budget.

I also wish to record my thanks to my fellow councillors for their support in setting priorities for the future and making what have been sometimes difficult decisions.

This is a budget that supports a long term sustainable future for the Shire, whilst also maintaining our service standards and infrastructure.

On behalf of Burdekin Shire Council, I commend the 2011-12 budget to you for adoption.

Cr. Lyn McLaughlin,
MAYOR
Burdekin Shire Council
27 June 2011

ITEM 2 – Adoption of the Revenue Statement for 2011-12 Financial Year

Recommendation

That the Council in accordance with Section 106 of the Local Government (Finance, Plans and Reporting) Regulation 2010 adopts the Revenue Statement for 2011-12 financial year.

Resolution

Moved Councillor Loizou, seconded Cr. List that the recommendation be adopted.

CARRIED

BURDEKIN SHIRE REVENUE STATEMENT FOR 2011/12

A. Differential General Rates

General rates (including differential rates) are for services, facilities and activities that are supplied or undertaken for the benefit of the community in general (rather than a particular person) as stated in the Local Government Act 2009 at Section 92.

Council supports seven (7) differential categories which enable Council to address the economic circumstances of the community as a whole and/or the circumstances of particular sectors.

In making general rates, Council raises an amount of revenue it sees as being appropriate to maintain and improve assets and provide services to the Shire as a whole. In deciding how that revenue is raised, Council takes into account the following factors –

- The rateable value of land, including valuation relativities among land, and the rates which would be payable if only one general rate was adopted.
- The level of services provided to that land and the cost of providing the services compared to the rate burden that would apply under a single general rate.
- The use of the land in so far as it relates to the extent of utilisation of Council services.
- Location and access to services.
- With an extensive road network, particularly in rural areas of the Shire and demands on Council to upgrade the standard of roads for harvesting, transportation of rural product, processing and services associated with the sugar, grazing, horticulture and aquaculture industries, Council considers those areas benefiting from access to improved road and infrastructure standards should contribute appropriately to Council's revenue base to maintain the high level of road services expected.
- In the case of sugar milling operations, Council has taken into account that the increased costs of infrastructure associated with maintaining and upgrading roads including tramway corridors, cane sidings and other infrastructure associated with these operations, contribute to Council's costs in maintaining and upgrading the standards of roads within the Shire.
- In the case of commercial water supply business, Council has taken into account that the existence of predominantly above-ground water delivery and drainage infrastructure within or adjacent to road reserves impacts directly on Council roads and associated drainage, and contributes particularly to Council's costs in maintaining and upgrading the standard of roads and drainage.
- At the same time, Council acknowledges and again has taken into account that improved services including but not limited to: recreation and sporting, swimming pools, community, cultural, library, welfare services, public halls, environmental health services and amenities, parks and playgrounds, cemeteries, Council's public buildings, Council's economic development initiatives, improvements and development work in the Council's principal towns are Local Government services which should be met by the whole community.

The annual valuation made by the Department of Environment & Resource Management of all lands in the Burdekin Shire area shall have force and effect for the period of twelve months commencing on 1 July 2011.

The Council determines that a method of differential general rating be applied to all rateable land in the Shire on the bases set out hereunder.

- (a) The categories and criteria for each category are:-

Category A – Residential : Land used for purposes described by the land use codes in Category A of the Table below and within the townships of Ayr, Home Hill, Brandon, Clare, Millaroo, Dalbeg, Giru and other localities within the Shire.

Category B – Commercial and Industrial: Land used for purposes described by the land use codes in Category B of the Table below and predominantly located in the principal towns of Ayr and Home Hill.

Category C – Grazing and Livestock: Land used for purposes described by the land use codes in Category C of the Table below and located outside urban areas.

Category D – Rural – Sugar Cane: Land used for the purpose described by the land use code in Category D of the Table below being the district's principal agricultural crop of sugar cane within the Pioneer, Kalamia, Inkerman and Invicta Mill areas.

Category E – Rural – Other: Land used for the purposes described by the land use codes in Category E of the Table below predominantly being for the district's produce, other than sugar cane, grazing and livestock.

Category F – Sugar Milling: Land used for the Pioneer, Kalamia, Inkerman and Invicta sugar mills and predominantly used for the processing of sugar cane.

Category G –Commercial Water Business Land used for purposes of and incidental to commercial water delivery and drainage.

- (b) The Council has identified the category in which each parcel of rateable land in the area is included, applying the criteria specified in Section A(a) above, as set out in the Table on page 4.

In the Table, "Land Use Codes" means those Land Use Codes used by the Department of Environment & Resource Management to classify land within the Shire boundaries during the period of the valuation which becomes effective for rating purposes from 1 July 2011.

- (c) Under Section 22 of the Local Government (Finance, Plans and Reporting) Regulation 2010, the Council advises as follows –

- (i) The categories of rateable land in the Shire and the criteria by which the land is categorised is outlined in Section A(a) above;
- (ii) The category in which the land to which the rate notice applies is shown on the rate notice;
- (iii) The category in which the land is included was identified by the Burdekin Shire Council;
- (iv) If owners of rateable land consider their land should have been included in another category, they may object against that categorisation by lodging with the Chief Executive Officer, Burdekin Shire Council, a notice of objection in the prescribed form within thirty (30) days of the date of issue of the rate notice (copies of the form are available at the Shire Offices);
- (v) The only ground for objecting is that the owner considers the land should belong to a different rating category;

- (vi) The owner is liable to pay the amount in the rate notice even if the owner gives an objection notice;
 - (vii) If the rating category of the owner's land is changed because of the objection, the rates will be adjusted at that time;
 - (viii) The making of an objection, or the starting of an appeal, does not stop the levying and recovery of rates on the land; and
 - (ix) Postal address of the Chief Executive Officer, Burdekin Shire Council is PO Box 974, AYR Q4807.
- (d) Differential general rates are hereby made and levied on the unimproved value (UV) or site value (SV) of all rateable land in the Shire included in the specified category as set out hereunder :-
- | | |
|--|--|
| Category A – RESIDENTIAL | 1.193 cents in the \$ on the value of the land. |
| Category B – COMMERCIAL & INDUSTRIAL | 1.236 cents in the \$ on the value of the land. |
| Category C – GRAZING & LIVESTOCK | 2.263 cents in the \$ on the value of the land. |
| Category D – RURAL SUGAR CANE | 3.650 cents in the \$ on the value of the land. |
| Category E – RURAL OTHER | 1.863 cents in the \$ on the value of the land. |
| Category F – SUGAR MILLING | 26.960 cents in the \$ on the value of the land. |
| Category G - COMMERCIAL WATER BUSINESS | 68.511 cents in the \$ on the value of the land. |

B. Limitation of Increase in Rates Levied

The Council has not resolved to exercise the powers conferred under Local Government (Finance, Plans and Reporting) Regulation 2010 Section 50 - Limitation of increase in rates levied.

C. Minimum General Rates

Local Government (Finance, Plans and Reporting) Regulation 2010 Section 11 provides that *"The local government may identify parcels of rateable land to which a minimum amount of general rates applies in any way the local government considers appropriate"*.

Council also has power, where differential general rates are made and levied, to apply a different level of minimum general rate for each category of land.

The Council considers that the following minimum general rates are reasonable to recover Council's administrative costs and appropriate revenue for services provided by the Council to all properties irrespective of their rateable value, and which lend themselves to recovery of rates by a minimum general rate.

The following minimum general rates shall apply:

Categories A, B, C, D & E -	\$ 912
Category F -	\$15,097
Category G -	\$ 2,556

TABLE	
COLUMN 1 Category	COLUMN 2 Identification
A - RESIDENTIAL	<p>Land having any of the following Land Use Codes excluding property numbers 1872, 6214, 6215, 6220, 6221, 6781, 6782, 12390, 12391, 12463 to 12465 and 12580 to 12594:-</p> <p>01 - Vacant Urban Land; 02 - Single Unit Dwelling; 03 - Multiple Dwelling (Flats); 04 - Large Homesite – Vacant (less than 10ha); 05 - Large Homesite – Dwelling; 06 - Outbuilding; 07 - Guest House/Private Hotel; 08 – Building Units; 09 - Group Title; 21 – Residential Institutions (Non-Medical Care); 72 - Residential Subdivisions; 97 - Welfare Homes/Institutions.</p>
B - COMMERCIAL & INDUSTRIAL	<p>Land having any of the following Land Use Codes including property numbers 1872, 6214, 6215, 6220, 6221, 6781, 6782, 12390, 12391, 12463 to 12465 and 12580 to 12594:-</p> <p>10 - Combined Multi-Dwelling & Shops; 11 – Shop - Single; 12 - Shops - Shopping Group (more than 6 shops); 13 - Shopping Group (2 to 6 shops); 14 - Shops - Main Retail; 15 - Shops - Secondary Retail; 16 - Drive-in Shopping Centres; 17 - Restaurant; 18 - Special Tourist Attraction; 19 – Walkway; 20 - Marina; 22 – Car Park; 23 - Retail Warehouse; 24 - Sales Area Outdoor; 25 Offices; 26 - Funeral Parlours; 27 - Hospitals, Conv. Homes (Medical Care) (Private); 28 – Warehouses & Bulk Stores; 29 – Transport Terminal; 30 - Service Station; 31 - Oil Depots; 32 – Wharves; 33 - Builders' Yard/Contractors' Yard; 34 Cold Stores - Iceworks; 35 General Industry; 36 - Light Industry; 37 – Noxious/Offensive Industry; 38 - Advertising - Hoarding; 39 – Harbour Industries; 40 – Extractive; 41 - Child Care; 42 - Hotel/Tavern; 43 - Motel; 44 – Nurseries; 45 - Theatres and Cinemas; 46 - Drive-in Theatre; 47 - Licensed Clubs; 48 - Sports Clubs/Facilities; 49 - Caravan Parks; 50 - Other Clubs Non-Business; 51 - Religious; 52 - Cemeteries; 53 - Secondary Land Use Code for Commonwealth ownership; 54 - Secondary Land Use Code for State ownership; 55 - Library; 56 - Showgrounds/Racecourses/Airfields; 57 – Parks and Gardens; 58 - Educational; 59 - Secondary Land Use Code for Local Authorities; 90 - Stratum; 91 - Transformers; 92 - Defence Force Establishments; 96 - Public Hospital; 99 - Community Protection Centre.</p>
C - GRAZING & LIVESTOCK	<p>Land having any of the following Land Use Codes :-</p> <p>60 - Sheep Grazing - Dry; 61 - Sheep Breeding; 64 - Cattle Grazing – Breeding; 65 - Cattle Breeding and Fattening; 66 Cattle Fattening; 67 Goats; 68 - Dairy Cattle – Quota Milk; 69 Dairy Cattle – None Quota Milk; 85 Pigs; 86 - Horses; 87 - Poultry.</p>
D - RURAL - SUGAR CANE	<p>Land having any of the following Land Use Codes:-</p> <p>75 - Sugar Cane.</p>
E - RURAL – OTHER	<p>Land having any of the following Land Use Codes excluding property numbers contained in Category G:-</p> <p>04 - Large Homesite – Vacant (10ha and greater); 70 - Cream; 71 – Oil Seeds; 73 - Grains; 74 – Turf Farms; 76 - Tobacco; 77 - Cotton; 78 - Rice; 79 - Orchards; 80 - Tropical Fruits; 81 – Pineapple; 82 - Vineyards; 83 - Small Crops and Fodder Irrigated; 84 - Small Crops Fodder Non- irrigated; 88 - Forestry and Logs; ; 89 – Animals Special; 93 - Peanuts; 94 - Vacant Rural Land; 95 - Reservoir, Dam, Bores.</p>
F - SUGAR MILLING	<p>Land having any of the following Property Numbers:-</p> <p>10565, 10566, 10567 and 10569</p>
G – COMMERCIAL WATER BUSINESS	<p>Land having any of the following Property Numbers:-</p> <p>2400, 2568, 2577, 2588, 2788, 2921, 8597, 8750, 9013, 13160 and 14387.</p>

The above minimum general rate provisions shall not apply to any land under the ownership of the North Burdekin Water Board and the South Burdekin Water Board and used for channel and ancillary Water Board purposes.

D. Rebates and Concessions

(a) Remission of Rates and Charges

It is the Council's policy to provide assistance by way of a remission of rates to eligible pensioners who comply with the policies of Council as identified hereunder.

Council Remission

For the year ended 30 June 2012 a bona fide pensioner, who is in receipt of a full pension/allowance, who produces a Pensioner Concession Card from Centrelink or a Pensioner Concession Card or a Repatriation Health Card – For All Conditions issued by the Department of Veteran Affairs, will be allowed a rates remission on property which is the principal place of residence of the pensioner and is owned by the pensioner. This policy shall also extend to bona fide pensioners who either have another bona fide pensioner(s) residing with them under the same roof or have any other person or persons earning an income residing under the same roof and to War Widows who are the holders of a Gold Card. Such rates remission to be calculated as follows -

- (i) **Half the sum** of the relevant General Rates, Water Charges, Sewerage Charges, Septic Charges, CBD 1 Separate Charge and CBD 2 Separate Charge (excluding Waste Service Charges, Environment Separate Charge, Alva Beach Rural Fire Brigade, Clare Rural Fire Brigade, Mount Kelly Rural Fire Brigade, Scott Rural Fire Brigade, Wunjunga SBS Translator Special Charge and Urban Fire Service Levy) in respect of a bona fide full pensioner(s);
plus
- (ii) Discount of 10% will be allowed on the gross amount of rates and charges and before the deduction of Council remission and any State Government subsidy if rates and charges, together with any arrears, if any, are paid by expiry of the discount period.

Notwithstanding the above,

- (a) the Council may in its discretion consider any case on its merits where special circumstances apply; and allow such remission as it sees fit up to the maximum remission.
- (b) a remission shall be allowed to a bona fide pensioner in accordance with clauses (i) and (ii) above, who is in receipt of a pension/allowance, who produces a Pensioner Concession Card from Centrelink or a Pensioner Concession Card or a Repatriation Health Card – For All Conditions issued by the Department of Veteran Affairs, and who occupies a dwelling in respect to which a **life tenancy** has been granted by way of Will only and providing there is no provision in the Will which relieves the life tenant of the obligation to pay the rates and charges levied in respect of the property and providing such property is the principal place of residence of the pensioner.
- (c) a remission shall be allowed to a bona fide pensioner in accordance with Clauses (i) and (ii) above and who is a resident of an Institution caring for the aged, including hospitals and Blue Nursing Units, or is in family care.
- (d) Notwithstanding the above, the maximum allowable rates remission in respect of Clause (a) shall be set at **\$342** and shall be allowed after Council discount has been deducted from gross rates and charges levied in respect of the assessment

- (e) Applications for remission of rates and charges by qualifying applicants who own relevant properties on the 1 July 2011 are to be dealt with in the following manner :
- For existing bona fide Pensioners, the details currently held continue to be used for annual verification with Centrelink/Department of Veteran Affairs; and
 - For new bona fide Pensioners or Pensioners requesting Council remission due to special circumstances, an annual application is required to be made and received.

The amount of pension payable at time of the verification from Centrelink/Department of Veteran Affairs will determine the eligibility for the Council remission.

- (f) A remission granted pursuant to this section is only applicable for the period of time that the applicant pensioner is the owner of the property and all requirements set out above remain fulfilled. If the principal place of residence is disposed of during the year, a supplementary rates notice will be issued to the owner of the property representing the proportionate share of the remission from date of sale to 30 June next.

State Government Subsidy :

For the year ending 30 June 2012, an approved pensioner as defined in guidelines for the State Government's Pensioner Rate Subsidy Scheme shall be entitled to a State Government subsidy equivalent to 20 per cent of the cost of gross rates and charges levied, excluding any amount in excess of \$1,000 per annum levied. The maximum entitlement of up to **\$200** shall be allowed after Council discount has been deducted from gross rates and charges levied in respect of the assessment. Notwithstanding the provisions of this clause, eligible pensioners will be entitled to the State Government subsidy up to an amount of \$200 as per the State Government subsidy policy referred to hereunder, even if Council rates are not paid within the discount period.

Donations' Policies :

For each financial year in the sewerage areas of Ayr, Brandon and Home Hill, donations equivalent to remission of half the sum of the relevant sewerage charges (excluding domestic waste collection charges and after discount if applicable) in respect of second and subsequent pedestals and/or urinals at premises or land used for private schools, churches, welfare and youth organisations, sporting purposes and public halls, excluding premises licensed under the Liquor Act will be made to the relevant community organisations immediately upon payment in full, together with arrears if any, of all levied rates and charges and that the Council may, in its discretion, consider any case on its merits where special circumstances apply and make such donations as Council considers appropriate.

(b) Periodic Payments Policy

In arrears

Council will allow landowners who are unable to pay their rates by the due date to enter into an arrangement to make periodic payments in arrears following the levy of the rates and charges. Such arrangements are to be approved by the Chief Executive Officer by way of delegated powers from the Council, with no recovery action being taken while the arrangement is being maintained.

In advance

Council further states that there is no reason landowners cannot make periodic payments in advance of the levy of the rates and charges.

If there is evidence acceptable to Council that any eligible pensioner is unable to meet rate obligations within the discount period and is unable to enter into a periodic payment plan for payment of outstanding rates, satisfactory

to the Chief Executive Officer, Council may, in exceptional circumstances after considering a report from the Chief Executive Officer, agree to the outstanding rates remaining a charge on the land to be recovered following the death of an eligible pensioner/pensioners or as a result of sale/transfer of the land.

No discount shall be allowed for payment of rates by periodic payments.

(c) Application for Relief on Grounds of Hardship

Ratepayers may also apply for rate relief with an application on the basis of hardship supported by relevant documentation. The Council's policy governing the consideration of any application for relief on the grounds of hardship is currently as follows :-

- (a) An applicant will be eligible for consideration of rates remission on the grounds of financial hardship upon complying with the following criteria:-
 - (i) The applicant does not have reasonable assets external to the land upon which the application for relief on the grounds of hardship applies to; and
 - (ii) Payment of rates by the applicant would cause financial hardship within the next twelve (12) months;
- (b) Applicants will be required to disclose private financial documentation including, where applicable, the previous two (2) years tax returns, profit and loss statement and balance sheet as prepared by a registered accountant or tax agent;
- (c) For ratepayers experiencing difficulties with payment of rates, the Council may consider allowing delayed payment of rates and any arrears interest over a period of up to two (2) years, upon written application to the Chief Executive Officer for a periodic payment plan.

E. Waste Service

1.0 Kerbside Service

The kerbside service for the Shire is either a Three-Bin Service or a Two-Bin Service. The map defining the service areas is held in Council's Environment and Health office.

The Two-Bin Service consists of:

- A 140 litre, kerbside refuse service, or alternatively a 240 litre service (bin with red lid)* collected weekly;
- A 240 litre kerbside recycling service (bin with yellow lid) collected fortnightly.

The Three-Bin Service includes the following in addition to the above service:

- A 240 litre, kerbside green waste service (bin with light green lid) collected on alternate fortnights.

* Residents may request to change to the 240 litre general waste bin. The larger bin will incur a higher charge.

2.0 Definitions

Authorised Officer means a person authorised under the *Environmental Protection Act 1994*.

Commercial Waste means waste (other than green waste, recyclable waste, interceptor waste or waste discharged to a sewer) produced as a result of the ordinary use or occupation of the premises—

- (a) a hotel, motel, caravan park, cafe, food store or canteen;

- (b) an assembly building, institutional building, kindergarten, child minding centre, school or other building used for education;
- (c) premises where a sport or game is ordinarily played in public;
- (d) an exhibition ground, show ground or racecourse;
- (e) an office, shop or other premises where business or work, other than a manufacturing process, is carried out.

Defined Service Area means the sections of the Burdekin Shire which are provided with a waste service as shown on the map held in Council's Environment and Health office.

Domestic Waste means waste (other than domestic clean-up waste, green waste, recyclable waste, interceptor waste or waste discharged to a sewer) resulting from the ordinary domestic use or occupation of any premises or any part thereof, being—

- (a) a single unit private dwelling; or
- (b) premises containing 2 or more separate flats, apartments or other dwelling units;
- (c) a boarding house, hostel, lodging house or guest house

Green Waste means grass clippings, trees, bushes, shrubs, loppings of trees, bushes or shrubs, or similar matter produced as a result of the ordinary use or occupation of premises.

Industrial Waste means interceptor waste and waste other than—

- (a) commercial waste;
- (b) domestic clean-up waste;
- (c) domestic waste;
- (d) green waste;
- (e) recyclable interceptor waste;
- (f) recyclable waste;
- (g) waste discharged to a sewer.

Occupied Land means land other than vacant land and includes land with a shed, caravan or similar structure, where people may reside, regardless of the length of time.

Rates include supplementary rates.

Special Event refers to a community event held by a charitable or non-profit community group.

Three-Bin Service Area means a designated area where one 140L mobile bin of refuse is collected and disposed of weekly, one 240L mobile bin of recyclables and one 240L mobile bin of green waste is collected and disposed of fortnightly.

Two-Bin Service Area means a designated area where one 140L mobile bin of refuse is collected and disposed of weekly and one 240L mobile bin of recyclables is collected and disposed of fortnightly.

Waste Service refers to the storage, collection and conveyance of waste and the disposal thereof.

Waste Services Charges means the charges set by Council in the Revenue Statement.

3.0 Levying of charges for kerbside waste collection

The Council will charge all residences within the defined service area for waste services.

Council will provide waste services to occupied land only.

The owner or occupier of any residential premises, land, or structure within the defined service area that is capable of producing waste will be levied a waste service charge. The type of waste service charge will depend on whether the premise is located within a Three-Bin Service or a Two-Bin Service area.

For a residential premise outside of these areas, the owner or occupier is required to service their own refuse bins on a weekly basis. Fees will apply for the disposal of these wastes at Council's waste facilities.

4.0 Services based on type of residential premise

House or House with Granny Flat

All houses must have, at least, a single waste service: i.e. within a Three-Bin Service Area - 1 x 140L mobile refuse bins, 1 x 240L mobile recycling bin, and 1 x 240L mobile green waste bin; and within a Two-Bin Service Area – 1 x 140L mobile refuse bin and 1 x 240L mobile recycling bin.

Multi-Residential Premise including Duplexes

Multi-residential premises include two or more permanently constructed residential units (single occupancy per unit).

Council will supply each unit with 1 x 140L mobile refuse bin and 1 x 240L mobile recycling bin. Council's authorised officer will determine the provision of a green waste service for premises within the Three-Bin Service area.

The green waste service for multi-residential premises will be a communal service with the bins shared among the units. The owner or the owner's representative may make a written request for an extra green waste service for a particular unit.

Alternatively, a bulk waste bin may be provided (through a private contractor) for the general waste portion of the service. The bulk bin must be the equivalent of the calculated volume of the 140L mobile refuse bins, rounded up to the next bulk bin size.

Example

Multi-Residential Premise of five units (5x140L = 700L) is required to have at least 5 x 140L mobile refuse bins or the equivalent in bulk waste bin, serviced at least once per week; and at least 5 x 240L mobile recycling bins and 5 x 240L mobile green waste bins, serviced at least once per fortnight.

Council's authorised officers will determine the minimum refuse services that the owner must provide.

Residential Unit attached to Commercial/Industrial Premises

Council's authorised officers will determine the waste services for residential unit/s. The commercial/industrial portion of the premises shall receive a commercial/industrial service (refer to Commercial/Industrial Requirements).

5.0 Residential premises not within the defined service area

All occupied land within the Shire that is outside the defined service area, and therefore not receiving a regular waste collection service, will be required to pay for the disposal of their waste at Council's waste facilities.

Residents who would like to receive a domestic waste service are required to submit a request in writing.

When determining the request, Council's authorised officers will consider the following:

- (i) if the collection vehicles can access the area;

- (ii) whether it is economically viable for the contractor to provide the requested service; and
- (iii) if there is support from 65% of property owners in the road in favour of receiving the service.

6.0 Commercial and Industrial Services

Commercial and industrial premises within the defined service area are required to have a general waste service with a minimum collection frequency of weekly.

Each premise shall have either a 240 litre mobile refuse bin or equivalent service provided by an approved private contractor plus a recycling service supplied through Council.

Where Council has been notified that a private contractor undertakes waste collection services and the general waste service cancelled as per section 9.3, waste charges levied will consist of the relevant recycling service component.

Item specific recycling services e.g. bulk cardboard, scrap metal and the like may be available through a private contractor.

7.0 Charities and Community Groups

Council's authorised officers may grant an exemption, refund, or part refund on payments for waste service charges or for a waste service charge for a 'special event' by charities and non-profit community groups meeting the following criteria:

- The organisation must be based in and provide services to the residents of the Burdekin Shire.
- A charity and non-profit community group includes:
 - Church, ministry and church administered institutions for non-profit and charitable purposes,
 - Scouts and Girl Guides,
 - Veteran and War Widow Associations,
 - Voluntary, non-profit community and welfare organisations,
 - Volunteer bush fire brigades, and
 - Voluntary sporting organisation
- Organisations that hold a commercial liquor licence or gaming licence do not qualify for an exemption.
- Organisations, the main activity of which is the responsibility of another level of government, do not qualify for an exemption.

8.0 Bin Enclosures

Refer to Waste Management Planning Scheme Policy held in Council's Environment and Health office for more information.

9.0 General Issues

9.1 Change to Service Level

The owner may request a change to service level in writing or via Council's Customer Service Centre. The charges for these services will be levied via a rates notice.

The minimum charge levied for a change to the service will be six months.

9.2 Lost or stolen bins

The replacement of lost or stolen bins will be at the discretion of the Manager Environment and Health.

The owner of the lost or stolen bin(s) is to make a Police report in accordance with the *Procedure for Lost and/or Stolen Bins*.

Repeated reports of lost/stolen bins for a single property may incur a replacement fee.

9.3 Cancelling a service

Cancelling of a waste service will only occur where the building has been demolished or is unfit for occupation. The cancelling of a waste service will not occur where the premises are unoccupied for a period.

A commercial or industrial premise may cancel their waste service provided they are to receive a waste service from a private contractor.

Cancelling a service will lead to a proportional reduction or refund of the annual levied charge.

9.4 Commencing a service

Waste service charges will apply from the date of commencement or availability of service. New services commenced during the year are pro-rata levied.

9.5 Assessment of bin quota/service level

Council's authorised officers have the discretion to amend waste management services depending on the needs of the residents and the waste generated.

9.6 Bulk Bin service

Commercial premises that require a bulk bin service may contact an approved waste contractor to arrange a service at their own cost.

9.7 Variations

The Manager Environment and Health will assess written requests for an exemption, refund, part refund or variation under this revenue statement.

9.8 Requirements to kerbside collection

- Place bins on the kerb prior to 6.00am on collection day, and brought back within the property boundaries as soon as possible after collection, preferably by dusk.
- Place bins approximately 1 metre apart and are not to be located near trees, parked cars or other obstacles that may prevent the truck from emptying the bin.
- Bins that are overfull (with the lid open more than 45 degrees); or too heavy (weigh more than 55 kilograms) will not be collected. Residents will need to take their waste to the landfill or transfer station, as the truck will not return to empty the bin. Disposal costs will apply.
- Recycling and green waste bins must only contain the products listed on the lid and/or in the brochure provided, which is also available on Council's website. Residents with bins contaminated with unsuitable material may be issued with a notice and an information brochure advising of the contamination. When three (3) notices of contamination are issued in a financial year the service may be suspended initially for one (1) month, for three (3) months if a further 3 notices are issued; or permanently, at the discretion of the Manager Environment and Health.

10.0 Bin Charges

The levying of a charge will occur on all lands and/or premises within the defined service area.

10.1 Consistent commencement of charges

- (a) The levy for all waste and recycling charges will apply on a pro-rata basis from the date of delivery of the bins to the property.
- (b) Where Council identifies that a domestic structure or occupied land is without a general waste, recycling or green waste collection charge, the charge will be levied pro-rata from the time that the structure was completed, or the occupied land was capable of producing waste. The backdating of charges will be for a maximum of one year.

10.2 Removal of Charges

Removal of any waste and recycling charge on a pro-rata basis will only occur:

- (a) When Council identifies that the domestic or commercial structure has been demolished and the land is unoccupied; or
- (b) Upon supply of written evidence (e.g. copy of new waste contract) that a commercial premise has an equivalent service provided by an alternative waste service provider.

10.3 Waste Service Charges

The following waste service charges shall apply in the defined service area.

140L Rural Residential 2 Bin Service	\$368
240L Rural Residential 2 Bin Service	\$457
140L Residential 3 Bin Service	\$421
240L Residential 3 Bin service	\$510
240L Commercial 2 Bin Service	
(including component for State Govt Waste Levy)	\$432
240L Commercial 3 Bin Service	
(including component for State Govt Waste Levy)	\$485
140L Multiple Residential 2 Bin Service	\$368
240L Multiple Residential 2 Bin Service	\$457
Multiple Residential Green Waste Service	
as determined by Council authorised officer	
and in proportion to residences serviced	
Additional 140L Residential Refuse Bin	\$297
Additional 240L Residential Refuse Bin	\$386
Additional 240L Commercial Refuse Bin	
(including component for State Govt Waste Levy)	\$341
Additional Residential Recycle Bin	\$ 71
Additional Commercial Recycle Bin	\$ 91
Additional Green Waste Bin	\$ 53

F. Sewerage Scheme

Council is applying partial cost recovery, including a reasonable return on capital, as the basis for utility charges.

A sewerage charge will be levied on each rateable property, both vacant and occupied, that Council has or is able to provide with sewerage services and identified hereunder.

The sewerage charge is set to recover all of the costs associated with the provision of sewerage and waste water services provided by Council in the financial year. These costs include loan interest, depreciation and the cost of on-going maintenance and operation of the system, including treatment plant operations.

A charge is set, subject to the provisions hereunder, and referred to as classes of buildings in accordance with the "Building Code of Australia 1996" as amended, for each pedestal in residential dwellings and residential lots under the Body Corporate and Community Management Act 1997, or other community titles act that are connected to Council's sewerage system. Where sewerage services are provided to the common property of sewerage scheme land within the meaning of the Body Corporate and Community Management Act 1997, the Body Corporate shall be levied a charge on each pedestal.

- (a) The Sewerage Area shall consist of: -

All land situated in the Shire of Burdekin that the Council is prepared to sewer. A parcel of land shall be deemed to be within a sewerage area if the Council is prepared to sewer any part of the land.

Such charges shall be levied to defray the cost of constructing sewerage including the payment of interest on and redemption of, the instalments into a sinking fund, in respect of any loan money borrowed for or in respect of such function and the cost of operating, maintaining, and managing sewerage.

The charges shall also apply in respect of any land or any structure, building or place on land that is not rateable under Section 93 of the Local Government Act 2009.

In this subsection reference is made to classes of Buildings. Buildings and portions of buildings shall be classified in accordance with the "Building Code of Australia 1996", as amended as follows -

Class 1 One or more buildings which in association constitute -

- (a) Class 1a - a single dwelling being -

- (i) a detached house; or
- (ii) one or more attached dwellings, each being a building, separated by a fire resisting wall, including a row house, terrace house, town house or villa unit; or

- (b) Class 1b - a boarding house, guest house, hostel or the like with a total floor area not exceeding 300 m² and in which not more than 12 persons would ordinarily be resident, which is not located above or below another dwelling or another Class of building other than a private garage.

Class 2 - A building containing two or more sole-occupancy units each being a separate dwelling.

Class 3 - A residential building, other than a building of Class 1 or 2, which is a common place of long term or transient living for a number of unrelated persons, including: -

- (a) A boarding house, guest house, hostel, lodging house or backpackers' accommodation; or
- (b) A residential part of a hotel and motel; or
- (c) A residential part of a school; or
- (d) Accommodation for the aged, disabled or children; or
- (e) A residential part of a health-care building which accommodates members of staff.

Class 4 - A dwelling in a building that is Class 5, 6, 7, 8, or 9 if it is the only dwelling in the building.

Class 5 - An office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8, or 9.

Class 6 - A shop or other building for the sale of goods by retail or the supply of services direct to the public, including: -

- (a) An eating room, cafe, restaurant, milk or soft drink bars; or
- (b) A dining room, bar, shop or kiosk part of a hotel or motel; or
- (c) A hairdresser's and barber's shop, public laundry, or undertaker's establishment; or
- (d) Market or sale room, show room, or service station.

Class 7 - A building which is -

- (a) A public car park; or
- (b) for the storage, or display of goods or produce for sale by wholesale.

Class 8 - A laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale, or gain.

Class 9 - A building of a public nature -

- (a) Class 9a - a health-care building, including those parts of the building set aside as a laboratory; or
- (b) Class 9b - an assembly building, including a trade workshop, laboratory or the like in a primary or secondary school, but excluding any other parts of the building that are of another class.

Class 10 - a non-habitable building or structure -

- (a) Class 10a - a non-habitable building being a private garage, carport, shed, or the like; or
- (b) Class 10b - a structure being a fence, mast, antenna, retaining or free-standing wall, swimming pool or the like.

- (b) The charges in the Sewerage Area shall be:-

A charge of **\$496** shall be made where sewerage is provided for a full year to Class 1a or Class 4 buildings and portion of buildings and to a single dwelling unit of a Class 2 building. This charge shall apply subject to Clause (c) hereunder. In respect of each and every parcel of vacant land separately valued for rating purposes, a charge of **\$496** for a full year shall be made.

A charge of **\$496** shall be made where sewerage is provided for a full year to a Lot contained in a Body Corporate and Community Management Act 1997 or another community title Act. This charge shall apply subject to Clause (c) hereunder. This charge shall be payable from the date of registration of the community titles scheme and shall be payable by the owner.

A **pro rata charge** based on **\$496** per annum shall apply in respect of any parcel of land to which sewerage supply is or is not connected and which becomes separately valued during the financial year or to which the Chief Executive Officer deems shall be separately valued during the financial year. Such charge is to take effect from the date of possession or date of effect of valuation, whichever is the earlier.

A **pro rata charge** based on **\$496** per annum shall apply in respect of any parcel of land to which sewerage supply is connected.

- (c) Two or more water closet pans installed at Class 1a or Class 4 buildings or portions of buildings and to a single dwelling unit of a Class 2 building shall be permitted without the imposition of charges other than those in Clause (b).
- (d) A charge of **\$496** shall be made for each water closet pan and/or each 1800mm of urinal or part thereof (as defined by the Standard Sewerage By-laws) connected, proposed to be connected or required to be

connected (in accordance with the minimum number/s of water closet pans and/or urinals specified in the Building Code of Australia 1996) at Classes 1b, 3, 5, 6, 7, 8 & 9 buildings, or portions of buildings, where sewerage is available for a full year or on a pro rata basis according to the proportion of the year for which sewerage is available. In this sub- clause, the charge of **\$496** shall also apply in respect of three wall urinals or part thereof.

- (e) Notwithstanding the above, a charge of **\$496** shall be made for the first three and a charge of **\$248** for subsequent water closet pans and/or each 1,800 mm of urinal and part thereof (as defined by the Standard Sewerage By-laws) connected, proposed to be connected or required to be connected (in accordance with the minimum number/s of water closet pans and/or urinals specified in the Building Code of Australia 1996) at premises listed in the **Schedule** below, or as the Council may determine by resolution.

Schedule

Motels, Hotels, Taverns, Accommodation Units, Caravan Parks, Service Stations, Non-Government Offices (includes combined workshops, warehouse), Shops, Restaurants, Skating Rinks, Cinemas, Drive-In Theatres, Factory, Foundry, Private Day Care Centres, Sporting Bodies with permanent liquor licences, Ayr Anzac Club – RSL Premises.

- (f) A charge of **\$496** shall be made in respect of each separately valued parcel of land on which any building and portions of buildings are erected, and not being chargeable as hereinbefore set out.
- (g) Within the Sewerage Area, for premises that pump septic tank effluent to the sewer system, an annual charge equivalent to 60% of the standard sewerage charge of **\$496** which equates to **\$297.60** shall apply. Provided that approval of the Council is received to dispose of the effluent as aforesaid. Provided also that the Council shall apply an infrastructure contribution charge to be set as a General Charge by resolution of the Council.
- (h) Sewerage charges to be levied on sporting and other organisations (including the Burdekin Race Club, Home Hill) located outside the sewerage areas where these organisations provide their own pumping facilities and sewer line for the conveyance of sewage from their premises into the Council's Sewerage System be based on one-third (to the next) of the sum of the number of water closet pans plus each 1800mm of urinal installed for use at the premises at the rate of **\$496** per water closet pan.

G. Water Supply Scheme

Council has resolved to charge for water services under a consumption based two-part pricing policy. The outcomes of this form of water supply demand management are aimed at community benefit from:

- Establishment of a charging system more closely aligned to equitable user pays principles;
- Reduced water consumption resulting in:
 - reduced operational costs,
 - deferment of future augmentation works for water treatment plants and delivery systems, and
 - an improved environmental balance of ground water reserves for future generations.

Council is applying partial full cost recovery, including a reasonable return on capital, as the basis for utility charges.

Council has adopted a two-part water pricing regime with an annual base allowance of zero kilolitres per meter for a minimum access charge of **\$376**.

- (a) The Council has resolved to introduce a consistent water charging regime for the provision of water and makes water charges on the bases set out below to be levied on all land within the Water Area as described below.

The Water Area shall consist of:

All land situated in the Shire to which the Council is prepared to supply water including the Ayr/Brandon, Home Hill, Mt. Kelly and Giru Water Supply Schemes and the Airdmillan, Klondyke, Colevale, Groper Creek, Alva and Sutcliffe Water Supply Extensions. A parcel of land shall be deemed to be within a water area if the Council is prepared to supply water to any part of the land.

Such charges shall be levied to defray the cost of constructing the water supply including the payment of interest on and redemption of any loan money borrowed for or in respect of such function and the cost of operating, maintaining, and managing the water supply.

The charges shall also apply in respect of any land or other structure, building or place on land that is not rateable under Section 93 of the Local Government Act 2009.

- (b) The basis of the water charges in the Water Area shall be: -
 - (i) a minimum access charge; and
 - (ii) a consumption charge for each kilolitre consumed as registered by a meter installed by Council.
- (c) Except as hereinunder provided, a minimum access charge of **\$376** shall be payable in respect of a water connection to any land and building (or part thereof) or other structure whether occupied or not and a minimum access charge of **\$376** shall be payable in respect of every parcel of vacant land separately valued for rating purposes to which the water supply is or is not connected.
- (d) For premises containing Lots under the Body Corporate and Community Management Act 1997 or another community title Act, where each Lot and Common Property is capable of separate measurement of water, a minimum access charge of **\$376** shall be payable in respect of each and every individual metered water connection point.
- (e) For premises containing Lots under the Body Corporate and Community Management Act 1997 or another community title Act, where each Lot and Common Property is not capable of separate measurement of water, a minimum access charge of **\$376** shall be payable in respect of each Lot as if each Lot was provided with an individual metered water connection point.
- (f) The minimum access charge shall be payable from the date of registration of the community titles scheme and shall be payable by the owner.
- (g) Notwithstanding Clause (c) above, in respect of any land connected to the Groper Creek Water Supply Scheme, the minimum access charge of **\$376** shall not be payable until such time as any land or building (or part thereof) commences to draw water from the water supply scheme.
- (h) A **pro rata charge** based on **\$376** per annum for all land situated in the Water Area shall apply in respect of any parcel of land to which water supply is, or is not connected and which becomes separately valued during the financial year or to which the Chief Executive Officer deems shall be separately valued during the financial year. Such charge is to take effect from the date of possession or date of effect of valuation, whichever is the earlier.
- (i) A building, any part of which is separately occupied or capable of being separately occupied, shall be levied with a minimum access charge in respect of each and every individual metered water connection point, provided the building is in single title ownership.

- (j) Where more than one building is erected on a parcel of land, one of which may be used for residential purposes and any others for business purposes, one minimum access charge shall be levied on such parcel of land in respect of each and every individual metered water connection point provided.
- (k) Council does not levy a minimum access charge in respect of fire hose reels.

Consumption Charges for Water Consumed in the 2010/11 Financial Year:

For water consumed between 1 July, 2010 and 30 June, 2011, a consumption charge shall apply based on the charge made at the Budget Meeting for the 2010/11 financial year.

Consumption Charges for Water Consumed in the 2011/12 Financial Year:

- (l) A consumption charge shall apply for each kilolitre consumed as registered by a meter installed by the Council in respect of water consumed in the 2011/12 financial year.

For any rates assessment with more than one (1) meter, consumption charges shall be calculated individually on the basis of water consumption of each meter. No summing of consumption for that rates assessment will occur.

- (m) The charge for water consumed in the 2011/12 financial year for all water supplied to any land or structure, building or place for which a consumption charge is to be levied shall be based on the following -

For water usage up to and including 1,000,000 litres - **15 cents** per 1,000 litres.

For water usage above 1,000,000 litres - **75 cents** per 1,000 litres.

- (n) The charge for consumption shall be payable in addition to the minimum access charge.
- (o) For premises containing Lots under the Body Corporate and Community Management Act 1997 or another community title Act, where each Lot and Common Property is capable of separate measurement of water, consumption charges shall be calculated from the individual water meters serving each lot and common property.

For premises containing Lots under the Body Corporate and Community Management Act 1997 or another community title Act, where each Lot and Common Property is not capable of separate measurement of water, consumption charges shall be calculated from the property primary water meter and charged to the lots proportional to the lot entitlement schedule for the Community Title unless an agreement between the Body Corporate and Council has been entered into pursuant to section 154(4) of the Body Corporate and Community Management Act 1997. Each such lot shall attract water consumption charges in accordance with clause (m) above.
- (p) In respect of fire hose reel services, all existing services are to have meters fitted retrospectively where practicable. All such services will be then capable of being measured in respect of their water consumption and Council will levy a consumption charge for each kilolitre consumed. Dedicated fire mains are to be installed with no meter and they are not intended to be metered for consumption. Where a fire hose reel is connected off a dedicated fire main, a combination meter is to be installed and the consumption measurement is to be taken from the low flow (fire hose reel) meter only.
- (q) The Council intends to undertake two water meter readings per year based on the current format of October/November and May/June as an initial frequency and increased readings be considered as consumption trends and predictions are identified accurately and with confidence. Following the November/December meter reading a consumption charge (if applicable) shall be levied on the landowner

based on the relevant consumption charges for water consumed in that financial year. Following the May/June meter reading, a consumption charge shall be levied on the landowner based on the relevant consumption charges. The calculation of the latter consumption charge will take into account total consumption and the levy of previous charges, if any.

- (r) If any meter in use ceases to register or is reported by an officer of the Council to be out of order or registering inaccurately, the Chief Executive Officer may estimate the charge for the water supplied during the period such meter was not in working order by considering the daily average consumption of a comparative period selected by the engineer or the whole of the previous financial year, whichever is the lowest, and multiplying this average by the number of days the meter is out of order or registering inaccurately. Notwithstanding the above, the Chief Executive Officer may cause a check meter to be installed and estimate the charge upon the registration thereof.
- (s) In the case where the Chief Executive Officer is satisfied, on reasonable grounds, that there was a previously undetected leak within the property boundaries, the Chief Executive Officer, in accordance with delegated powers from the Council, will determine the basis for charging consumption charges. His determination, entirely in his discretion, shall be made either upon the basis of annual consumption over the previous three year period or where there is not a history of consumption water charges prior to detection of the leak, and where the Chief Executive Officer is satisfied as to the bona fides of the claim, on the basis that the Chief Executive Officer shall reduce the consumption charges up to an amount of 50% of the amount otherwise payable

H. Environment Separate Charge

The Environment Separate Charge to meet the ongoing and proposed funding commitments towards environment improvement and natural resource conservation initiatives shall be **\$16.50** and shall apply equally to all rateable assessments.

I. CBD 1 Separate Charge

The CBD 1 Separate Charge to meet the ongoing payment of interest on and redemption of any instalments in respect of any loan money borrowed for or in respect of cost of constructing and implementing Stage 1 of the CBD Revitalisation Project shall be **\$16-29** and shall apply equally to all rateable assessments per annum for a period of **eight (8) years from 2005/06 until 2012/13**.

J. CBD 2 Separate Charge

The CBD 2 Separate Charge to meet the ongoing payment of interest on and redemption of any instalments in respect of any loan money borrowed for or in respect of cost of constructing and implementing Stage 2 of the CBD Revitalisation Project shall be **\$11-14** and shall apply equally to all rateable assessments per annum for a period of **ten (10) years from 2005/06 until 2014/15**.

K. Wunjunga SBS Translator Special Charge

The Wunjunga SBS Translator Supply Special Charge to meet the ongoing cost of repairs, maintenance and electricity supply to the SBS television translator shall be **\$14-32**. The benefited area is defined in a schedule of benefited properties (held by Council's Rates office).

L. Alva Beach Rural Fire Brigade Special Charge

The Alva Beach Rural Fire Brigade Special Charge shall be **\$30** and will be levied on all rateable land within the area marked on Plan No. RF1621 (held by Council's Rates office) for the purposes of raising funds for the Alva Beach Rural Fire Brigade. Funds collected are for the purpose of contributing to the purchase and maintenance of equipment and infrastructure by the Brigade. The Council is of the opinion that all land within the area receives a

special benefit from those activities. The levy is based on the requirements of the Brigade as set out in its budget and agreed to annually by the Council.

M. Clare Rural Fire Brigade Special Charge

The Clare Rural Fire Brigade Special Charge shall be **\$20** and will be levied on all rateable land within the area marked on Plan No. RF0463 (held by Council's Rates office) for the purposes of raising funds for the Clare Rural Fire Brigade. Funds collected are for the purpose of contributing to the purchase and maintenance of equipment and infrastructure by the Brigade. The Council is of the opinion that all land within the area receives a special benefit from those activities. The levy is based on the requirements of the Brigade as set out in its budget and agreed to annually by the Council.

N. Mount Kelly Rural Fire Brigade Special Charge

The Mount Kelly Rural Fire Brigade Special Charge shall be **\$35** and will be levied on all rateable land within the area marked on Plan No. RF2009 (held by Council's rates office) for the purposes of raising funds for the Mount Kelly Rural Fire Brigade. Funds collected are for the purpose of contributing to the purchase and maintenance of equipment and infrastructure by the Brigade. The Council is of the opinion that all land within the area receives a special benefit from those activities. The levy is based on the requirements of the Brigade as set out in its budget and agreed to annually by the Council.

O. Scott Rural Fire Brigade Special Charge

The Scott Rural Fire Brigade Special Charge shall be **\$40** and will be levied on all rateable land within the area marked on Plan No. RF0425 (held by Council's Rates office) for the purposes of raising funds for the Scott Rural Fire Brigade. Funds collected are for the purpose of contributing to the purchase and maintenance of equipment and infrastructure by the Brigade. The Council is of the opinion that all land within the area receives a special benefit from those activities. The levy is based on the requirements of the Brigade as set out in its budget and agreed to annually by the Council.

P. Time within which Rates must be Paid

Rates and charges must be paid within the discount period as defined in Section Q.

Q. Discount on Rates and Charges as an Incentive for Early Payment

To encourage the prompt payment of rates and charges, a discount will be allowed on rates and charges levied if the rates and charges, including any arrears, are paid within 30 clear days from the date of issue of the rate notice (referred to as the Discount Period).

Discount of **10%** is to be allowed on rates and charges (excluding fire service charges and Alva Beach, Clare, Mount Kelly and Scott Rural Fire Brigade Special Charges) if such rates and charges (including arrears of rates and charges and fire service charges) are paid in full within the discount period.

Q. Interest on Rates and Charges

It is Council's policy to ensure that the interests of ratepayers are protected by discouraging the avoidance of responsibility for payment of rates and charges when due. To this end, Council will impose interest on rates and charges which remain unpaid at 30 June next following the levy of the rates and charges.

The rate of interest to be charged on rates and charges unpaid at the end of the financial year in which the same become due and payable shall be a rate per annum compound interest calculated on daily balances and shall be the lesser of the maximum rate of interest provided for in Section 67 of the Local Government (Finance, Plans and Reporting) Regulation 2010 (currently 11%) or at a rate of 2% above the Commercial/Investment Loan Rate

(Secured) at the Council's bank, the Queensland Country Credit Union as at 1 June 2011 - this being 10.15 %. Accordingly the rate of interest shall be **11%** per annum compound interest calculated on daily balances.

R. Recovery of Rates and Charges

The Council requires payment of rates and charges within the specified thirty (30) day period after the issue of the rate notice, excluding those ratepayers electing to remit rates by an approved periodic payment plan.

All other ratepayers may be subject to legal action to recover overdue rates and charges.

S. Regulatory, Cost Recovery, Commercial and Other Fees

Council shall by resolution fix regulatory fees for services and facilities including but not limited to, an application for, or the issue of, an approval, consent, licence, permission, registration or other authority under a local government act. Such charges will generally be contained in the Register of Regulatory Fees as adopted by Council from time to time in the Fees and Charges schedule.

The regulatory and cost recovery fees shall be no more than the cost to the local government of providing the service or taking the action for which the fee is charged.

In accordance with Council's general corporate and contractual powers under the Local Government Act 2009, the Council shall by resolution fix a fee for the commercial or other voluntary supply and acquisition of goods and services

ITEM 3 – Adoption of the Debt Policy for 2011-12 to 2020-21 Financial Years

Recommendation

That the Council in accordance with Section 133 of the Local Government (Finance, Plans and Reporting) Regulation 2010 adopts the Debt Policy which states the new borrowings planned for the 2011-12 financial year and the next nine (9) financial years; and the time over which the local government plans to repay existing and new borrowings.

Resolution

Moved Councillor Gazziola, seconded Councillor Haynes that the recommendation be adopted.

CARRIED

Debt Policy

Commencement Date: 1 July 2011

Function: Financial Management

RESPONSIBILITIES

Policy Owner	<i>Director - Corporate & Community Services</i>
Policy Contact	<i>Manager – Financial Services</i>
Approval Authority	<i>Council</i>
Next Review Date	<i>1 June 2012</i>

REVISION HISTORY

Rev	Status	Date	Approver / Meeting	Resolution / Document No.
<i>0</i>	<i>Draft</i>			

1 PURPOSE

The objective of this policy is to ensure the sound management of Council's existing and future debt.

2 SCOPE

This policy applies to borrowings for capital works by Burdekin Shire Council.

3 POLICY STATEMENT

- All external borrowing shall be obtained through the Queensland Treasury Corporation and Council shall continue to use the full range of Queensland Treasury Corporation's fund management services in order to enhance Council's loan/redemption procedures.
- Council aims to finance capital works and new assets to the greatest extent possible from revenue, grants and subsidies or any specific reserves primarily established to fund capital works.
- It is Council's intention to fully fund depreciation which is a significant source of funding.
- Council will not use long-term debt to finance operating activities or recurrent expenditure.
- Council will always be mindful of the additional cost incurred by the community when assets are required through borrowings, which increases the cost of providing capital infrastructure.
- The repayment for new and existing borrowings will be set at 10 years or less except in the case of borrowings for major long-life infrastructure assets where a repayment period will be determined on an individual basis.
- Detailed capital works and asset acquisition programs for the next 9 years together with the 10 year financial model will provide the basis for determination of funding options.

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Planned Borrowings

Planned borrowings for asset acquisition and replacement for the current financial year and the next nine financial years are as follows:

Year of Borrowing	Function	Amount	Term
30/06/2012	General	\$1,400,000	10 years
30/06/2013	General	\$2,950,000	10 years
30/06/2013	Sewerage	\$500,000	15 years
30/06/2014	General	\$2,250,000	10 years
30/06/2015	General	\$2,700,000	10 years
30/06/2015	Waste	\$2,000,000	4 years
30/06/2016	General	\$1,200,000	10 years
30/06/2016	Sewerage	\$1,400,000	15 years
30/06/2016	Water	\$470,000	15 years
30/06/2017	General	\$1,510,000	10 years
30/06/2017	Sewerage	\$2,600,000	15 years
30/06/2017	Water	\$470,000	15 years
30/06/2018	General	\$3,100,000	10 years
30/06/2018	Water	\$2,000,000	15 years
30/06/2019	General	\$1,300,000	10 years
30/06/2019	Waste	\$2,000,000	4 years
30/06/2019	Sewerage	\$450,000	15 years
30/06/2020	General	\$3,300,000	10 years
30/06/2020	Sewerage	\$1,400,000	15 years
30/06/2021	General	\$1,400,000	10 years
30/06/2021	Sewerage	\$2,600,000	15 years

Existing Borrowings

As at 31st March 2011, Council's existing borrowings and expected terms for repayment are as follows:-

Loan	Debt Pool	Expected Loan Term
Properties	FRDP	0.30
Roadworks 2	FRDP	0.97
Roadworks 3	3 Year	1.62
Roadworks 4	3 Year	3.48
CBD Revitalisation	3 Year	1.46
CBD Revitalisation 2	3 Year	3.11
Drainage	3 Year	2.68
Drainage 2	6 Year	6.16
Drainage 3	6 Year	7.20
SES	6 Year	6.05
General	6 Year	6.25
General 2010	9 Year	8.94

4 LEGISLATION

Local Government Act 2009

Local Government (Finance, Plans and Reporting) Regulation 2010

Statutory Bodies Financial Arrangements Act 1982

Statutory Bodies Financial Arrangements Regulation 2007

ITEM 4 – Adoption of 2011-12 Budget

Recommendation

That the Council in accordance with Section 99 and 100 of the (Finance, Plans and Reporting) Regulation 2010 adopts the Statement of Comprehensive Income, Statement of Financial Position, Statement of Cash Flows and Statement of Changes in Equity for the 2011-12 Budget and 2012-13 to 2013-14 forecast years including amended estimates for the 2010-11 financial year; and the relevant measures of financial sustainability for the financial years 2010-11 to 2020-21.

Resolution

Moved Cr. Lewis, seconded Cr. List that the recommendation be adopted.

CARRIED

BURDEKIN SHIRE COUNCIL**Budgeted Statement of Comprehensive Income**

For the periods ending 30 June

	2010/11	2011/12	2012/13	2013/14
	\$	\$	\$	\$
Revenue				
Rates and utility charges	32,152,680	33,800,090	36,143,146	38,384,056
Less Discounts & Pensioner remissions	-3,197,900	-3,373,034	-3,586,829	-3,803,805
Net rates and utility charges	28,954,780	30,427,056	32,556,317	34,580,251
User fees and charges	2,316,755	2,321,295	2,437,359	2,559,224
Operating grants, subsidies and contributions	9,986,080	14,401,551	8,002,204	3,593,658
Interest revenue	1,459,000	1,587,000	1,572,700	1,673,200
Sales of contract and recoverable works	2,063,000	1,400,000	1,470,000	1,543,500
Other Income	252,237	176,196	185,005	194,253
TOTAL OPERATING REVENUES	45,031,852	50,313,098	46,223,585	44,144,086
Expenses				
Employee benefits	-16,752,793	-18,256,120	-17,208,542	-17,210,480
Materials and services	-19,213,546	-21,554,367	-18,395,693	-16,190,274
Depreciation and Amortisation	-7,685,741	-7,976,451	-8,562,989	-9,311,723
Finance Costs	-464,226	-572,302	-608,518	-678,352
TOTAL OPERATING EXPENSES	-44,116,306	-48,359,240	-44,775,742	-43,390,829
Operating surplus (deficit)	915,546	1,953,858	1,447,843	753,257
Capital income and expenditure:				
Cash capital grants, subsidies and contributions	2,998,091	3,702,489	1,869,560	1,364,560
Net result for the period	3,913,637	5,656,347	3,317,403	2,117,817

BURDEKIN SHIRE COUNCIL**Budgeted Statement of Financial Position**

As at the periods ending 30 June

	2010/11	2011/12	2012/13	2013/14
	\$	\$	\$	\$
Current Assets				
Cash and deposits	17,775,239	17,136,417	18,426,580	17,342,357
Receivables	2,550,418	2,550,418	2,550,418	2,550,418
Inventories	1,157,916	1,157,916	1,157,916	1,157,916
Other financial assets	188,099	188,099	188,099	188,099
	21,671,672	21,032,850	22,323,013	21,238,790
Non-Current Assets				
Receivables	254,660	254,660	254,660	254,660
Other financial assets	1,536	1,536	1,536	1,536
Property, plant and equipment	407,709,098	413,589,688	417,397,877	421,119,949
Intangible assets	1,055,013	1,122,963	1,105,236	1,027,931
Capital Work in Progress	4,917,122	4,917,122	4,917,122	4,917,122
	413,937,429	419,885,969	423,676,431	427,321,198
TOTAL ASSETS	435,609,101	440,918,819	445,999,444	448,559,988
Current Liabilities				
Trade and other payables	3,030,988	3,030,988	3,030,988	3,030,988
Provisions	460,059	460,059	460,059	460,059
Other	3,082	3,082	3,082	3,082
	3,494,129	3,494,129	3,494,129	3,494,129
Non-Current Liabilities				
Trade and other payables	457,756	429,756	429,756	429,756
Interest bearing liabilities	8,859,713	8,376,084	10,139,306	10,582,033
Provisions	9,078,591	9,243,591	9,243,591	9,243,591
	18,396,060	18,049,431	19,812,653	20,255,380
TOTAL LIABILITIES	21,890,189	21,543,560	23,306,782	23,749,509
NET COMMUNITY ASSETS	413,718,912	419,375,259	422,692,662	424,810,479
Community Equity				
Investment in capital assets	149,212,012	155,654,722	157,692,503	160,905,084
Future Capital Sustainability Reserve	9,112,875	8,912,771	9,776,139	10,722,864
Unspent Loan Funds Reserve	434,185			
Asset revaluation reserve	248,045,690	248,045,690	248,045,690	248,045,690
Other reserves	6,870,286	6,748,290	7,169,173	5,127,224
Accumulated Surplus/(Deficiency)	43,864	13,786	9,157	9,617
TOTAL COMMUNITY EQUITY	413,718,912	419,375,259	422,692,662	424,810,479

BURDEKIN SHIRE COUNCIL**Budgeted Statement of Cash Flows**

For the periods ending 30 June

	2010/11	2011/12	2012/13	2013/14
	\$	\$	\$	\$
Cash Flows from Operating Activities				
Receipts				
Net rates and utility charges	28,954,780	30,427,056	32,556,317	34,580,251
Total fees and charges	2,316,755	2,321,295	2,437,359	2,559,224
Sales of contract and recoverable works	2,063,000	1,400,000	1,470,000	1,543,500
Interest revenue	1,459,000	1,587,000	1,572,700	1,673,200
Contributions and donations	309,526	148,639	156,070	163,872
Government subsidies and grants	9,676,554	14,252,912	7,846,134	3,429,786
Other Income	252,237	176,196	185,005	194,253
	45,031,852	50,313,098	46,223,585	44,144,086
Payments				
Employee benefits	-16,635,794	-18,119,120	-17,208,542	-17,210,480
Materials and services	-19,213,546	-21,554,367	-18,395,693	-16,190,274
Finance costs	-459,754	-572,302	-608,518	-678,352
	-36,309,094	-40,245,789	-36,212,753	-34,079,106
Cash provided by / (used in) operational activities	8,722,758	10,067,309	10,010,832	10,064,980
Cash Flow from Investing Activities :				
Proceeds from sale of capital assets	457,034	470,000	457,000	480,000
Contributions				
Government grants and subsidies	2,998,091	3,702,489	1,869,560	1,364,560
Payments for property, plant and equipment	-14,250,401	-14,237,691	-12,744,451	-13,430,490
Payments for intangibles	-371,699	-157,300	-66,000	-6,000
Net cash provided by investing activities	-11,166,975	-10,222,502	-10,483,891	-11,591,930
Cash Flow from Financing Activities :				
Proceeds from borrowings	3,243,000	1,400,000	3,450,000	2,250,000
Repayment of borrowings	-1,713,552	-1,883,629	-1,686,778	-1,807,273
Net cash provided by financing activities	1,529,448	-483,629	1,763,222	442,727
Net Increase (Decrease) in Cash Held	-914,769	-638,822	1,290,163	-1,084,223
Cash at beginning of reporting period	18,690,008	17,775,239	17,136,417	18,426,580
Cash at end of Reporting Period	17,775,239	17,136,417	18,426,580	17,342,357

BURDEKIN SHIRE COUNCIL**Budgeted Statement of Changes in Equity**

For the periods ending 30 June

	Total				Retained Surplus/Deficit				Capital			
	2010/11 \$	2011/12 \$	2012/13 \$	2013/14 \$	2010/11 \$	2011/12 \$	2012/13 \$	2013/14 \$	2010/11 \$	2011/12 \$	2012/13 \$	2013/14 \$
Balance at the beginning of period	409,805,275	413,718,912	419,375,259	422,692,662	18,831	43,864	13,786	9,157	153,820,891	158,759,072	164,567,493	167,468,642
Increase (decrease) in net result	3,913,637	5,656,347	3,317,403	2,117,817	3,913,637	5,656,347	3,317,403	2,117,817				
Other transfers to capital and reserves					-5,118,038	-6,071,358	-3,522,032	-2,417,357	953,338	565,165	433,589	594,746
Transfers from capital and reserves					1,229,434	384,933	200,000	300,000				
Transfers between capital and reserves									3,984,843	5,243,256	2,467,560	3,564,560
Balance at the end of period	413,718,912	419,375,259	422,692,662	424,810,479	43,864	13,786	9,157	9,617	158,759,072	164,567,493	167,468,642	171,627,948

	Asset Revaluation Reserve				Other Reserves			
	2010/11 \$	2011/12 \$	2012/13 \$	2013/14 \$	2010/11 \$	2011/12 \$	2012/13 \$	2013/14 \$
Balance at the beginning of period	248,045,690	248,045,690	248,045,690	248,045,690	7,919,863	6,870,286	6,748,290	7,169,173
Increase (decrease) in net result								
Transfers to capital and reserves					4,164,700	5,506,193	3,088,443	1,822,611
Transfers from capital and reserves					-1,229,434	-384,933	-200,000	-300,000
Transfers between capital and reserves					-3,984,843	-5,243,256	-2,467,560	-3,564,560
Balance at the end of period	248,045,690	248,045,690	248,045,690	248,045,690	6,870,286	6,748,290	7,169,173	5,127,224

BURDEKIN SHIRE COUNCIL**Financial Ratios of the Budget**

For the years ending 30 June

	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
	%	%	%	%	%	%	%	%	%	%	%
Asset Sustainability Ratio											
<u>Expenditure on replacement assets</u>											
Funded depreciation for year	97.8%	91.7%	88.5%	97.5%	106.1%	103.4%	96.4%	97.6%	89.9%	87.3%	80.4%
The extent to which current year replacements are funded from current year depreciation											
Asset Consumption Ratio											
<u>Written down value of infrastructure assets</u>											
Replacement cost of infrastructure assets	77.2%	77.4%	76.2%	75.5%	74.7%	73.8%	73.0%	72.0%	70.4%	69.6%	68.2%
The written down current value of Council's depreciable assets relative to their as new value in up to date prices											
Interest Coverage Ratio											
<u>Net interest expense on debt service</u>											
Total operating revenue	-2.3%	-2.1%	-2.2%	-2.3%	-2.0%	-1.8%	-1.7%	-1.6%	-1.6%	-1.7%	-1.8%
Indicates the extent to which Council's operating revenues are committed to net interest expense											
Debt Payment Ratio											
<u>Debt servicing & redemption cost</u>											
Total operating revenue	4.8%	4.8%	4.9%	5.5%	5.7%	6.0%	6.4%	6.5%	6.8%	6.9%	7.1%
Extent to which total operating revenue services Council's interest and redemption											
Operating Surplus Ratio											
<u>Net operating surplus</u>											
Total operating revenue	2.0%	3.9%	3.1%	1.7%	2.0%	1.3%	1.5%	1.3%	1.2%	0.6%	0.8%
Extent to which operating revenue covers operational expenses											
A ratio >0% indicates an operating surplus, these funds are available to maintain or increase council's capital value											
A ratio <0% indicates an operating loss, results in opening capital value declining which has future sustainability issues											
Revenue Ratio											
<u>Rate revenue</u>											
Total revenue	64.3%	60.5%	70.4%	78.3%	78.9%	79.2%	79.5%	79.9%	80.0%	80.1%	80.2%
The extent to which Council's total revenue is funded by rates and charges											

BURDEKIN SHIRE COUNCIL

Financial Ratios of the Budget

For the years ending 30 June

	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
	%	%	%	%	%	%	%	%	%	%	%
Working Capital Ratio											
<u>Current assets</u>											
Current liabilities	6.2 : 1	6.0 : 1	6.4 : 1	6.1 : 1	6.3 : 1	6.5 : 1	7.0 : 1	7.5 : 1	8.3 : 1	9.2 : 1	10.3 : 1
Measures the extent to which Council has liquid assets available to meet short term financial obligations											
Level of Debt											
<u>Total liabilities</u>											
Total assets	5.0%	4.9%	5.2%	5.3%	5.8%	6.0%	6.4%	6.9%	7.1%	7.5%	7.6%
Measures the extent to which total assets are funded from loan											
Net Financial Liabilities Ratio											
<u>Total liabilities-current assets</u>											
Operating revenue	0.5%	1.0%	2.1%	5.7%	9.4%	9.4%	10.0%	10.6%	6.9%	4.6%	-0.8%
Measures the extent to which the net financial liabilities of Council can be serviced by operating revenues											
All Rates/Total Operating Costs	65.6%	62.9%	72.7%	79.7%	80.5%	80.3%	80.7%	80.9%	80.9%	80.6%	80.9%
Indicates extent of total operating costs that are funded by current rates and charges											
Operating Surplus/Total Operating Revenue	2.0%	3.9%	3.1%	1.7%	2.0%	1.3%	1.5%	1.3%	1.2%	0.6%	0.8%
Measures the operating surplus each year as a percentage of the total operating revenue											
Net rates & utility charges original budget prior year	28,902,450	30,427,056	32,556,317	34,580,251	36,883,516	39,083,214	41,506,636	44,293,500	46,686,227	49,342,166	52,290,917
Net rates & utility charges budgeted for current year	<u>30,427,056</u>	<u>32,556,317</u>	<u>34,580,251</u>	<u>36,883,516</u>	<u>39,083,214</u>	<u>41,506,636</u>	<u>44,293,500</u>	<u>46,686,227</u>	<u>49,342,166</u>	<u>52,290,917</u>	<u>52,290,917</u>
Change rates and utility charges net of discounts	<u>1,524,606</u>	<u>2,129,261</u>	<u>2,023,934</u>	<u>2,303,265</u>	<u>2,199,698</u>	<u>2,423,422</u>	<u>2,786,864</u>	<u>2,392,727</u>	<u>2,655,939</u>	<u>2,948,751</u>	<u>2,948,751</u>
Percentage change	5.3%	7.0%	6.2%	6.7%	6.0%	6.2%	6.7%	5.4%	5.7%	6.0%	6.0%

BURDEKIN SHIRE COUNCIL

For the periods ending 30 June

**THE FOLLOWING REPORTS DO NOT FORM PART OF THE
BUDGET STATEMENTS. THEY HAVE BEEN PROVIDED AS
ADDITIONAL MANAGEMENT INFORMATION TO ASSIST
THE READER IN THEIR ANALYSIS OF THE BUDGET.**

BURDEKIN SHIRE COUNCIL**Budgeted Appropriation Statement**

For the periods ending 30 June

	2010/11	2011/12	2012/13	2013/14
	\$	\$	\$	\$
Retained Surplus/(Deficit) from prior years.	18,831	43,864	13,786	9,157
Net result for the period	3,913,637	5,656,347	3,317,403	2,117,817
	3,932,468	5,700,211	3,331,189	2,126,974
Appropriations				
Transfers to capital :-				
Capital payments funded from general revenue	-953,338	-565,165	-433,589	-594,746
	-953,338	-565,165	-433,589	-594,746
Transfers from capital :-				
Net transfer (to) from capital	-953,338	-565,165	-433,589	-594,746
Net transfer (to) from the Constrained Works Reserve	-2,945,545	-3,702,489	-1,869,560	-1,364,560
Transfer (to) from the Grants and Contributions Reimbursement Reserve	-52,546			
Accumulated surplus/(deficit) available for transfer to general reserve	-18,961	1,432,557	1,028,040	167,668
Capital Reserves :				
Transfer (to) from the Water Reserve	97,171	-282,097	-283,425	-286,322
Transfer (to) from the Sewerage Reserve	-146,027	-285,731	-206,078	-149,020
Recurrent Reserves :				
Transfer (to) from the Recurrent Maintenance Reserve	111,681	-850,943	-529,380	277,291
Retained surplus/(deficit) at period end.	43,864	13,786	9,157	9,617

BURDEKIN SHIRE COUNCIL**Budgeted Statement of Capital Funding**

For the periods ending 30 June

	2010/11	2011/12	2012/13	2013/14
	\$	\$	\$	\$
Sources of Capital Funding				
Appropriation from general revenue sources, funds expended for capital purposes in the period	953,338	565,165	433,589	594,746
Proceeds from the sale of non current assets	457,034	470,000	457,000	480,000
Capital sustainability funds expended	7,738,557	8,166,014	7,689,080	8,354,457
Funds from loan borrowings expended in the period	3,201,880	1,834,185	3,450,000	2,250,000
Constrained grants and developer contributions	3,015,651	3,809,155	1,869,560	1,364,560
Water Reserve	91,251			2,200,000
Sewerage Reserve	180,000	1,094,000	598,000	
Carryover Capital Works Reserve	697,941	340,101		
	16,335,652	16,278,620	14,497,229	15,243,763
Application of Capital Funding				
Non current assets:				
Land & Site improvements	1,947,830			100,000
Buildings	2,377,115	213,200	1,515,000	1,540,000
Plant and equipment	1,845,304	1,965,500	1,754,700	1,923,500
Road and bridge network	4,595,396	5,471,191	5,744,751	6,031,990
Water	241,251	2,100,000	400,000	2,400,000
Sewerage	1,148,394	2,454,800	2,580,000	750,000
Drainage	1,035,400	1,455,000	500,000	500,000
Other assets	1,059,711	578,000	250,000	185,000
Intangible assets	371,699	157,300	66,000	6,000
	14,622,100	14,394,991	12,810,451	13,436,490
Principal Loan Repayment:				
Queensland Treasury Corporation	1,713,552	1,883,629	1,686,778	1,807,273
Total capital expenditure	16,335,652	16,278,620	14,497,229	15,243,763

BURDEKIN SHIRE COUNCIL

Cash Analysis Report

For the periods ending 30 June

	Est Act 2011 \$	Est Act 2011 \$		2011/12 \$	2011/12 \$			
Cash Holdings								
CASH HOLDINGS AT PERIOD END		17,775,239			17,136,417			
Represented by :-								
Constrained Works Reserve - grants and subsidies	106,666							
Constrained Works Reserve- developer & other contributions	125,191			125,191				
Water Reserve	2,296,325			2,578,422				
Sewerage Reserve	1,739,826			931,557				
Capital Maintenance Reserve	38,736			38,736				
Carryover Capital Works Reserve	351,197			11,096				
Recurrent Maintenance Reserve	2,212,345			3,063,288				
		6,870,286			6,748,290			
Future Capital Sustainability Reserve	9,112,875			8,912,771				
Queensland Treasury Corporation	434,185							
		9,547,060			8,912,771			
Revenue received in advance		3,082			3,082			
Retained surplus/(deficit) at period end		43,864			13,786			
Cash backing of rehabilitation provisions	Cash to date	Provision balance	(Shortfall)	Cash held	Cash to date	Provision balance	(Shortfall)	Cash held
Refuse sites	21,082	7,753,107	-7,732,025	21,082	31,623	7,753,107	-7,721,484	31,623
Movement in Working Capital Accounts								
	Est Act 2011			2011/12				
	Capital A/c	Current Period	Movement	Capital A/c	Current Period	Movement		
Assets	Analysis	Balances		Analysis	Balances			
Receivables	586,134	2,474,918	-1,888,784	586,134	2,474,918	-1,888,784		
Loans to community organisations	423,544	330,160	93,384	423,544	330,160	93,384		
Inventories	253,803	1,157,916	-904,113	253,803	1,157,916	-904,113		
Inventory land for development & sale	70,689		70,689	70,689		70,689		
Other financial assets		189,635	-189,635		189,635	-189,635		
NET MOVEMENT IN ASSETS	1,334,170	4,152,629	-2,818,459	1,334,170	4,152,629	-2,818,459		
Liabilities								
Creditors and accruals	337,062	1,861,209	1,524,147	337,062	1,861,209	1,524,147		
Current employee entitlements	828,901	1,629,838	800,937	828,901	1,629,838	800,937		
Non current employee entitlements		1,783,240	1,783,240		1,920,240	1,920,240		
NET MOVEMENT IN LIABILITIES	1,165,963	5,274,287	4,108,324	1,165,963	5,411,287	4,245,324		
Net Assets minus Liabilities	168,207	1,121,658		168,207	1,258,658			
	A	B		A	B			
Net working capital cash (deficit)		A + B	1,289,865		A + B	1,426,865		
CASH HOLDINGS AT PERIOD END			17,775,239			17,136,417		
Analysis of the Council's Capital A/c								
Non current capital assets		413,681,233			419,629,773			
Add - Unspent capital cash held		9,547,060			8,912,771			
Add - Rehabilitation cash funded from depreciation		21,082			31,623			
Total capital assets		423,249,375			428,574,167			
Capital loans		8,859,713			8,376,084			
Rehabilitation provisions		7,753,107			7,753,107			
Total capital debt		16,612,820			16,129,191			
Net capital assets minus net capital debt		X	406,636,555		X	412,444,976		
Capital Value & Capital Cash		158,759,072			164,567,493			
Asset revaluation reserve		248,045,690			248,045,690			
Total balance of Council capital	Y	406,804,762		Y	412,613,183			
Working Capital balance in Capital A/c	X - Y = A	168,207		X - Y = A	168,207			

BURDEKIN SHIRE COUNCIL

Cash Analysis Report

For the periods ending 30 June

	2012/13				2013/14			
	\$				\$			
Cash Holdings								
CASH HOLDINGS AT PERIOD END					18,426,580			
Represented by :-								
Constrained Works Reserve - grants and subsidies								
Constrained Works Reserve- developer & other contributions	125,191				125,191			
Water Reserve	2,861,847				948,169			
Sewerage Reserve	539,635				688,655			
Capital Maintenance Reserve	38,736				38,736			
Carryover Capital Works Reserve	11,096				11,096			
Recurrent Maintenance Reserve	3,592,668				3,315,377			
	7,169,173				5,127,224			
Future Capital Sustainability Reserve	9,776,139				10,722,864			
Queensland Treasury Corporation								
	9,776,139				10,722,864			
Revenue received in advance	3,082				3,082			
Retained surplus/(deficit) at period end	9,157				9,617			
Cash backing of rehabilitation provisions	Cash to date	Provision balance	(Shortfall)	Cash held	Cash to date	Provision balance	(Shortfall)	Cash held
Refuse sites	42,164	7,753,107	-7,710,943	42,164	52,705	7,753,107	-7,700,402	52,705
Movement in Working Capital Accounts								
Assets	2012/13				2013/14			
	Capital A/c Analysis	Current Period Balances	Movement		Capital A/c Analysis	Current Period Balances	Movement	
Receivables	586,134	2,474,918	-1,888,784		586,134	2,474,918	-1,888,784	
Loans to community organisations	423,544	330,160	93,384		423,544	330,160	93,384	
Inventories	253,803	1,157,916	-904,113		253,803	1,157,916	-904,113	
Inventory land for development & sale	70,689		70,689		70,689		70,689	
Other financial assets		189,635	-189,635			189,635	-189,635	
NET MOVEMENT IN ASSETS	1,334,170	4,152,629	-2,818,459		1,334,170	4,152,629	-2,818,459	
Liabilities								
Creditors and accruals	337,062	1,861,209	1,524,147		337,062	1,861,209	1,524,147	
Current employee entitlements	828,901	1,629,838	800,937		828,901	1,629,838	800,937	
Non current employee entitlements		1,920,240	1,920,240			1,920,240	1,920,240	
NET MOVEMENT IN LIABILITIES	1,165,963	5,411,287	4,245,324		1,165,963	5,411,287	4,245,324	
Net Assets minus Liabilities	168,207	1,258,658			168,207	1,258,658		
	A	B			A	B		
Net working capital cash (deficit)			A + B	1,426,865			A + B	1,426,865
CASH HOLDINGS AT PERIOD END					18,426,580			
					17,342,357			
Analysis of the Council's Capital A/c								
Non current capital assets	423,420,235				427,065,002			
Add - Unspent capital cash held	9,776,139				10,722,864			
Add - Rehabilitation cash funded from depreciation	42,164				52,705			
Total capital assets	433,238,538				437,840,571			
Capital loans	10,139,306				10,582,033			
Rehabilitation provisions	7,753,107				7,753,107			
Total capital debt	17,892,413				18,335,140			
Net capital assets minus net capital debt	X	415,346,125			X	419,505,431		
Capital Value & Capital Cash	167,468,642				171,627,948			
Asset revaluation reserve	248,045,690				248,045,690			
Total balance of Council capital	Y	415,514,332			Y	419,673,638		
Working Capital balance in Capital A/c	X - Y = A	168,207			X - Y = A	168,207		

ITEM 5 – Making and Levying of Rates and Charges for the 2011-12 Financial Year

Recommendation

That the Council in accordance with Section 94 of the Local Government Act 2009 makes and levies the rates and charges outlined in the Revenue Statement for 2011-12.

Resolution

Moved Councillor Loizou, seconded Cr. Gazziola that the recommendation be adopted.

CARRIED

Vote of Thanks

The Mayor, Cr. McLaughlin expressed her thanks to Councillors and staff for their dedication and co-operation in successfully delivering the 2011/12 budget.

There being no further business the meeting closed at 4.20 p.m.

These minutes were confirmed by Council at the Ordinary Council Meeting held on 26 July, 2011.

MAYOR

ITEM-3 Burdekin Cultural Complex Board Minutes - 18 April 2011

Recommendation

That the minutes of the Burdekin Cultural Complex Board Meeting held on 18 April 2011 be received and adopted.

BURDEKIN CULTURAL COMPLEX BOARD INCORPORATED

MINUTES – GENERAL MEETING

Held on Monday 18h April 2011
Commencing at 5.30 p.m.

Clause 1 ATTENDANCE

Crs. L. McLaughlin, T. List, M. Haynes and E. Gazziola – representing
Burdekin Shire Council

Mr. R. Marriott – representing Burdekin Memorial Hall Committee

Ms D. Gosper - Secretary
Miss L. Cox – Minutes Clerk

Observer – Mr. L. Alberts – Theatre Director

Apologies – Mrs J. Defranciscis & Mr. A. Smith (as proxy) representing
Burdekin Memorial Hall Committee, Mrs L. Henderson representing Friends of
the Burdekin Theatre and Cr. L. Loizou representing Burdekin Shire Council.

Clause 2 MINUTES RECEIVED

Moved Cr. Haynes, seconded Mr. Marriott, that the Minutes of the General
Meeting held on 21st February 2011 be received as a true and correct record.

CARRIED

Clause 3 UPDATE ON MEMORIAL HALL MAINTENANCE
(Clause 3)

- (a) Mr. Marriott advised the meeting that Burdekin Memorial Hall Secretary, Mr. Smith, was looking after the matter of the fairy lights and was waiting for a response from an electrician as to how to proceed;
- (b) Mr. Marriott also advised the meeting that they were currently awaiting a response from Council regarding the painting work at the Memorial Hall, noting that currently only one quote had been received.
- (c) The cupboards for the Memorial Hall meeting room have been assembled and were pending installation by the contractor, who had been unwell;
- (d) Discussion was held on the cupboards and the consultation process with hirers of the meeting room with Theatre Director, Mr. Alberts, being requested to investigate whether the cupboards had moveable shelving;
- (e) Mr. Marriott informed the meeting that the Burdekin Memorial Hall Committee had taken possession of the black curtains from the Board and although the curtains had yet to be hemmed, this process would proceed shortly.

Clause 4 **MEETING TO BE ORGANISED REGARDING UPGRADE OF THEATRE**
(Clause 4) **KITCHEN**

Theatre Director, Mr. Alberts, advised the meeting that there had been no progress on the upgrade of the Theatre Kitchen. He informed the meeting that he had received no feedback, as yet, from caterers asked to provide their thoughts on requirements for the kitchen.

Discussion was held on:-

- (a) contacting kitchen suppliers about providing quotes;
- (b) the actual future requirements for the Theatre and whether a full refurbishment of the kitchen was needed;
- (c) a budget for these future requirements;
- (d) current utilisation of the kitchen by catering companies; and
- (e) completion of professional plans for the upgrade.

Chairman, Cr. McLaughlin, advised Mr. Alberts to organise a meeting between all relevant parties regarding the upgrade of the kitchen to enable this project to be advanced.

Clause 5 **OLD THEATRE AUDITORIUM SEATS TO BE SOLD**
(Clause 16)

Theatre Director, Mr. Alberts, advised the meeting that plans for the replacement of the Theatre auditorium seating were proceeding.

He informed the meeting that due to health and safety regulations there has had to be a reconfiguration of the auditorium seating. He advised that:-

- (a) there will be a total of 475 fixed seats for patrons and 16 more seats in the sound desk area, noting that this would reduce previous capacity of the Theatre;
- (b) the wider seats would be in J row instead of M; and
- (c) there would be 10 spare seats purchased.

Discussion was held on:-

- (a) the patronage history of shows at the Theatre;
- (b) seats unable to be utilised due the sound desk in the auditorium; and
- (c) promotion of the Theatre with new seating arrangement.

Discussion was also held on the selling of the old auditorium seats and possible sale price of these chairs.

Moved Cr. Gazzola, seconded Cr. Haynes that the Board recommend to Council that, as the chairs in the Burdekin Theatre auditorium were being replaced, the old auditorium chairs be sold at \$10 per chair.

CARRIED

Clause 6 THEATRE DIRECTOR TO SEEK SUPPORT FROM CHAIRMAN WHEN
(Clause 14) COST OF A PERFORMANCE EXCEEDS \$4,000

Discussion was held on upcoming performances at the Theatre and the costs involved in staging these performances. Discussion was also held on costs involved in cancelling any future performances at the Theatre.

Moved Cr. Haynes, seconded Mr. Marriott that the Theatre Director seek support from the Chairman when the cost of an upcoming performance at the Theatre or Memorial Hall exceeds \$4,000.

CARRIED

Clause 7 BOARD'S POLICY OF DEBT MANAGEMENT ADOPTED
(Clause 18)

Secretary, Ms Gosper, presented to the meeting a revised copy of the Board's Policy on Debt Management.

Discussion was held on minor changes to the wording for the Timeframe for Payment of Accounts and Overdue Accounts sections of the policy.

Moved Cr. List, seconded Cr. Gazzola that the Board's Policy of Debt Management as presented by Board Secretary, Ms Gosper, be adopted.

CARRIED

Clause 8 HIRE OF GLASSES AND BAR FRIDGE TO BE CHARGED TO HIRERS ON
BURDEKIN MEMORIAL HALL COMMITTEE ACCOUNTS

1025650 * 07-07-34 from Burdekin Memorial Hall Committee advising of the purchase for the Memorial Hall of silver material, 12 cartons of wine glasses and 3 cartons of beer glasses.

It was resolved that hirers of the Memorial Hall, from 1st May 2011, be charged for hire of glasses and hire of the bar fridge by the Burdekin Memorial Hall Committee rather than the Board as previously had occurred.

Clause 9 ADVICE FROM BURDEKIN MEMORIAL HALL COMMITTEE ON OUTCOME
OF DISCUSSIONS REGARDING RELOCATION OF BAR NOTED

1025626 * 07-07-34 from Burdekin Memorial Hall Committee advising of outcome of discussions regarding the relocation of the bar, with Mr. Dennis Mondin to seek advice from the appropriate consultants as to whether the proposed relocation is feasible.

Discussion was held on the options available for the refurbishment and relocation of the bar at the Memorial Hall. Discussions also occurred on the following:-

- (a) removal of the existing back wall of the current bar with a bar freezer installed and able to be restocked from the rear;
 - (b) installation of railing in front of bar to encourage flow of patrons through the bar area;
-

-
- (c) underage restrictions in the bar area affecting the accessibility of the toilets in the hall;
 - (d) the drafting of concept plans for options for the refurbishment and relocation of the bar;
 - (e) options of changing the female and/or former male toilets to accommodate the new bar area; and
 - (f) options for changes to the number of toilets and wash basins when changes are made to the bar.

NOTED

Clause 10 COUNCIL TO BE ADVISED THAT BOARD HAS COMPANION CARD PROGRAMME IN PLACE

1058792 * 07-02-99 from Burdekin Shire Council forwarding information regarding the Queensland Government's Companion Card programme, which is an initiative developed to encourage greater participation in community life for people with a disability.

It was resolved that the Board advise Council that the Queensland Government's Companion Card programme had previously been considered by the Board and subsequently the service was already provided to its patrons.

Clause 11 BOARD CONFIRMS TOTAL CASH DISBURSEMENTS FOR FEBRUARY 2011

Moved Cr. Haynes, seconded Mr. Marriott, that the Board confirm total cash disbursements from the General Account for the month of February 2011 for \$24,631.33.

CARRIED

Clause 12 BOARD CONFIRMS TOTAL CASH DISBURSEMENTS FOR MARCH 2011

Moved Mr. Marriott, seconded Cr. List, that the Board confirm total cash disbursements from the General Account for the month of March 2011 for \$74,467.57.

CARRIED

Clause 13 FINANCIAL STATEMENTS FOR PERIOD FROM 1ST MAY, 2010 to 31ST MARCH 2011 BE RECEIVED

Moved Cr. Gazziola, seconded Cr. Haynes, that the financial statements of the Burdekin Cultural Complex Board for the period from 1st May, 2010 to 31st March 2011 be received.

CARRIED

Clause 14 BOARD RECEIVES RECEIVABLES RECONCILIATION REPORT

Secretary, Ms Gosper, tabled a detailed report listing Outstanding Debtors to 31st March 2011. The Board noted that the total outstanding debtors in respect of the Burdekin Theatre and Burdekin Memorial Hall Complex were \$6,058.53. The Board also noted the recovery arrangements to collect the amount outstanding.

Moved Cr. Gazzola, seconded Mr. Marriott, that the report on Receivables Reconciliation be received.

CARRIED

Clause 15 BOARD NOTES DETAILS OF EXPENDITURE TO 31st MARCH 2011 FOR ADMINISTRATION AND OPERATION OF BURDEKIN CULTURAL COMPLEX

Moved Mr. Marriott, seconded Cr. List, that the report listing receipts and expenditure to 31st March 2011 of Council costs associated with administration and operation of the Burdekin Theatre and Burdekin Memorial Hall by the Burdekin Shire Council as follows be received:-

<u>Receipts</u>	<u>Item</u>	<u>Expenditure</u>
108,880.00	Capital	238,497.85
90.91	Current	432,060.16
\$108,970.91		\$670,558.01

CARRIED

Clause 16 BOARD NOTES DETAILS OF LIVE PERFORMANCES IN BURDEKIN THEATRE AND BURDEKIN MEMORIAL HALL SINCE LAST MEETING

At this stage Members discussed details of reconciliations for performances in the Burdekin Theatre and Burdekin Memorial Hall since the last meeting.

The Chairman advised the meeting that it was necessary to confirm the Theatre Director's action in exercising discretionary powers concerning fee structures negotiated for some performances in the Burdekin Theatre and Burdekin Memorial Hall since the last Board meeting.

Details of performances in the Burdekin Theatre and Burdekin Memorial Hall during the period are set out hereunder:-

Production:.....An Evening with Harry Manx
 Date: 7/9/10
 Promoted By: BCCB Inc.
 Ticket Sales: 16
 Cost to Promoter: \$1,016.60

Production:.....Gene Peterson
 Date: 8/9/10
 Promoted By: BCCB Inc.
 Ticket Sales: 12
 Cost to Promoter: \$2,499.32

Production: Wombat Stew
 Date: 10/9/10
 Promoted By: BCCB Inc.
 Ticket Sales: 981
 Cost to Promoter: \$2,393.95

Production: Forever Everly
 Date: 18/9/10
 Promoted By: BCCB Inc.
 Ticket Sales: 37
 Cost to Promoter: \$2,383.14

Production: Afternoon Melodies – Judy Stone
 Date: 2/10/10
 Promoted By: BCCB Inc.
 Ticket Sales: 135
 Cost to Promoter: \$1,916.26

Production: Australia Day
 Date: 26/1/11
 Promoted By: Burdekin Shire Council
 Ticket Sales: 291
 Cost to Promoter: \$578.90

Production: Morning Melodies – Peter Cousens
 Date: 10/2/11
 Promoted By: BCCB Inc.
 Ticket Sales: 71
 Cost to Promoter: \$2,355.26

Production: Seussical
 Date: 11 – 27/2/11
 Promoted By: Burdekin Singers
 Ticket Sales: 1518
 Refund to Promoter: \$12,558.08

Production: Beatlemania on Tour
 Date: 7/3/11
 Promoted By: Showtime Management Aus P/L
 Ticket Sales: 100
 Refund to Promoter: \$2,427.67

Production: Distortions
 Date: 12/3/11
 Promoted By: BCCB Inc.
 Ticket Sales: 129
 Cost to Promoter: \$2,456.22

Production: Ten Sopranos
 Date: 18/3/11
 Promoted By: BCCB Inc.
 Ticket Sales: 55
 Cost to Promoter: \$1,890.08

Production:.....Project X – Raw Dance
 Date:23/3/11
 Promoted By: BCCB Inc.
 Ticket Sales: 131
 Refund to Promoter:.....\$92.31

Production:..... Interschool Drama Festival
 Date:25/3/11
 Promoted By: Burdekin Catholic High School
 Ticket Sales: 464
 Refund to Promoter:.....\$1,296.89

Moved Cr. Haynes, seconded Cr. List, that the Board note details provided by the Theatre Director in respect of performances in the Burdekin Theatre and Burdekin Memorial Hall since the last meeting.

CARRIED

Clause 17 **REPORT ON EXPENDITURE TO 31st JANUARY 2011 FOR BOARD PROMOTIONS RECEIVED**

Moved Cr. Gazzola, seconded Cr. List, that the report listing expenditure for Board Promotions as at 31st March 2011, be received.

CARRIED

Clause 18 **THEATRE DIRECTOR'S REPORT FOR THE PERIOD 21st FEBRUARY TO 18th APRIL 2011 RECEIVED**

Moved Cr. Haynes, seconded Mr. Marriott, that the Theatre Director's report for the period 21st February 2011 to 18th April 2011, be received.

CARRIED

Clause 19 **NEW THEATRE TECHNICAL MANAGER APPOINTED**

Theatre Director, Mr. Alberts, advised the meeting that Mr. David Luscombe had been appointed to the position of Theatre Technical Manager. He also advised that due to Mr. Luscombe's appointment, the position of Theatre Technical Assistant had become vacant and the position would be advertised in the coming weeks.

Clause 20 **BOARD ADVISED THAT INTEREST ACCRUED ON THE BOARD'S V2 PLUS ACCOUNT TOTALS \$1,229.23**

Chairman, Cr. McLaughlin, advised the meeting that interest accrued on the Board's V2 Plus Account totals \$1,229.23.

NOTED

Burdekin Cultural Complex Board Incorporated – 18th April 2011

Clause 21 **ANNUAL GENERAL AND GENERAL MEETINGS TO BE HELD ON
MONDAY 27th JUNE 2011**

It was confirmed that the Board Annual General Meeting and the next General meeting would be held on Monday 27th June 2011 at 5.30 p.m.

There being no further business the Meeting concluded at 7.15 p.m.

L. McLaughlin
CHAIRMAN

- **REPORTS**

ITEM-4 Rating Statement as at 30 June 2011

Recommendation

That the Rating Statement as at 30 June 2011 be received and adopted.

Rating Statement as at 30th June, 2011

Rates/Charges	Opening Arrears	Plus Levy	Less Rebates	Less Discount	Nett Rates	Less Receipts	Closing Arrears
Differential General Rates	362,829	22,412,862	-288,271	-2,052,205	20,072,386	-19,848,672	586,542
Other-CBD 1 & 2, Wunjunga, Rural Fire & Legals	25,239	284,637	-7,234	-21,494	255,910	-245,153	35,995
Arrears Interest	54,100	40,946			40,946	-14,303	80,744
Environmental Levy	2,218	143,490	-1,734	-12,935	128,821	-127,326	3,713
Sewerage	47,342	3,359,202	-94,680	-306,032	2,958,489	-2,920,220	85,611
Garbage	46,376	3,103,112	-40,242	-280,234	2,782,636	-2,751,355	77,657
Water	68,124	3,006,683	-82,557	-267,490	2,656,636	-2,616,924	107,836
Fire Levy	14,209	951,310	-26,561		924,750	-916,969	21,990
Total Net Rates & Charges	\$620,436	\$33,302,242	-\$541,279	-\$2,940,390	\$29,820,574	-\$29,440,922	\$1,000,088

Arrears as % of Nett Rates as at 30th June, 2011

3.35%

Arrears as % of Nett Rates as at 30th June, 2010 (for comparison)

2.29%

Differential General Rate Arrears - as at 30th June, 2011

Category	Arrears \$	Arrears % of Total	Nett Rates \$	Arrears % of Nett Rates by Category
Category A - Residential	187,728	32%	7,155,110	3%
Category B - Commercial & Industrial	41,407	7%	1,013,152	4%
Category C - Grazing & Livestock	201,867	34%	1,320,543	15%
Category D - Rural - Sugar Cane	145,131	25%	8,995,582	2%
Category E - Rural - Other	10,409	2%	473,036	2%
Category F - Sugar Milling	0	0%	584,642	0%
Category G - Commercial Water Business	0	0%	530,321	0%
Total	\$586,542	100%	\$20,072,386	

Pam Miller
Rates Supervisor

ITEM-5 Capital Projects Monthly Report for period ending 30 June 2011

Recommendation

That the Capital Projects Monthly Report for period ending 30 June 2011 be received.



BURDEKIN SHIRE COUNCIL
MONTHLY REPORT - CAPITAL PROJECTS
 (End of Year Accruals & Adjustments Incomplete)
 Period Ending 30 June 2011

Budget	Income Actual to Period End	Variance	Description	Budget	Expenditure Actual to Period End	Variance	Comments
DAS-Director of Administrative Services							
0	0.00	-	11001 - IT Hardware Purchases	13,000	17,257.26	33%	Server Replacement.
0	0.00	-	11002 - Admin Office Equipment Capital Purchases	0	8,741.50	-	Multi - Tenant Service Centre Photocopier. Funds from 12007.
-12,650	-33,950.00	168%	11007 - IT Software Purchases	371,699	130,051.22	-65%	Refer Note 1
0	0.00	-	11103 - Burd Mem Hall Off Equip,F&F Capital Pur	5,000	0.00	-100%	Upgrade sound system with new console - to be deferred to 2011-12.
-735,000	-595,267.00	-19%	12007 - Burd Rural Multi-Tenant Service Centre	846,356	742,457.03	-12%	Building basically completed. Final progress payments to be made in 2011-12.Final grant income to be received at 6 months defect liability period.
0	0.00	-	12008 - Burd Rural Multi-Tenant Service Centre-Carpark	16,889	16,889.38	0%	Carry over - Complete
0	0.00	-	12009 - Ayr Town Clock	29,474	29,473.47	0%	Carry over - Complete
0	0.00	-	12012 - Ayr Showgrounds Grounds	44,000	0.00	-100%	Improvement to buildings. Capital works deferred until consultation held.
-50,000	0.00	-100%	12027 - Giru SES	110,000	107,338.43	-2%	New shed completed apart from Telstra connection and bitumen apron.
-39,896	-39,896.00	0%	12028 - Rita Island SES	0	0.00	-	Grant income received in 2010-11. Expenditure in 2009-10.
0	0.00	-	12041 - Burdekin Library	71,100	0.00	-100%	Security System Budget \$11,100 - to be undertaken with renovation project; Library Renovations Budget \$60,000 (carry over) - further consideration for 2011-12.
0	0.00	-	12042 - Burdekin Memorial Hall	211,475	112,462.54	-47%	Bar Replacement Budget \$ 120,000. Concept plans prepared. Further meeting to be held to progress project; Air conditioning upgrade Budget \$84,000 (carry over) Actual \$83,952; Budget Cabinets \$7,475 Actual \$7,523; Replacement and repair of second hand chiller Actual \$20,988
-108,880	-109,061.82	0%	12043 - Burdekin Theatre	488,306	218,419.29	-55%	Light Dimmer System Budget \$27,000 - order placed \$21,163; Air conditioning Budget \$159,546 Actual \$154,546; Kitchen Extraction fan Budget \$29,000 (carry over) - waiting on stakeholder feedback; Auditorium Carpet Budget \$55,000; Auditorium Chairs Budget \$217,760 Actual \$63,873 - works planned for August.
-76,812	-75,383.96	-2%	12044 - Burdekin Library Other Assets	78,790	66,592.85	-15%	Library books budget.
0	0.00	-	23145 - CBD2 Home Hill Burdekin Memorial Hall To	31,800	0.00	-100%	Carry over.Concept plans prepared. Further meeting to be held to progress project.
-1,023,238	-853,558.78		Total	2,317,889	1,449,682.97		



BURDEKIN SHIRE COUNCIL
MONTHLY REPORT - CAPITAL PROJECTS
 (End of Year Accruals & Adjustments Incomplete)
 Period Ending 30 June 2011

Budget	Income Actual to Period End	Variance	Description	Budget	Expenditure Actual to Period End	Variance	Comments
DDES-Director of Development and Environmental Services							
0	0.00	-	16206 - Home Hill Transfer Station	30,000	6,958.00	-77%	Order placed for fencing.
0	-100,678.76	-	16208 - Kirknie Landfill	0	0.00	-	
0	0.00	-	16220 - Kirknie Landfill Cell Liner	1,947,830	1,350,478.77	-31%	Work completed waiting for rectification of defects.
0	0.00	-	16251 - Burdekin Cascades Caravan Park	100,000	0.00	-100%	Cabins - Business plan discussed with council.
0	0.00	-	16252 - Home Hill Caravan Park	55,000	0.00	-100%	Amenities Block - upgrades to cabins to be carried over. Pending structural engineering report.
0	0.00	-	16253 - Burdekin Cascades Caravan Pk Other Asset	28,148	28,148.29	0%	Extra costs in bitumen and drainage works - Complete
0	0.00	-	16301 - Ayr Pool	160,000	0.00	-100%	Pool Planning and design reports - expressions of interest called
0	0.00	-	16351 - Public Conveniences Anzac Park	120,000	339.87	-100%	All Abilities - Tender awarded. Fabrication of facility has commenced off-site.
0	0.00	-	16355 - Public Conveniences Brolga Park	5,624	5,623.64	0%	Replace Roof sheeting - works complete
0	0.00	-	16357 - Public Conveniences - Alva Park	94,835	94,834.20	0%	Project complete
0	0.00	-	16359 - Public Conveniences Plantation Park	3,619	3,619.64	0%	Macerator pump - completed
0	-34,500.00	-	16400 - Shire Parks	0	0.00	-	
0	0.00	-	16411 - Off Lead Dog Park Fence	25,000	0.00	-100%	Report presented to Council 10/5/11. Further public consultation undertaken and reported to council. Further discussion in council required.
0	0.00	-	16412 - Coutts Park Playground Fence	13,888	14,757.82	6%	Project complete
0	0.00	-	16413 - Alva Park Playground Fence	20,720	20,720.00	0%	Project complete
0	0.00	-	16414 - Spiller St Park Playground Fence	24,152	24,151.41	0%	Project complete
-5,000	-5,000.00	0%	16415 - Anzac Park Shade Cover	5,000	5,058.01	1%	RLCIP Round 3 - Construction complete.
-55,000	-55,000.00	0%	16416 - Anzac Park Playground Fence	76,991	74,235.00	-4%	RLCIP Round 3 - Construction well advanced.
-65,000	-65,000.00	0%	16417 - Nelsons Lagoon - Footpath	65,000	62,069.71	-5%	RLCIP Round 3 - Construction complete.
-325,550	-227,885.00	-30%	16511 - All Abilities Playground	500,000	479,267.22	-4%	Construction almost complete.
0	0.00	-	16512 - Miscellaneous Parks Irrigation	30,760	1,507.36	-95%	Preliminary design commenced (<i>Budget Trf \$19,240 to Alva Park conveniences project 16359</i>)
0	0.00	-	16551 - Alva Beach Tourism Facilities	10,013	9,420.92	-6%	Project complete
-20,812	0.00	-100%	16700 - Alva & Wunjunga Dune Protection	72,000	0.00	-100%	Working with both progress association and NQ Dry Tropic. Should commence this year.
-471,362	-488,063.76		Total	3,388,580	2,181,189.86		



BURDEKIN SHIRE COUNCIL
MONTHLY REPORT - CAPITAL PROJECTS
 (End of Year Accruals & Adjustments Incomplete)
 Period Ending 30 June 2011

Budget	Income Actual to Period End	Variance	Description	Budget	Expenditure Actual to Period End	Variance	Comments
DES-Director of Engineering Services							
-39,332	-39,332.00	0%	Engineering Sundry Assets	111,676	106,144.01	-5%	Refer Note 2
-1,180,160	-1,288,669.01	9%	Roadworks	4,645,396	3,989,815.98	-14%	Expenditure reduced by wet weather Budget reduced \$340,000 ref c/o Tenth Ave. Extra works to be carried over.
-283,999	-106,666.50	-62%	Drainage	1,035,400	469,441.71	-55%	Refer Note 3
-457,034	-447,195.47	-2%	Plant & Equipment	1,733,514	1,557,590.38	-10%	Refer Note 4
0	0.00	-	Sewerage	1,148,394	775,437.72	-32%	Sutcliffe sewerage design awarded to Harrison Grierson Consultants; Sewer relining project continuing
0	0.00	-	Water	241,251	118,416.29	-51%	Refurb Budget \$150,000 Actual \$68,646; Low Level Storage Brandon Budget \$91,251 Actual \$38,117; Flurodisation Actual \$11,654
-1,960,525	-1,910,062.98		Total	8,915,631	7,016,846.09		
-3,455,125	-3,251,685.52		TOTAL CAPITAL PROJECTS	14,622,100	10,647,718.92		

MONTHLY REPORT - CAPITAL PROJECTS
(End of Year Accruals & Adjustments Incomplete)
Period Ending 30 June 2011

Note	Project	Rbud	Expenditure Actual to Period End	Comments	Budget	Actual	
1	IT Software Purchases	371,699	130,051	Asset Management (<i>carry over \$19,568</i>)	229,568	27,513	
				ECM upgrade - currently on hold.	20,000	0	
				People One upgrade - order written.	45,000	0	
				Server Software - planned purchase for March	6,000	0	
				Minute Manager (<i>carry over</i>) - <i>Completed</i>	32,151	32,151	
				Lidar (<i>carry over</i>) - <i>Completed</i>	38,980	38,980	
				ECM 10 additional licences		15,000	
				Drafting Software - Drains Unlimited		5,050	
				HR Module		11,358	
					371,699	130,052	
2	Engineering Sundry Assets	111,676	106,144	Equipment Shed Depot	35,000	29,935	Chemical shed
				Gate Jones St	15,000	22,810	
				Office Equipment	15,000	8,203	Total Station
				Alert Stations (<i>carry over</i>)	46,676	45,196	
					111,676	106,144	
3	Drainage	1,035,400	469,442	General (<i>trf \$180,000 from Rds</i>)	300,000	155,783	Sutcliffe Est Drainage
				Ayr Flood Study Dam upgrade - L1			
				Lilliesmere Swamp	0	6,105	
				Ayr Trf Station	30,000	0	
				Ayr Town Drain	0	12,077	
				Ayr Flood Study Mitigation Works Edwards st	0	135,004	
				Gross pollutant Traps (<i>carry over</i>)	0	0	
				Ayr Brandon Flood Study(<i>carry over</i>)	215,000	0	
				NDMP 2 04/05 (<i>carry over</i>)	20,000	150,738	Kalamia Gate.
				NDMP 1 03/04 (<i>carry over</i>)	185,400	0	
				Kalamia Dam upgrade (<i>carry over</i>)	255,000	0	
				05/06 NDMP3 -		9,735	Modifications to Kanaka Gate
				Nt Burd Water Bd Dam upgrade - K2 (<i>budget</i>)	30,000	0	
					1,035,400	469,442	
4	Plant & Equipment	1,733,514	1,557,591	Sedans	178,000	179,863	
				Utilities (<i>carry over \$25,175</i>)	518,550	518,552	
				Trucks (<i>carry over \$171,163</i>)	318,000	178,021	Two Isuzu trucks commitment \$138,594
				Machines	560,000	540,460	
				Plant & Equipment (<i>carry over \$30,000</i>)	158,964	140,695	Two trailers commitment \$16,192
					1,733,514	1,557,591	

ITEM-6 Operating Statement for period ending 30 June 2011

Recommendation

That the Operating Statement for the period ending 30 June 2011 be received.



BURDEKIN SHIRE COUNCIL **OPERATING STATEMENT**

Period Ending 30 June 2011

	Notes	Actual YTD	Revised Budget	\$ Variance Actual to Revised	\$ Variance Actual to Revised
Operating Revenue					
Rates and Utility Charges	1	31,482,159.10	32,152,680	-670,521	-2%
Discounts and pensioner remissions		-3,221,085.40	-3,197,900	-23,185	1%
User fees and charges		2,344,296.21	2,316,755	27,541	1%
Interest Received	2	1,632,572.99	1,459,000	173,573	12%
Operational contributions and donations		324,696.72	309,526	15,171	5%
Operational grants and subsidies	3	10,648,847.80	9,676,553	972,295	10%
Contract and recoverable works	4	1,860,674.60	2,063,000	-202,325	-10%
Other operating revenue	5	375,249.71	252,237	123,013	49%
Total operating revenue		45,447,411.73	45,031,851	415,561	1%
Operating Expenses					
Employee benefits	6	15,452,919.58	16,647,793	-1,194,873	-7%
Materials and services		19,196,181.47	19,318,546	-122,365	-1%
Depreciation and amortisation		7,685,740.95	7,685,741	0	0%
Finance Costs		455,534.63	464,226	-8,691	-2%
Other expenses		-1,334.40	0	-1,334	-
Total operating costs		42,789,042.23	44,116,306	-1,327,264	-3%
Surplus (deficit) from operating activities		2,658,369.50	915,545	1,742,825	190%
Capital contributions	7	43,952.01	0	43,952	-
Capital grants and subsidies	8	2,773,556.22	2,998,091	-224,535	-7%
Other capital income (expense)	9	433,995.47	0	433,995	-
Net result for period		5,909,873.20	3,913,636	1,996,237	51%

as at 21/07/2011 10:37 AM

**BURDEKIN SHIRE COUNCIL
OPERATING STATEMENT
NOTES FOR VARIANCES TO BUDGET
Period Ending 30 June 2011**

Note	
1	<p><i>Rates and Utility Charges</i> Admin - Rates in advance to be journalled as income at end of financial year - approx \$380,000. Wat - Second water meter reading still to be accrued.</p>
2	<p><i>Interest Received</i> Admin - Higher interest rates received</p>
3	<p><i>Operational Grants and Subsidies</i> Admin - Ahead of Budget \$570,657 - Advance FAGS 11/12 grant received \$453,990. Unbudgeted grants received for Community Education & Volunteer training facility \$8,667, Waste Facility Assistance Program \$20,000 & Flexible Funding Program \$75,000. C&C - Under Budget \$54,222 - PCYC operational grant of \$50,000 & Giru SES Grant \$16,652 not yet received. Eng - Ahead of Budget \$500,580 - FAGS 11/12 Advance Grant Received \$195,625. NDRRA Flood Monies above budget \$312,586. Env - Under Budget \$61,721 - Projects completed in May. Invoices issued to claim grant money. Some monies still to be received. Waste - Ahead of Budget \$17,000 - Unbudgeted grant for weighbridge at Kirknie Landfill.</p>
4	<p><i>Contract and recoverable works</i> Eng - Under Budget \$202,325 - Contract and Recoverable works expenditure not uniform during year.</p>
5	<p><i>Other Operating Revenue</i> Admin - Ahead of Budget \$18,119 - Due to insurance recoveries \$33,110. Eng - Ahead of Budget \$11,437 - Unbudgeted monies received for Insurance Recovery on Vehicle \$1,847 & Retainer for Eng Services \$10,000. Env - Ahead of Budget \$73,705 - Unbudgeted monies received for plaques \$5,678, Caravan Park washing machine income \$5,088, insurance recovery \$5,333, declared weed control \$39,645 & Feral Animal Control 1st Milestone payment \$18,750. Water - Ahead of Budget \$29,030 - Unbudgeted monies include Insurance Recoveries \$13,543 and Water connections \$12,490.</p>
6	<p><i>Employee Benefits</i> Admin - Under Budget \$226,800 - Employee related costs area under budget due to timing differences associated with unfilled positions, LSL & Statutory Holidays. Eng - Under Budget \$1,014,664 - Mainly Rec Wks Other \$831,752, Rec Wks Main Roads \$128,212, Works Supervision \$36,999, Workshop Operations \$18,730 & Engineering Technical Services Section \$25,870. Over budget in the Works Section \$18,419 & Engineering Administration Section \$31,956.</p>
7	<p><i>Capital Contributions</i> Eng - Ahead of Budget \$8,713 - Contribution towards Eighth St, Drysdale St, Little Drysdale St, Donaghue St & Klondyke Road jobs. Env - Ahead of Budget \$34,500 - Unbudgeted monies received from Developers for Parks Contributions.</p>
8	<p><i>Capital Grants and subsidies</i> Admin - Ahead of Budget \$21,300 - Unbudgeted grants received fro Kirknie Weighbridge Software \$11,300 & Software Upgrades at transfer stations & landfill \$10,000. C&C - Under Budget \$191,900 - Grant monies still to be received for Giru SES Shed \$50,000 and Multi Tenant Centre \$139,733. Eng - Under Budget \$64,337 - Lilliesmere Dam (NDRP) Grant not fully received \$177,332. Env - Under Budget \$118,477 - Majority of budgeted grants received to date. Further grants to be received for All Abilities Playground and Alva & Wunjunga Dune Protection. Waste - Ahead of Budget \$128,879 - Unbudgeted grant received from Kirknie Landfill Weighbridge.</p>
9	<p><i>Other Capital Income</i> - Proceeds from sale of equipment</p>

- **ENVIRONMENT & OPERATIONS**

ITEM-7 Application for Permit to Occupy over Lot 1 on PER206578 - Plantation Creek (Parish of Morrill, County of Gladstone)

Document Information

Referring Letter No: 1080306

File No: 01/04/05A

Name of Applicant: N/A

Location: Lot 1 on PER206578 Plantation Creek (Lot 16 on AP2092, Parish of Morrill, County of Gladstone)

Author and Title: S. Great – Manager Planning and Development

Executive Summary

A request has been received from Department of Environment & Resource Management (DERM), seeking Council's views in respect of the Permit to Occupy over land described as Lot 1 on PER206578, Plantation Creek (Parish of Morrill, County of Gladstone), in accordance with the Departments requirements.

Recommendation

That Council offers no objection to the request from Department of Environment and Resource Management for the Permit to Occupy over land described as Lot 1 on PER206578, Plantation Creek (Parish of Morrill, County of Gladstone).

Background Information

Correspondence has been received from Department of Environment and Resource Management, requesting Council's views on the Permit to Occupy over land described as Lot 1 on PER206578, Plantation Creek (Parish of Morrill, County of Gladstone).

Council's views in respect of the Permit to Occupy are requested in accordance with Department of Environment and Resource Management requirements.

Council's Manager – Environment and Health, Tracy Jensen has recommended that Council offers no objection to the request.

Link to Corporate/Operational Plan

N/A

Consultation

All relative Council departments have been consulted, there was no external consultation required for this application.

Legal Authority or Implications

N/A

Policy Implications

N/A

Financial and Resource Implications

N/A

Report prepared by:

S Great - Manager Planning and Development

Report authorised by:

S Great - Manager Planning and Development

Attachments



ITEM-8 WJ & AR Clifford - Development Application for Material Change of Use for Storage Units at Masonic Hall, 99 - 101 Tenth Avenue, Home Hill (Lot 205 & 206 on H6168, Parish of Inkerman, County of Salisbury)

Document Information

Referring Letter No: 1070570

File No: CONS 11/0006

Name of Applicant: WJ & AR Clifford

Location: 99 - 101 Tenth Avenue, Home Hill (Lot 205 & 206 on H6168, Parish of Inkerman, County of Salisbury)

Author and Title: S. Great – Manager Planning and Development

Executive Summary

An application has been received from WJ & AR Clifford seeking approval for a Material Change of Use for storage units at 99 - 101 Tenth Avenue, Home Hill (Lot 205 & 206 on H6168, Parish of Inkerman, County of Salisbury). A Development Application (Impact Assessable) has been triggered in accordance with the Burdekin Shire IPA Planning Scheme.

Recommendation

That Council approves the Development Application for a Material Change of Use for Storage Units at 99 - 101 Tenth Avenue, Home Hill (Lot 205 & 206 on H6168, Parish of Inkerman, County of Salisbury) subject to the following conditions:

GENERAL

- 1.1 The conditions of the development permit must be achieved prior to the commencement of the use, except where specified otherwise in these conditions of approval.
- 1.2 The development and conduct of the approved use of the premises, the carrying out and maintenance of any works on the premises and construction and maintenance of any building on the premises must be generally in accordance with the supporting documents in the application submitted.
- 1.3 All wastes and rubbish shall be stored, collected and disposed of to the satisfaction of the Council, and in accordance with the Environmental Protection (Interim Waste) Regulations 1996, with full cost borne by the applicant. No wastes or rubbish shall be burned on-site;

DRAINAGE

- 2.1 Stormwater drainage from paved/sealed and roofed areas must be discharged under the footpath to kerb and channelling within the adjoining road reserves in accordance with AS3500.2.2003 or as otherwise required or agreed to in writing by the Chief Executive Officer. All stormwater under the footpath shall be 125x75 Duragal Heavy Duty RHS. There shall be no discharge across the surface of the footpath.
- 2.2 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads;
- 2.3 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.

PUBLIC UTILITY SERVICES

3. The developer must at its own cost undertake all necessary alterations to public utility mains and services as are rendered necessary by the carrying out of any required external works or other works associated with the approved development;

ROADWORKS

- 4.1 Construct a minimum 6m wide industrial crossover (150mm thick, 32 mPa concrete, F72 mesh) for both accesses, from the invert of the existing kerbing and channeling to the property boundary and re-profile the footpath each side of the proposed driveway to comply with the Disability Discrimination Act.
- 4.2 Provide to Council prior to the commencement of works a cross section at 1:50 scale from the side of Tenth Avenue to the property boundary showing existing and design levels for the crossovers in condition 4.1. The cross sections shall detail all proposed materials, dimensions and grades of the crossover.

AMENITY

5. Any night and outdoor lighting must be designed, conducted and operated in accordance with 'AS 4282 – Control of the obtrusive effects of outdoor lighting'. Lighting for the car park is not to cause a nuisance to any persons;

ADVICE:

An approval under the Integrated Planning Act must be obtained before any Operational Works are carried out. Plans and specifications for all operational works must be submitted with the application.

Background Information

The following comments are from the Manager of Planning & Development, Mr Shane Great:

Burdekin Shire Council acting as the Assessment Manager has received a properly made Development Application for a Material Change of Use for Storage Units at 99 - 101 Tenth Avenue, Home Hill (Lot 205 & 206 on H6168, Parish of Inkerman, County of Salisbury). The land is zoned 'Public Purpose' under the provisions of Council's IPA Planning Scheme. The level of assessment is 'Impact Assessable'.

Site Description and Surrounding Land Uses:

The subject site is located at 99 - 101 Tenth Avenue, Home Hill with a total site area of 2,024m². The predominant land use in the surrounding area is primarily residential. The only non residential use in the immediate area is St Colman's primary school, church and parish hall which is located to the south east of the proposed development.

The Application:

The proposed development is to convert the existing Masonic Hall into a 30 unit storage facility (unit sizes indicative only and may vary according to requirements by clients). It is envisaged that the facilities will be used for either domestic storage, small business storage or document storage. Access to the site will be via a keyed gate. The facility will be open 24 hours a day seven days a week. Internal traffic during these times will be restricted to domestic and small commercial vehicles only with minimal traffic movements expected between the hours of 7.00 p.m. and 7.00a.m. Commercial vehicles over 5 tonnes would be limited to 7am to 7pm Monday to Saturday. The applicant has indicated that there will be no employees required on site as management will be handled by a local real estate agent.

Recommendation:

Council's Development Assessment Team members have assessed the application and have included reasonable and relevant conditions to ensure that the development complies with relevant planning legislation including Council's planning scheme. With the proposed development in the 'Public Purpose' zone, the amenity of the area should not be detrimentally impacted upon. It is considered that this proposal will deliver acceptable planning outcomes for Tenth Avenue residents with regard to protecting residential amenity. This statement is supported by the fact that the building is existing and its previous uses included a function hall. Given that the proposal complies with the provisions contained in the "Public Purpose" Zone Code, it is recommended that Council approve the application subject to the abovementioned conditions.

Link to Corporate/Operational Plan

N/A

Consultation

All relative Council Departments have been consulted there were no external agencies triggered for this application. The application was advertised in the Home Hill Observer on Thursday 23rd June, 2011 and at the closing date for submissions on Thursday 14th July 2011, no submissions were received.

Legal Authority or Implications

N/A

Policy Implications

N/A

Financial and Resource Implications

N/A

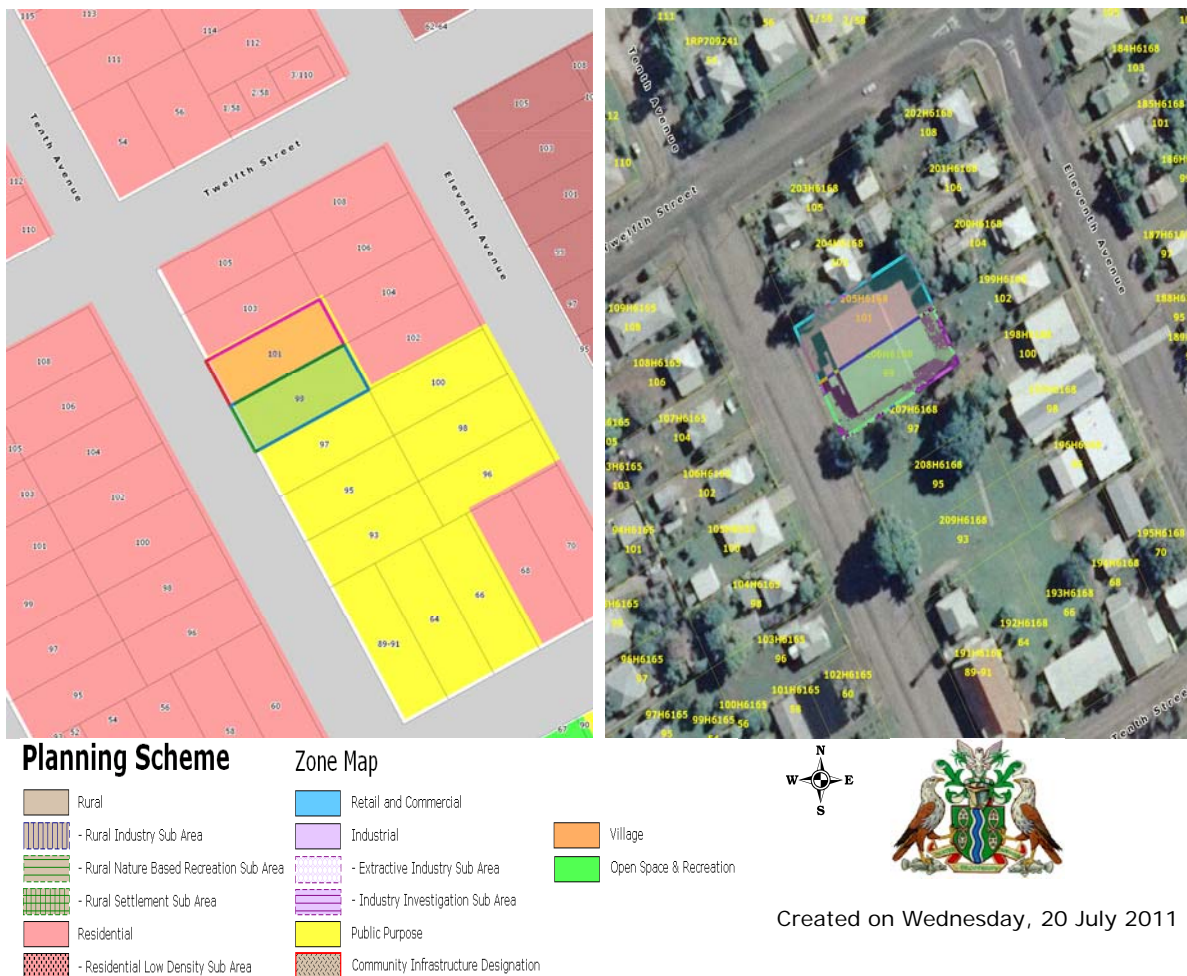
Report prepared by:

S. Great – Manager Planning and Development

Report authorised by:

S. Great – Manager Planning and Development

Attachments



ITEM-9 Theodosiou Investments Pty Ltd - Application to Register an Existing Lawful Fettered Use over 129 MacKenzie Street, Ayr (Lot 6 on RP905018 Parish of Antill, County of Gladstone)

Document Information

Referring Letter No: 1077470

File No: 05/03/01

Name of Applicant: Theodosiou Investments Pty Ltd

Location: 129 Mackenzie Street, Ayr (Lot 6 on RP905018, Parish of Antill, County of Gladstone)

Author and Title: S. Great - Manager Planning and Development

Executive Summary

A request has been received from Everson Town Planning, on behalf of Theodosiou Investments Pty Ltd, to register an Existing Lawful Fettered Use for a Vehicle and Machinery Sales premises at 129 Mackenzie Street, Ayr (Lot 6 on RP905018, Parish of Antill, County of Gladstone)

Recommendation

That Council approves the request to register an Existing Lawful Fettered Use for a “Vehicle and Machinery Sales” premises at 129 Mackenzie Street, Ayr (Lot 6 on RP905018, Parish of Antill, County of Gladstone) and include this request in Council’s Register of Existing Lawful Fettered Uses.

Background Information

The land is zoned ‘Residential’ under the provisions of Council’s IPA Planning Scheme. The applicant’s intention is to seek approval to allow an ‘Existing Lawful Fettered Use to be registered over land at 129 Mackenzie Street, Ayr. It has been stated that the business has been continuous and in existence for 40 years. It is intended to register the premises as a ‘Vehicle and Machinery Sales’ facility as this definition ‘best fits’ the previous use. The site housed a marine dealership continuously for many years.

Under the provisions of the scheme, ‘Vehicle and Machinery Sales’ is defined as:

“Premises used for the display, hire, sale or storage of motor vehicles and automated machinery. The term includes any ancillary administrative activity, staff amenities, and maintenance and repairs strictly of minor nature conducted preparatory to the sale or hire of the vehicle”

Under the transitional arrangements in the Integrated Planning Act 1997, applicant's have the ability to register existing lawful fettered uses. This provision allows for specific activities that have been in existence for a long period of time to continue providing evidence has been provided to Council stating the fact. This allows the premises to be used for the approved use without the need for any additional requirements.

Given the fact that existing use rights are apparent and that the site is fully developed with facilities including a purpose built showroom, storage areas, office space and staff amenities, it is recommended that Council resolve to approve the request to register the existing lawful fettered use.

Link to Corporate/Operational Plan

N/A

Consultation

N/A

Legal Authority or Implications

N/A

Policy Implications

N/A

Financial and Resource Implications

N/A

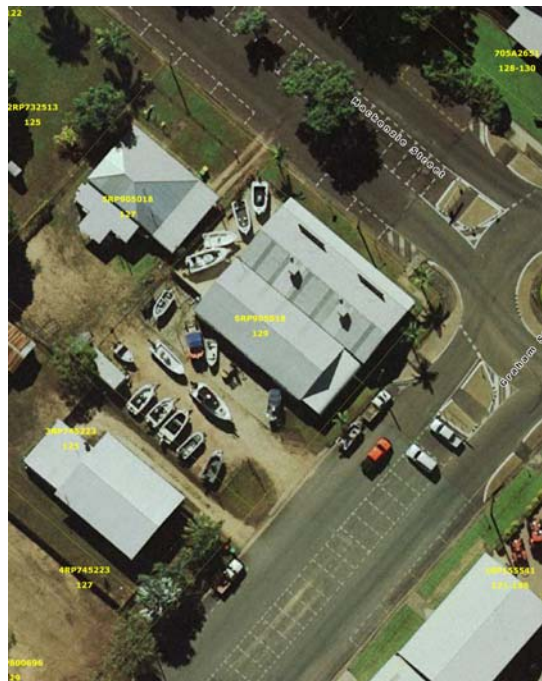
Report prepared by:

S. Great - Manager Planning and Development

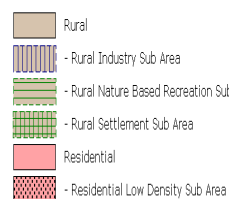
Report authorised by:

S. Great - Manager Planning and Development

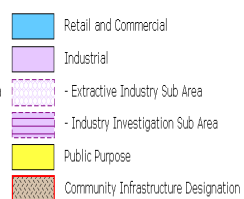
Attachments



Planning Scheme



Zone Map



Created on Thursday, 21
July 2011



ITEM-10 David Adcock- Representations on Conditions of Development Approval for Reconfiguring a Lot at 12A Ramtron Place, Ayr (Lot 4 on SP227229 Parish of Antill, County of Gladstone)

Document Information

Referring Letter No: 1078825

File No: Sub11/0016

Name of Applicant: David Adcock

Location: 12A Ramtron Place, Ayr (Lot 4 on SP227229, Parish of Antill, County of Gladstone)

Author and Title: S Great – Manager Planning and Development

Executive Summary

A letter dated 22nd June, 2011 has been received from David Adcock making representations pursuant to Section 361 of SPA. The representations seek to remove condition 8 of the original Decision Notice dated 27th May, 2011.

Recommendation

In accordance with Section 363 of SPA, Council refuses the request for a Negotiated Decision to remove condition 8 for Reconfiguring a Lot at 12A Ramtron Place, Ayr (Lot 4 on SP227229, Parish of Antill, County of Gladstone)

Background Information

The following comments are from the Manager of Planning & Development, Mr Shane Great:

The condition that the applicant has made representations on is;

- 8 *That any development including excavation or filling, building, plumbing or drainage works must not be located within 50m of the highest water mark of the waters of the lagoon on the proposed lots to which this approval relates.*

The applicant in his representations has listed several considerations to be taken into account with regard to the removal of the condition. These included:

1. All other lots in the existing subdivision do not have this condition as per Decision notice Sub 09-10 (2009013) for the other waterfront lots.
2. All sewage pits are currently planned to be located at front of all lots & with the lots only

being around 75m in depth to the top of lagoon ridge there would not be enough room to build a home & shed etc on the balance of land if the house was built 50m from the high water mark.

3. We feel this waterfront allotment/land would be valued at a much lower rate if this condition was put on this lot, anyone buying a waterfront allotment would be 50m (half a football field) from the high water mark & over 60m from the water & left with approx 25m to build a home shed & sewage trench on the balance of their land.
4. The neighbours have recently constructed houses & dwellings on the ridge approx 10m above the high water mark allowing approx 10-12m for the NBWB to carry out any channel maintenance on their existing easement along the lagoon. The neighbours have also grassed the bank with turf enhancing the ability to stop any erosion etc of the lagoon bank in any flood event.
5. All 3 waterfront lots have a ridge situated approx 10m from the high water mark on the lagoon, this ridge would be the most suitable position to build a home as it is the highest section of the blocks, leaving enough room for the NBWB to carry out work on their easement & sufficient room to build a house & shed etc & have the sewage trench as far from the lagoon as possible at the front portion of the block. The lagoon bank would also be turfed in time and have less erosion in flood events as with neighbouring properties.

The following is a comment by Anne McLaughlin from the Environment and Health Department.

The lot is contained within a wetland management area defined by the Map of Referable Wetlands (Qld Gov't), and an area of General Ecological Significance as shown on the Areas of Ecological Significance Map (Qld Gov't). The lagoon is also mapped as having a stream order 3.

Council is required to consider the effects of impacts to water quality to protect the water environmental values specified in the *Environmental Protection (water) Policy 2009*. Water quality values are impacted through such matters as effluent disposal, excavating or filling of land adjacent to waterways, undertaking other activities that may cause the release of soil or sediment, or affect drainage pathways. Buffers provided between such development and waterways are a recognised means of providing adequate protection to the environmental and ecological values of the waterway are recommended to ensure that.

The application for development approval was assessed by DERM in their capacity of Advice Agency with respect to the wetlands. This advice states that a precautionary buffer width within urban areas is a minimum of 50m to absorb impacts to the wetland.

The planning scheme provides for the protection of waterways through Table 23 *Specific Outcomes acceptable solutions for the biodiversity and conservation code* applicable for areas identified in the natural features mapping and mapped areas of state and regional biodiversity status. SO6 states that Ecological features and/or natural processes associated with waterways and wetlands are not significantly and adversely impacted by changes in hydrological regimes, including wet/dry regimes. An acceptable solution is that development is setback at least 100 metres from the margin of a wetland.

Specific Outcome O7 of the above table states Development on land adjacent to a waterway

protects the habitat and biodiversity values of the waterway. An acceptable solution given is that riparian vegetation be retained and/or rehabilitated along each side of a waterway within at least 50m for stream orders 3 or 4.

In respect to the Specific Outcomes and Acceptable Solutions for the Residential Code, Water Quality Maintenance O17 is achieved where when development is set back 50m for stream orders 3 or 4.

It is acknowledged that the original reconfiguration for the four lot subdivision should have been conditioned to ensure that there was no development 100m from the high bank of the waterway consistent with the provisions of the Planning Scheme and other policies.

Whilst a decision to uphold the condition is inconsistent with this missed response on the development approval Sub 09-10 it is recommended that the condition to maintain a separation distance of 50m from the waterway from development be maintained to minimise the risk of adverse impacts to the waterway from further development.

Link to Corporate/Operational Plan

N/A

Consultation

All relative Council Departments have been consulted.

Legal Authority or Implications

Possible appeal in the Planning and Environment Court.

Policy Implications

N/A

Financial and Resource Implications

Possible legal fees.

Report prepared by:

S Great – Manager Planning and Development

Report authorised by:

S Great – Manager Planning and Development

Attachments

ITEM-11 Paul Vass - Development Application for Reconfiguring a Lot at 1544 & 1578 Kirknie Road, Kirknie (Lots 1 & 2 on RP743103, Parish of Leichhardt Downs, County of Salisbury)

Document Information

Referring Letter No: 1071810

File No: SUB 11/0030

Name of Applicant: Paul Vass

Location: 1544 & 1578 Kirknie Road, Kirknie (Lots 1 & 2 on RP743103, Parish of Leichhardt Downs, County of Salisbury)

Author and Title: S Great – Manager Planning and Development

Executive Summary

An application has been received from Brazier Motti on behalf of their client Paul Vass seeking approval for Reconfiguring a Lot (boundary realignment) at 1544 & 1578 Kirknie Road, Kirknie (Lots 1 & 2 on RP743103, Parish of Leichhardt Downs, County of Salisbury). A Development Application (Code Assessable) has been triggered in accordance with the Burdekin Shire IPA Planning Scheme.

Recommendation

That Council approves the Development Application for Reconfiguring a Lot (boundary realignment) at 1544 & 1578 Kirknie Road, Kirknie (Lots 1 & 2 on RP743103, Parish of Leichhardt Downs, County of Salisbury), subject to the following conditions:

GENERAL

- 1.1 The Council will not release the formal Plan of Reconfiguration until all rates and charges in arrears in respect of the land, the subject of the application, are paid in full.
- 1.2 Pay the sum of \$47-80 calculated on the basis of a charge of \$23-90 per lot to be levied on the Council by the Department of Environment & Resource Management for each new valuation.

ROADWORKS

2. The construction of any crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.

PROPOSAL PLAN

3. The reconfiguration of the land must be carried out generally in accordance with:-
 - (a) (i) the proposed Brazier Motti plan numbered 55846/001A;
 - (ii) the plans, specifications, facts and circumstances as set out in the application submitted to Council;Except where modified by the conditions of approval and any approval issued there under; and
 - (b) any approval issued under this approval; and
 - (c) any development permit for operational works relating to the reconfiguring of a lot;

DRAINAGE

4. The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.

PUBLIC UTILITY SERVICES

5. If any existing public utility service including telephone, electricity, water, sewerage or gas needs to be altered or relocated to complete the reconfiguration the developer must bear the cost of alteration or relocation.

ENVIRONMENT & HEALTH

- 6.1 **No Dwelling House (Class 1A) or Domestic Shed (Class 10) is to be constructed within 500m of the entire boundary of proposed Lots 3 and 4 that abuts Lot 1 on RP869335.**
- 6.2 **Vegetation must not be cleared 100m from the high bank of the Burdekin River or within 50m from the high bank of any other waterway.**

ADVICE (Note: These are not conditions)

- *Unless otherwise specified by these conditions, the conditions must be complied with prior to approval of the Plan of Survey;*

Background Information

The following comments are from the Manager of Planning & Development, Mr Shane Great:

The land is zoned 'Rural' with the proposal triggering a 'code assessable' development application for reconfiguring a lot (boundary realignment). The application has been assessed against the "Reconfiguring a Lot" Code under the provisions of the Burdekin Shire Council's IPA Planning Scheme.

The Application:

It is the applicant's intent to reconfigure existing Lots 1 & 2 on RP743103 to create proposed lots 3 and 4. Proposed lot 4 will have access to Barry Road with proposed Lot 3 having dual access to both Barry and Kirknie Roads. The current landholder wishes to rationalise their

holdings, there will be no change in the number of lots nor current land uses.

Site Description/Surrounding Land Uses:

The subject site comprises a total area of approximately 121.973ha, and has approximately 640m frontage to Kirknie Road and 2183m frontage to Barry Road. The land appears to be undeveloped scrub with possibly some grazing. Kirknie Landfill adjoins the southern boundary of proposed lots 3 and 4. The condition from the Environment and Health Department requiring a 500m buffer to any future dwelling house is to protect any future dwelling from the impact of emissions including odour, dust, noise and smoke. The surrounding area is primarily agricultural land, with some scattered rural residential housing and sheds on the neighbouring farms. The western boundary of the proposed development adjoins the Burdekin River.

Conclusion:

Council's Development Assessment Team members have assessed the application and have included reasonable and relevant conditions as part of the recommended approval. Given that the proposal complies with the provisions contained in Council's IPA Planning Scheme, it is recommended that Council approves the application subject to the abovementioned conditions.

Link to Corporate/Operational Plan

N/A

Consultation

All relative Council departments have been consulted, there was no external consultation required for this application.

Legal Authority or Implications

N/A

Policy Implications

N/A

Financial and Resource Implications

N/A

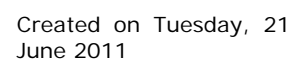
Report prepared by:

S. Great – Manager Planning and Development

Report authorised by:

S. Great – Manager Planning and Development

Attachments



- **CORPORATE & COMMUNITY SERVICES**

ITEM-12 Draft Public Interest Disclosure Policy

Document Information

Referring Letter No: N/A

File No: 01-08-16

Name of Applicant: N/A

Location: N/A

Author and Title: Ken Holt, Chief Executive Officer

Executive Summary

Under s28 of the *Public Interest Disclosure Act 2010*, Council is required to develop, implement and maintain a management program to deal with public interest disclosures (PIDs).

A draft PID policy is attached for consideration and adoption.

Recommendation

That Council adopts the Public Interest Disclosure Policy and makes the document available on Council's website.

Background Information

Effective from 1 January 2011, the *Public Interest Disclosure Act 2010* replaces the *Whistleblowers Protection Act 1994* and provides unique protections from reprisal for public officers disclosing information in the public interest to an appropriate entity about:

- official misconduct
- maladministration
- waste of public funds
- negligent or improper management, or
- a danger to public health, safety or the environment.

Section 28 of the *Public Interest Disclosure Act 2010* requires us to develop, implement and maintain a management program to deal with PIDs. This management program must, as a minimum, address the following:

- organisational commitment to encouraging the internal reporting of wrongdoing;
- senior management endorsement of the value to the entity of PIDs and the proper management of PIDs and disclosers;

-
- a communication strategy for raising staff awareness about PIDs and the entity's PID procedures;
 - a training strategy to ensure:
 - staff are given access to training on the identification of wrongdoing, how to make a PID, the support and protection afforded to disclosers, and how PIDs will be managed. This training can be included in the entity's training on ethics;
 - the provision of specialist training and awareness about PIDs to senior managers and other staff who may receive or manage PIDs, disclosers or workplace issues relating to a PID;
 - the appointment of a specialist ethics unit (or a nominated officer) to be responsible for issues related to the management of PIDs. The unit or officer should have the following characteristics:
 - direct access to the CEO in relation to PID matters;
 - delegated authority to appropriately manage PIDs; and
 - access to resources to properly manage PIDs.
 - ensuring effective systems and procedures are in place for issues arising from PIDs to inform improvements to service delivery, business processes and internal controls; and
 - providing a mechanism for regular evaluation and monitoring of the effectiveness of PID policies and procedures.

Link to Corporate/Operational Plan

1.7 Ensure effective corporate governance through compliance with legislation and adoption of risk management strategies.

Consultation

Input into the policy was sought from Council's management team and the Ethics Standards Branch of the Public Service Commission.

Legal Authority or Implications

- *Public Interest Disclosure Act 2010*
- Public Interest Disclosure Standard issued by the Chief Executive of the Public Service Commission under section 60 of the Act.

Policy Implications

This is a new policy. In addition to this policy, a new Complaints Management Policy is being drafted that includes reference to the appropriate management of public interest disclosures.

Financial and Resource Implications

Nil – it is anticipated that the management of PIDs will be undertaken using existing resources.

Report prepared by:

Beth Whitworth, Executive Officer

Report authorised by:

Ken Holt, Chief Executive Officer

Attachments

1. DRAFT Public Interest Disclosure Policy



Public Interest Disclosure Policy

Commencement Date: <D Month YYYY>

Function: Governance

RESPONSIBILITIES

Policy Owner	CEO
Policy Contact	Public Interest Disclosure Officer
Approval Authority	Council
Next Review Date	<D Month YYYY>

REVISION HISTORY

Rev	Status	Date	Approver / Meeting	Resolution / Document No.
	DRAFT			

1 PURPOSE

The purpose of this policy is to encourage and support persons in making public interest disclosures in an appropriate way and to provide guidelines on how public interest disclosures are managed by Burdekin Shire Council.

2 SCOPE

This policy applies to any person who has information about the conduct of another person or another matter if—

- (a) the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter; or
- (b) the information tends to show the conduct or other matter, regardless of whether the person honestly believes the information tends to show the conduct or other matter.

In accordance with section 12 of the PID Act, **any person** may disclose information about—

- (a) a substantial and specific danger to the health or safety of a person with a disability; or
- (b) the commission of an offence against a provision mentioned in Schedule 2 [of the Act], if the commission of the offence is or would be a substantial and specific danger to the environment; or
- (c) a contravention of a condition imposed under a provision mentioned in Schedule 2 [of the Act], if the contravention is or would be a substantial and specific danger to the environment; or
- (d) the conduct of another person that could, if proved, be a reprisal.

In accordance with section 13 of the PID Act, a **public officer** may disclose information about—

- (a) the conduct of another person that could, if proved, be—
 - (i) official misconduct; or
 - (ii) maladministration that adversely affects a person's interests in a substantial and specific way; or

-
- (b) a substantial misuse of public resources (other than alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure); or
 - (c) a substantial and specific danger to public health or safety; or
 - (d) a substantial and specific danger to the environment.

3 EXCEPTIONS

In accordance with section 30 of the PID Act, Council may decide not to investigate or deal with a public interest disclosure if—

- (a) the substance of the disclosure has already been investigated or dealt with by another appropriate process; or
- (b) Council reasonably considers that the disclosure should be dealt with by another appropriate process; or
- (c) the age of the information that is the subject of the disclosure makes it impracticable to investigate; or
- (d) Council reasonably considers that the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert Council resources; or
- (e) another entity that has jurisdiction to investigate the disclosure has notified the entity that investigation of the disclosure is not warranted.

4 DEFINITIONS

‘discloser’ means the person who makes a PID.

‘proper authority’ is a public sector entity or a member of the Legislative Assembly.

‘public interest disclosure’ (PID) is a disclosure under Chapter 2 of the *Public Interest Disclosure Act 2010* and includes all information and help given by the discloser to a proper authority for the disclosure.

‘public officer’ means an employee, councillor or officer of Council.

‘public sector entity’ includes a local government.

‘subject officer’ means the person about whom a PID is made.

5 POLICY STATEMENT

The power to receive PIDs and to investigate or deal with them is delegated by Council to the chief executive officer. The roles and responsibilities of officers involved in the PID process are outlined in section **Error! Reference source not found.** of this policy.

5.1 Roles and Responsibilities

The **Chief Executive Officer** (CEO) is responsible for:

- implementing and maintaining Council’s management program for PIDs,
- raising awareness of PID policy and procedures,
- providing clear guidance to Council employees about how to make a PID,
- establishing a training strategy for PIDs,
- appointing a PID Officer to be responsible for issues related to the management of PIDs,
- implementing a consistent and appropriate assessment procedure,
- receiving and assessing PIDs,

- monitoring the investigation and resolution of PIDs,
- managing and coordinating support and protection for disclosers, and
- reporting and reviewing data about PIDs received,

The **Mayor** is responsible for:

- receiving and assessing PIDs, and
- liaising with the CEO and the PID Officer in relation to the management of PIDs.

The **PID Officer** is responsible for:

- providing clear guidance to Council employees about how to make a PID,
- providing clear guidance and assisting delegated officers to identify, receive and assess PIDs,
- referral of PIDs to other entities and members of the Legislative Assembly, as appropriate,
- coordinating investigation and resolution of PIDs,
- coordinating support and protection for disclosers,
- collating and entering data about PIDs received, and
- preparing management reports about PIDs, as required.

5.2 How PIDs can be made

- 5.2.1 Disclosures must be made and dealt with in accordance with Council's PID Procedure.
- 5.2.2 Disclosures may be made in person, in writing, via phone and anonymously. Anonymous disclosures will be received and managed in the same way as identified disclosures, and will not be rejected because they are anonymous.
- 5.2.3 Disclosures may be made to:
 - the chief executive officer,
 - any councillor or the mayor,
 - for public officers - their direct supervisor or manager, or
 - an officer who has the function of receiving or taking action on the type of information being disclosed. For example, a health officer where the information being disclosed is regarding a substantial and specific danger to public health or safety (*PID Act s13(1)(c)*).
- 5.2.4 Any disclosures that are required to be referred to another entity will be referred in accordance with legislative and administrative requirements.

5.3 Commitments

Burdekin Shire Council makes the following commitments with regard to PIDs:

- 5.3.1 Taking action
 - With the exception of any PIDs identified under section 3 of this policy, Council will take appropriate action to deal with all PIDs. While disclosers are encouraged to provide their name, Council will act on anonymous PIDs.
 - Council will provide disclosers, who identify themselves, with feedback regarding the status of their disclosure and its investigation. If Council decides not to investigate or deal with a PID, written reasons for this decision will be provided to the discloser.

3

Hard copies of this document are considered uncontrolled. Please refer to Council's website for the latest version.

- All PIDs will be kept confidential, where possible. A person who recklessly breaches confidentiality requirements may be committing a criminal offence.
- Any public officer providing false or misleading information may face disciplinary action in accordance with the Employee Code of Conduct.

5.3.2 Dealing with reprisals

- The risk of reprisal to the discloser will be assessed and reasonable steps will be taken to protect the discloser from reprisals.
- Allegations of reprisal will be investigated. Any public officer found to have made a reprisal will face disciplinary action in accordance with the Employee Code of Conduct.
- The subject officer will be given the opportunity to respond to any allegations made in a PID. No action will be taken against the subject officer until and unless allegations are confirmed. Details of the subject officer will be kept confidential at all times.

5.3.3 Reporting

- Details of all PIDs will be entered into the State-wide PID reporting database, in accordance with the requirements of the Public Service Commission. PID data for Burdekin Shire Council will only be available to the PID Officer and the chief executive officer.

5.3.4 This policy and the accompanying procedure will be reviewed every three years.

6 PROCEDURES

Public Interest Disclosure Procedure

7 LEGISLATION

Public Sector Ethics Act 1994 (PSE Act)

Public Interest Disclosure Act 2010 (PID Act)

The PID Act provides unique protections from reprisal for public officers disclosing information in the public interest to an appropriate entity about:

- official misconduct
- maladministration
- waste of public funds
- negligent or improper management, or
- a danger to public health, safety or the environment.

8 ASSOCIATED DOCUMENTS

Burdekin Shire Council Employee Code of Conduct

ITEM-13 Contribution towards 2011-2012 Bountiful Burdekin

Document Information

Referring Letter No: 1081335

File No: 03-08-11P

Name of Applicant: N/A

Location: N/A

Author and Title: Tony Vaccaro,
Economic and Community Development Manager

Executive Summary

The Lower Burdekin Newspaper Company has requested a contribution of \$14,500 (inc. GST) for the production of the 2011-12 edition of the Bountiful Burdekin publication, being the equivalent amount requested in 2010-11.

Recommendation

Council approves funding of \$14,500.00 (GST Inc.) to contribute towards the production of 30,000 copies of the 2011-2012 edition of the Bountiful Burdekin publication in A5 format in full gloss, to include a full page Council advertisement, Mayor's welcome message and photo, two maps of the area, a half page advertisement for the Burdekin Tourism Assn and the printing of the Burdekin Tourism Website address on the bottom of each page of the publication.

Background Information

The Lower Burdekin Newspaper Company has agreed to maintain Council's contribution towards the production of the 2011-12 edition of the Bountiful Burdekin being the amount equivalent to last year. This equates to approximately 48 cents per copy.

Currently the publication is distributed to the following locations:

- Caravan and Camping Shows in Brisbane, Sydney, Melbourne, Adelaide and Perth;
- Exhibition Shows in Brisbane, Sydney, Melbourne, Adelaide and Perth;
- Various tourism centres throughout Queensland;
- Hotels in Townsville;
- Townsville Enterprise;
- Local Motels, Hotels, Shops, Businesses and Restaurants.

The Manager of the Lower Burdekin Newspaper Company advised that volunteers man the Caravan and Camping and Exhibition Shows. To her knowledge, all booklets distributed to these outlets are all dispersed.

In summary, the Lower Burdekin Newspaper Company manages the editing, photographs, advertising, page set-up, graphics, distribution and freight. Council's contribution is more of an investment in the promotion and development of the Shire. Due to all the positive feedback from the publication, Council's investment is considered to be very worthwhile.

Link to Corporate/Operational Plan

6. To promote, support and facilitate development of the identity and capacity of the community.

Consultation

Discussions with Lower Burdekin Newspaper Company, Burdekin Tourism Assn and other Visitor Information Centres in the region.

Legal Authority or Implications

N/A

Policy Implications

N/A

Financial and Resource Implications

Contribution of \$14,500.00 (GST Inc.). This amount is covered in the Economic and Community Development budget allocation.

Report prepared by:

Tony Vaccaro, Economic and Community Development Manager

Report authorised by:

Ken Holt, Economic and Community Development Manager

Attachments

Nil

ITEM-14 Local Law Review - Anti-Competitive Provisions and Public Interest Testing (PIT)

Document Information

Referring Letter No: N/A

File No: 01-08-06

Name of Applicant: N/A

Location: N/A

Author and Title: Dan Mulcahy, Director Corporate & Community Services

Executive Summary

As part of the National Competition Policy reforms and in accordance with legislation Council is required to conduct a Public Interest Test on possible anti-competitive provisions identified in the proposed local laws and subordinate local laws.

To streamline this process it is recommended that Council delegates the necessary powers to the Chief Executive Officer to conduct the Public Interest Test process.

King and Company have identified the likely anti-competitive provisions in each proposed local law and subordinate local law.

Public Interest Test Plans have been provided to Council to facilitate the required course of action.

Recommendation

That the Council resolves, pursuant to section 257 of the *Local Government Act 2009* ("the Act"), to delegate to the Chief Executive Officer of Council its powers under section 38 of the Act and section 18 of the *Local Government (Operations) Regulation 2010* to decide—

- (a) how the public interest test of each local law and subordinate local law particularised in the schedule is to be conducted; and
- (b) the matters with which the public interest test report in relation to each local law and subordinate local law particularised in the schedule must deal; and
- (c) the consultation process for the public interest test and how the process is to be used in the public interest test.

1. SCHEDULE

- (a) Local Law No. 1 (Administration) 2011 and each subordinate local law made under the

local law which contains a possible anti-competitive provision;

- (b) Local Law No. 2 (Animal Management) 2011 and each subordinate local law made under the local law which contains a possible anti-competitive provision;
- (c) Local Law No. 3 (Community and Environmental Management) 2011 and each subordinate local law made under the local law which contains a possible anti-competitive provision;
- (d) Local Law No. 6 (Bathing Reserves) 2011 and each subordinate local law made under the local law which contains a possible anti-competitive provision.

Background Information

As part of the National Competition Policy reforms and in accordance with the Local Government Act and Regulations, Council is required to conduct a Public Interest Test (PIT) on possible anti-competitive provisions identified in the proposed local laws and subordinate local laws.

In accordance with Section 38 of the Local Government Act 2009 a local government must not make a local law that contains an anti-competitive provision unless the local government has complied with the procedures prescribed under the regulations for the review of anti-competitive provisions.

King and Company have identified the likely anti-competitive provisions in each proposed local law and subordinate local law and have provided the draft PIT Plans required for public consultation. King and Company will also draft the PIT Report resulting from the consultation process.

It is only necessary to prepare a PIT Plan in respect of local laws and subordinate local laws where a possible anti-competitive provision is identified.

With regard to the extent of consultation to be conducted, Council is required to:-

- (a) give public notice ("Notice") of the review in a local newspaper; and
- (b) post the Notice on all public notice boards in the public office of Council; and
- (c) have the Plan, the proposed local law associated with the Plan, and the associated subordinate local law (if any) available for inspection at Council's public office, and have copies of same available for purchase by the public; and
- (d) forward correspondence to each key stakeholder identified in the Plan – for example, in relation to the operation of caravan parks, a letter would need to be sent to:-
 - (i) any relevant representative body upon whom the local law and subordinate local law (if any) may have an impact; and
 - (ii) each holder of a current permit or approval under a local law of Council which authorises the operation of a caravan park..

The Public Interest Test period is 21 clear days and commences on any date nominated.

Link to Corporate/Operational Plan

1.7 Ensure effective corporate governance through compliance with legislation and adoption of risk management strategies.

Consultation

King and Company, Solicitors.

Legal Authority or Implications

Compliance with the Local Government Act 2009 and the Local Government (Operations) Regulations 2010.

Policy Implications

N/A

Financial and Resource Implications

Preparation and adoption of new local laws will incur legal fees and staff resource allocation.

Report prepared by:

Dan Mulcahy, Director Corporate & Community Services

Report authorised by:

Dan Mulcahy, Director Corporate & Community Services

Attachments

1. Nil

ITEM-15 **Proposed Local Laws and Subordinate Local Laws**

Document Information

Referring Letter No: N/A

File No: 01-08-06

Name of Applicant: N/A

Location: N/A

Author and Title: Dan Mulcahy, Director Corporate and Community Services

Executive Summary

Council is looking to adopt a new suite of local laws and subordinate local laws. Staff have been liaising with neighbouring councils including Townsville, Hinchinbrook and Charters Towers and King and Company, Solicitors to achieve more uniform and consistent local laws for the region.

In accordance with the process adopted for making a local law, Council must by resolution:

- a. adopt the model local laws detailed in this report.
- b. propose to make the proposed local laws and subordinate local laws detailed in this report.

Recommendation

That Council resolves to—

- a. propose to adopt each model local law listed in schedule 1; and
- b. propose to make each proposed local law listed in schedule 2; and
- c. propose to make each proposed subordinate local law listed in schedule 3.

SCHEDULE 1

- a. Model Local Law No. 5 (Parking) 2011;
- b. Model Local Law No. 6 (Bathing Reserves) 2011.

SCHEDULE 2

- a. Local Law (Repealing) Local Law (No. 1) 2011;
- b. Local Law No. 1 (Administration) 2011;
- c. Local Law No. 2 (Animal Management) 2011;

-
- d. Local Law No. 3 (Community and Environmental Management) 2011'
 - e. Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011;
 - f. Local Law No. 7 (Aerodromes) 2011.

SCHEDULE 3

- a. Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011;
- b. Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011;
- c. Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011;
- d. Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2011;
- e. Subordinate Local Law No. 1.5 (Keeping of Animals) 2011;
- f. Subordinate Local Law No. 1.6 (Operation of Camping Grounds) 2011;
- g. Subordinate Local Law No. 1.7 (Operation of Cane Railways) 2011;
- h. Subordinate Local Law No. 1.8 (Operation of Caravan Parks) 2011;
- i. Subordinate Local Law No. 1.9 (Operation of Cemeteries) 2011;
- j. Subordinate Local Law No. 1.10 (Operation of Public Swimming Pools) 2011;
- k. Subordinate Local Law No. 1.11 (Operation of Shared Facility Accommodation) 2011;
- l. Subordinate Local Law No. 1.12 (Operation of Temporary Entertainment Events) 2011;
- m. Subordinate Local Law No. 1.13 (Undertaking Regulated Activities regarding Human Remains) 2011;
- n. Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2011;
- o. Subordinate Local Law No. 1.15 (Carrying out Works on a Road or Interfering with a Road or its Operation) 2011;
- p. Subordinate Local Law No. 1.16 (Gates and Grids) 2011;
- q. Subordinate Local Law No. 1.17 (Reservation of Bathing Reserve for Training Competition etc) 2011;
- r. Subordinate Local Law No. 1.18 (Bringing or Driving a Motor Vehicle onto a Local Government Controlled Area) 2011;

-
- s. Subordinate Local Law No. 1.19 (Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee) 2011;
 - t. Subordinate Local Law No. 1.20 (Parking in a Loading Zone by Displaying a Commercial Vehicle Identification Label) 2011;
 - u. Subordinate Local Law No. 2 (Animal Management) 2011;
 - v. Subordinate Local Law No. 3 (Community and Environmental Management) 2011;
 - w. Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011;
 - x. Subordinate Local Law No. 5 (Parking) 2011;
 - y. Subordinate Local Law No. 6 (Bathing Reserves) 2011.

Background Information

Under the previous Local Government Act 1993, all councils were required to review existing local laws and subordinate local laws for redundancy from 1 January 2008 to 31 December 2010. During this time the Department of Local Government was reviewing its model local laws and consulting on 6 new model local laws to replace the 21 models previously used. This process was delayed due to other legislation being enacted and possibly affecting the new model local laws.

The new Local Government Act 2009 does not contain the mandatory 10 year review of local laws as the old Act did, therefore it is considered that the 2010 deadline does not apply.

Council staff has been liaising with the regional councils and King and Company, Solicitors to review the criteria of each of the local laws and subordinate local laws provided in this report.

Anti-competitive Provisions

As part of the local law making process, Council is obliged to identify and consider possible anti-competitive provisions in each proposed local law and subordinate local law and undertake a public interest test in relation to each proposed local law and subordinate local law which contains a possible anti-competitive provision. Attached is the list of likely anti-competitive provisions provided by King and Company for information.

Link to Corporate/Operational Plan

1.7 Ensure effective corporate governance through compliance with legislation and adoption of risk management strategies.

Consultation

King and Company, Solicitors.

Legal Authority or Implications

Compliance with the Local Government Act 2009 and the Local Government (Operations)

Regulations 2010.

Policy Implications

N/A

Financial and Resource Implications

Preparation and adoption of new local laws will incur legal fees and staff resource allocation.

Report prepared by:

Dan Mulcahy, Director, Corporate and Community Services

Report authorised by:

Dan Mulcahy, Director, Corporate and Community Services

Attachments

1. Proposed Local Laws and Subordinate Local Laws – Schedules One, Two and Three
2. Local Law Review – Anti-Competitive Provisions

Local Law No. 5 (Parking) 2011

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Part 1 Preliminary

1 Short title

This model local law may be cited as *Local Law No. 5 (Parking) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to complement the regulated parking provisions in chapter 5, part 6 of the TORUM Act by providing for the exercise of local government powers authorised under that Act.
- (2) The purpose is achieved by providing for—
 - (a) the establishment of traffic areas and off-street regulated parking areas; and
 - (b) lawfully parking contrary to an indication on an official traffic sign with a parking permit or in a loading zone with a commercial vehicle identification label; and
 - (c) the prescribing of infringement notice penalties for minor traffic offences.

3 Definitions—the dictionary

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

4 Relationship with other laws¹

This local law is—

- (a) in addition to, and does not derogate from, the TORUM Act, chapter 5, part 6²; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

Part 2 Declaration of parking areas for the TORUM Act

5 Declaration of traffic areas

- (1) The local government may, by subordinate local law, declare the whole or a part of its area to be a traffic area.^{3 4}
- (2) The subordinate local law must define the boundaries of the traffic area.

¹ 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.

² A local government cannot regulate parking on a State-controlled road unless the written agreement of the chief executive has been obtained under the TORUM Act, section 101(1)(b).

³ See the TORUM Act, sections 102(3)(a) and 102(2)(b).

⁴ The TORUM Act, section 69(4), provides: “A local government may install or remove an official traffic sign that will result in a change to the management of a local government road, of a kind mentioned in the *Transport Planning and Coordination Act 1994*, section 8D(1), only if the chief executive has approved the proposed change under the *Transport Planning and Coordination Act 1994*, section 8D.”

6 Declaration of off-street regulated parking areas

- (1) The local government may, by subordinate local law, declare an area of land controlled⁵ by the local government, including structures on the land, as an off-street regulated parking area.⁶
- (2) The subordinate local law must define the boundaries of the off-street regulated parking area.

Part 3 Parking contrary to parking restriction

7 Parking permits⁷

- (1) The local government may issue a parking permit.⁸
- (2) The local government may prescribe, by subordinate local law, the persons that may be issued with a permit mentioned in subsection (1).
- (3) A vehicle may be parked contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays—
 - (a) a parking permit for people with disabilities;⁹ or
 - (b) a permit issued by the local government and valid for the place and time at which the vehicle is parked.

8 Commercial vehicle identification labels¹⁰

- (1) The local government may issue a commercial vehicle identification label.¹¹
- (2) The local government may, by subordinate local law, prescribe vehicles that may be issued with a commercial vehicle identification label.¹²
- (3) A vehicle displaying a current commercial vehicle identification label may be lawfully parked in a loading zone.¹³

⁵ See the TORUM Act, section 104(2).

⁶ See the TORUM Act, sections 104(1)(b) and 101(1)(c).

⁷ See the TORUM Act, section 103(4).

⁸ *Local Law No. 1 (Administration) 2011*, section 5(b), provides that a *prescribed activity* includes “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 local government to grant the approval.” Section 7 of *Local Law No. 1 (Administration) 2011* provides that an approval required for a prescribed activity must be obtained under part 2 of *Local Law No. 1 (Administration) 2011*. As a result, an approval for a parking permit must be obtained under that part.

⁹ Parking permits for people with disabilities are issued under the TORUM Act, section 111, by the chief executive of the department administering the TORUM Act.

¹⁰ See the TORUM Act, section 103(5).

¹¹ *Local Law No. 1 (Administration) 2011*, section 5(b), provides that a *prescribed activity* includes “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 local government to grant the approval.” Section 7 of *Local Law No. 1 (Administration) 2011* provides that an approval required for a prescribed activity must be obtained under part 2 of *Local Law No. 1 (Administration) 2011*. As a result, an approval for a commercial vehicle identification label must be obtained under that part.

¹² The TORUM Act already defines certain vehicles designed for the carriage of goods as commercial vehicles – see schedule 4, definition, *commercial vehicle*.

¹³ See also *Transport Operations (Road Use Management-Road Rules) Regulation 1999*, section 179, relating to drivers who are permitted to stop in a loading zone.

Part 4 Minor traffic offence infringement notice penalties

9 Minor traffic offence infringement notice penalties

- (1) The local government may prescribe, by subordinate local law, an amount (in penalty units) as the infringement notice penalty for a minor traffic offence.¹⁴
- (2) However, a subordinate local law under subsection (1) may not prescribe an amount greater than 5 penalty units.

Part 5 Miscellaneous

10 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the declaration of traffic areas;¹⁵ or
- (b) the declaration of off-street regulated parking areas;¹⁶ or
- (c) the persons who may be issued with a permit to park a vehicle contrary to an indication on an official traffic sign;¹⁷ or
- (d) vehicles that may be issued with a commercial vehicle identification label;¹⁸ or
- (e) infringement notice penalty amounts that apply for minor traffic offences.¹⁹

¹⁴ See the TORUM Act, section 108(1). The maximum penalty for an offence relating to paid parking is 40 penalty units under the TORUM Act, section 106(1). The maximum penalty for other parking offences is 40 penalty units under the TORUM Act, section 74.

¹⁵ See section 5(1).

¹⁶ See section 6.

¹⁷ See section 7(2).

¹⁸ See section 8(2).

¹⁹ See section 9(1).

Schedule**Dictionary****Section 3**

commercial vehicle identification label means a label of the type depicted in the Manual of Uniform Traffic Control Devices as a commercial vehicle identification label.

indication, on an official traffic sign, see TORUM Act, schedule 4.

infringement notice penalty means an infringement notice fine under the *State Penalties Enforcement Act 1999*.

minor traffic offence see TORUM Act, section 108(4).

official traffic sign see TORUM Act, schedule 4.

off-street regulated parking area see TORUM Act, schedule 4.

parking permit for people with disabilities see TORUM Act, schedule 4.

traffic area see TORUM Act, schedule 4.

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

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Local Law No. 6 (Bathing Reserves) 2011

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Part 1 Preliminary

1 Short title

This model local law may be cited as *Local Law No. 6 (Bathing Reserves) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to enhance the public safety and convenience of bathing reserves placed under the local government's control¹ through orderly management and regulation of activities within these reserves.
- (2) The purpose is achieved by providing for—
 - (a) the designation and management of safe, supervised bathing areas within bathing reserves; and
 - (b) the regulation of conduct and the use of aquatic equipment within bathing reserves; and
 - (c) the assignment of responsibility to life-saving clubs for managing, patrolling and supervising bathing reserves; and
 - (d) the appointment and powers of authorised persons to manage and enforce the regulation of conduct within bathing reserves.

3 Definitions—the dictionary

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

4 Relationship with other laws²

- (1) This local law is to be read with *Local Law No. 1 (Administration) 2011*.
- (2) However, a reference to an authorised person in *Local Law No. 1 (Administration) 2011* does not include an authorised person appointed under this local law.

Part 2 Bathing reserves

Division 1 Designation of bathing reserves

5 Signs indicating existence of bathing reserve

- (1) If the local government proposes to regulate the use of a bathing reserve under this local law, the local government must erect and maintain signs (*reserve signs*) in prominent positions on or adjacent to the foreshore to indicate the existence of the bathing reserve.
- (2) Reserve signs must be erected at the lateral boundaries of the bathing reserve indicating the position of the boundaries.
- (3) The signs must face both seawards and shorewards.

Division 2 Bathing areas

¹ As declared by gazette notice under the Act.

² 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.

6 Bathing areas

- (1) An authorised person may mark out an area (a *bathing area*) within a bathing reserve.
- (2) The area selected as a bathing area must be the part of the bathing reserve that is, in the authorised person's opinion, the safest and most suitable for bathing in view of the prevailing conditions.
- (3) The bathing area is marked out by placing 2 patrol flags at different points on or adjacent to the foreshore.
- (4) The bathing area consists of the area defined by—
 - (a) an imaginary line between the 2 patrol flags; and
 - (b) lateral boundaries extending seaward from each patrol flag at right angles from the imaginary line; and
 - (c) an outer boundary parallel to, and 200 metres to the seaward side of, the imaginary line.
- (5) Where the boundary of the bathing reserve is less than 200 metres to the seaward side of an imaginary line between the 2 patrol flags, then the boundary of the bathing area shall be the outer boundary of the bathing reserve.
- (6) An authorised person may, in view of prevailing conditions, change the boundaries of a bathing area by changing the position of the patrol flags.
- (7) Patrol flags must not be exhibited if the bathing area is not under surveillance by a life-saving patrol.

7 Flags to inform bathers about prevailing conditions

- (1) This section applies if—
 - (a) an authorised person has marked out a bathing area under section 6; and
 - (b) in the authorised person's opinion, there are potentially hazardous conditions prevailing within the bathing area.
- (2) The authorised person must exhibit in a prominent position on or adjacent to the foreshore a yellow flag warning bathers of the potentially hazardous conditions.

8 Closure of bathing reserve

- (1) An authorised person may close a bathing reserve or part of a bathing reserve to bathing by erecting a red flag in a prominent position on or adjacent to the foreshore.³

Example—

The authorised person may close the bathing reserve if the prevailing conditions pose a risk to the lives of members of the public bathing in the reserve.
- (2) If patrol flags marking out a bathing area have been placed in position, the patrol flags must be removed on closure of the bathing reserve or a part of the bathing reserve in which the bathing area is situated.

³ Although this local law does not require strict compliance with Australian Standard No. 2416 (Design and Application of Water Safety Signs), that standard should, where practicable, be complied with.

- (3) A person must not bathe in a bathing reserve or part of a bathing reserve while the reserve or the relevant part of the reserve is closed to bathing.

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

Division 3 Reservation for training, competitions and special occasions

9 Reservation for life-saving training

- (1) An authorised person may—
- (a) temporarily set apart the whole or a part of a bathing reserve for life-saving training; and
 - (b) impose restrictions on access to the area set apart.
- (2) However an authorised person may not set apart any part of a bathing reserve for life-saving training exclusively.
- (3) An area set apart under this section, and the restrictions applying to access, must be clearly indicated by signs erected in prominent positions on the bathing reserve.

10 Reservation for competitions and special occasions

- (1) For the purposes of *Local Law No.1 (Administration) 2011*, section 5(b), it is a prescribed activity⁴ to—
- (a) set apart a bathing reserve or a part of a bathing reserve for life-saving training on an exclusive basis; or
 - (b) use any part of a bathing reserve for the conduct of a surfing competition, a life-saving competition or another aquatic activity.
- (2) Where an approval for an activity mentioned in subsection (1) permits restrictions on access to any part of a bathing reserve, the area set apart for the activity and the restrictions applying to access must be clearly indicated by signs erected in prominent positions on the bathing reserve.
- (3) A person must not contravene a restriction on access imposed under this section.
- Maximum penalty for subsection (3)—20 penalty units.

Part 3 Use of aquatic equipment in bathing reserves

11 Prohibition of use of aquatic equipment in bathing areas

- (1) A person must not use aquatic equipment in a bathing area.
- Maximum penalty for subsection (1)—20 penalty units.
- (2) However—
- (a) this section does not prevent the use of aquatic equipment if its use at a place within a bathing reserve is authorised under another law; and

⁴ *Local Law No.1 (Administration) 2011*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

- (b) a rubber float or board that does not give rise to risk of injury to other bathers may be used in a bathing area; and
- (c) if an authorised person authorises the use of other aquatic equipment in a bathing area, the equipment may be used subject to conditions fixed by the authorised person when giving the authorisation; and
- (d) life-saving equipment may be used in a bathing area by members of a life-saving patrol for surveillance of the bathing area or to assist bathers in distress.

12 Restrictions on use of aquatic equipment in bathing reserves

- (1) The local government may, by subordinate local law, prohibit or restrict the use of aquatic equipment or a specified class of aquatic equipment within a bathing reserve or a particular part of a bathing reserve.
- (2) Notice of a prohibition or restriction imposed under this section must be included on the reserve signs or on notices adjacent to the reserve signs.
- (3) A person must not use aquatic equipment in contravention of a prohibition or restriction imposed under this section unless authorised to do so by an authorised person under section 13, or authorised under another law.

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

13 Reservation of areas for use of aquatic equipment

- (1) An authorised person may temporarily set apart a particular part of a bathing reserve for the use of aquatic equipment of a particular type.
- (2) A part of the bathing reserve set apart under this section must be defined by signs and flags or in some other way that clearly indicates the relevant part of the reserve and the use for which it is set apart.
- (3) If a part of a bathing reserve is set apart for the use of aquatic equipment of a particular type under this section, a person must not—
 - (a) use aquatic equipment of the relevant type in the bathing reserve outside the part of the reserve set apart for its use; or
 - (b) use aquatic equipment, in the relevant part of the reserve, that is not of the type for which the relevant part of the reserve is set apart.

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

Part 4 Behaviour in bathing reserves

14 Dangerous objects

- (1) A person must not bring an item of aquatic equipment or other object into a bathing reserve, or use aquatic equipment or anything else in a bathing reserve, if the item or object is dangerous.

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

- (2) This section does not apply to life-saving equipment used by members of a life-saving patrol for surveillance of the bathing reserve or to assist bathers in distress.

15 Prohibited equipment

- (1) A person must not have prohibited equipment in a bathing reserve.
Maximum penalty for subsection (1)—20 penalty units.
- (2) However, this section does not apply in circumstances excluded under a subordinate local law from the application of this section.
- (3) In this section—
prohibited equipment means—
 - (a) a spear gun; or
 - (b) a fishing spear; or
 - (c) another object classified as prohibited equipment under a subordinate local law for this paragraph.

16 Dangerous conduct

A person must not use aquatic equipment or anything else in a bathing reserve in a way that creates a risk to the safety of others.

Maximum penalty—20 penalty units.

17 Emergency evacuation alarm

- (1) If an emergency evacuation alarm is given, a person within a bathing reserve—
 - (a) must leave the water as soon as practicable; and
 - (b) must not enter or re-enter the water until the all-clear is given.Maximum penalty for subsection (1)—20 penalty units.
- (2) An emergency evacuation alarm is given by—
 - (a) the prolonged ringing of a bell or sounding of a siren; and
 - (b) the exhibition of a red flag.
- (3) The all-clear is given by—
 - (a) a short ringing of the bell or sounding of the siren; and
 - (b) the replacement of the red flag by a yellow flag.
- (4) An emergency evacuation and the all-clear may also be given in ways recognised by SLSQ.

Example—

The emergency evacuation alarm may be given by holding up a red and white quartered flag and the all-clear may be given by taking down the flag when the danger has passed.

18 False alarms

A person must not, without the authority of an authorised person—

- (a) give an emergency evacuation alarm or do anything likely to be reasonably interpreted as an emergency evacuation alarm; or
- (b) give the all-clear after an emergency evacuation alarm or do anything likely to be reasonably interpreted as the all-clear after an emergency evacuation alarm.

Maximum penalty—50 penalty units.

Part 5 Life-saving clubs and powers of authorised persons

Division 1 Life-saving clubs and patrols

19 Recognised life-saving clubs

- (1) The local government may, after consultation with interested life-saving clubs, assign to a life-saving club the responsibility for patrolling a bathing reserve or a particular part of a bathing reserve.
- (2) The responsibility—
 - (a) may be assigned on conditions the local government considers appropriate; and
 - (b) may only be assigned with the agreement of the club to which the responsibility is assigned.

20 Enclosure for life-saving patrols

A recognised life-saving club may, with the local government's written approval, enclose a part of a bathing reserve for the exclusive use of members of life-saving patrols.

21 Distinctive clothing

A member of a life-saving patrol must wear a distinctive uniform appropriate to the member's rank in a design approved by SLSQ.

Division 2 Powers of authorised persons

22 Power to remove or reduce danger

- (1) If a person brings a dangerous object or dangerous item of aquatic equipment onto a bathing reserve, an authorised person may direct the person to take specified action to remove or reduce the danger posed by the object or item.

Example—

If a person brings a beach umbrella onto a bathing reserve and the umbrella appears likely to blow away, an authorised person might direct the person to take specified action to secure the umbrella.

- (2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—20 penalty units.

23 Power to stop dangerous and antisocial conduct

- (1) If a person behaves in a bathing reserve in a way that endangers the safety of the person or someone else, or causes a nuisance to someone else, an authorised person may direct the person to stop the behaviour.

- (2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—20 penalty units.

24 Power to require bathers to leave water

- (1) An authorised person may give a direction to a bather to leave the water if—

- (a) the bathing reserve, or the relevant part of the bathing reserve, is closed to bathing; or
 - (b) an emergency evacuation alarm has been given; or
 - (c) there is some other risk to the bather's safety.
- (2) A person must comply with a direction under this section.
- Maximum penalty for subsection (2)—20 penalty units.

25 Seizure and detention of dangerous objects and prohibited equipment

- (1) This section applies if, in a bathing reserve, a person—
 - (a) possesses, uses or has used a dangerous object or dangerous item of aquatic equipment; or
 - (b) uses or has used an object in a dangerous way; or
 - (c) has prohibited equipment.
- (2) An authorised person may seize the object, item or equipment (the *seized thing*).
- (3) The authorised person must give the person from whom the seized thing is taken a receipt—
 - (a) stating the nature of the seized thing; and
 - (b) stating the date and time of seizure; and
 - (c) stating a period (which must be at least 1 hour and not more than 6 months) for which the seized thing is to be detained; and
 - (d) stating a place where the seized thing may be reclaimed.
- (4) The seized thing must, if not reclaimed on the day on which it was seized, be delivered into the custody of the local government or the life-saving club of which the authorised person is a member.
- (5) The local government or the relevant life-saving club must take all reasonable measures to ensure the safe custody of the seized thing.
- (6) At the conclusion of the period fixed for its detention under subsection (3)(c), if the seized thing is in the custody of a life-saving club it must be delivered into the custody of the local government.
- (7) At the conclusion of the period fixed for its detention under subsection (3)(c), the seized thing must be dealt with by the local government as an impounded item under *Local Law No.1 (Administration) 2011*, section 37.

Part 6 Authorised persons

26 Who are authorised persons

- (1) The following persons are authorised persons for this local law—
 - (a) a person who is an authorised person under a subordinate local law for this paragraph;
 - (b) a person appointed as an authorised person for this local law under this section.

Example for paragraph (a)—

- The subordinate local laws might provide that a person who holds a particular rank in a life-saving patrol is an authorised person.
 - The subordinate local laws might provide that a life guard or a beach inspector is, while he or she holds that position, an authorised person.
- (2) A local government may appoint any of the following persons as authorised persons for this local law—
- (a) employees of the local government;
 - (b) other persons who are eligible for appointment as authorised persons under the Act.⁵
- (3) An appointment of a person as an authorised person under this section must state the provisions of this local law for which the person is appointed as an authorised person.
- (4) A local government may appoint a person as an authorised person under this section only if—
- (a) the local government considers the person has the necessary expertise or experience for the appointment; or
 - (b) the person has satisfactorily finished training approved by the local government for the appointment.

27 Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment or under a subordinate local law for this section.

28 Authorised person's appointment conditions

- (1) An authorised person holds office on the conditions stated in the instrument of appointment or a subordinate local law for this subsection.
- (2) An authorised person—
- (a) if the instrument or subordinate local law provides for a term of appointment—ceases holding office at the end of the term; and
 - (b) if appointed as an authorised person under section 26(1)(b)—may resign by signed notice of resignation given to the local government; and
 - (c) if the person holds a particular rank or position, and is an authorised person under a subordinate local law because he or she holds the relevant rank or position—ceases holding office as an authorised person on ceasing to hold the relevant rank or position; and
 - (d) if the conditions of appointment provide—ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the *main office*).
- (3) However, an authorised person may not resign from the office of authorised person (the *secondary office*) under subsection (2)(b) if a condition of the authorised person's employment in the main office requires the authorised person to hold the secondary office.

⁵ See the Act, chapter 6, part 6.

29 Authorised person's identity card

- (1) Each authorised person must hold an identity card issued by the local government or a recognised life-saving club.
- (2) An identity card issued by the local government must—
 - (a) contain a recent photograph of the authorised person; and
 - (b) be signed by the authorised person; and
 - (c) identify the person as an authorised person for the local government; and
 - (d) include an expiry date.
- (3) An identity card issued by a recognised life-saving club must—
 - (a) contain a recent photograph of the authorised person or state the authorised person's date of birth; and
 - (b) be signed by the authorised person; and
 - (c) identify the person as an authorised person for the life-saving club; and
 - (d) include an expiry date.
- (4) A person who ceases to be an authorised person must return the person's identity card to the local government or the life-saving club that issued it within 21 days after the person ceases to be an authorised person.

Maximum penalty for subsection (4)—10 penalty units.

- (5) This section does not prevent the giving of a single identity card to a person for this part and for other purposes.

30 Production of identity card

- (1) An authorised person may exercise a power in relation to someone else (the *other person*) only if the authorised person—
 - (a) first produces his or her identity card for the other person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

31 Offence

A person must not pretend to be an authorised person or a member of a life-saving patrol.

Maximum penalty—50 penalty units.

32 Protection from liability

- (1) This section applies to—
 - (a) an authorised person; and
 - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act done or omission made honestly and without negligence under this local law.

- (3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

Part 7 Miscellaneous

33 Compliance with Australian standards

- (1) The flags and signs to be used for the purposes of this local law should comply with any relevant Australian Standard issued or approved by the Standards Association of Australia.
- (2) However, non-compliance with an applicable standard does not invalidate anything done under this local law.

34 Obstruction of authorised persons and life-savers

- (1) A person must not obstruct an authorised person or a member of a life-saving patrol in the conduct of their duties.
Maximum penalty for subsection (1)—50 penalty units.
- (2) A person must not use insulting or abusive language to an authorised person or a member of a life-saving patrol.
Maximum penalty for subsection (2)—20 penalty units.

35 Interference with flags and life-saving equipment

- (1) A person must not, without the approval of an authorised person, damage, destroy or interfere with a sign or flag erected or placed under this local law.
Maximum penalty for subsection (1)—50 penalty units.
- (2) A person must not, without the approval of an authorised person, interfere with life-saving equipment on a bathing reserve.
Maximum penalty for subsection (2)—50 penalty units.

36 Subordinate local laws

The local government may make subordinate local laws about—

- (a) prohibiting or restricting the use of aquatic equipment;⁶ or
- (b) the classification of objects as prohibited equipment;⁷ or
- (c) the circumstances in which a person may have prohibited equipment in a bathing reserve;⁸ or
- (d) the appointment of authorised persons for this local law;⁹ or
- (e) the limitation of an authorised person's powers;¹⁰ or
- (f) conditions of office for authorised persons.¹¹

⁶ See section 12(1).

⁷ See section 15(3).

⁸ See section 15(2).

⁹ See section 26(1)(a).

¹⁰ See section 27.

¹¹ See section 28(1).

Schedule Dictionary

Section 3

aquatic equipment means—

- (a) a boat or vessel; or
- (b) a surf ski; or
- (c) a jet ski; or
- (d) a surf board; or
- (e) a sail board; or
- (f) a body board; or
- (g) another device (whether motorised or not) for use on or in water to carry a person or thing across or through water or for recreational use in water.

authorised person means a person who is an authorised person for this local law under part 6.

bathing includes all activities involving the immersion or partial immersion of the body in water.

bathing area see section 6.

bathing reserve means a part of the seashore, adjacent land under the sea, and sea placed under the control of the local government as a bathing reserve under the Act.

dangerous item of aquatic equipment means an item of aquatic equipment that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.

Examples of dangerous items of aquatic equipment—

- A surfboard with sharp or broken edges.
- A boat with projections liable to cause injury to bathers.

dangerous object means an object that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.

life-saving club means a body—

- (a) affiliated with—
 - (i) Surf Life Saving Queensland Inc (SLSQ); or
 - (ii) the Head Centre of the Royal Life Saving Society; and
- (b) accredited by the Department of Community Safety.

life-saving equipment means equipment for use in sea rescue, life-saving, or the provision of first aid.

life-saving patrol means the members of a recognised life-saving club assigned by the club or SLSQ to patrol a bathing reserve, or part of a bathing reserve, at a particular time.

patrol flag means a red and yellow flag of the design prescribed by Australian Standard No. 2416.

recognised life-saving club means a life-saving club to which the local government has assigned the responsibility for patrolling a bathing reserve or a particular part of a bathing reserve.¹²

¹² See section 19.

reserve sign see section 5(1).

SLSQ means Surf Life Saving Queensland Inc.

surveillance means the visual supervision of an area.

the Act means the *Local Government Act 2009*.

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Local Law (Repealing) Local Law (No. 1) 2011

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196255-1

1 Short title

This local law may be cited as *Local Law (Repealing) Local Law (No. 1) 2011*.

2 Commencement

This local law commences on the date notice of the making of the local law is published in the gazette.

3 Local laws repealed

This local law repeals each of the following local laws—

- (a) *Local Law No.1 (Administration)* of Burdekin Shire Council;
- (b) *Local Law No.2 (Meetings of Council)* of Burdekin Shire Council;
- (c) *Local Law No.3 (Libraries)* of Burdekin Shire Council;
- (d) *Local Law No.4 (Keeping and Control of Animals)* of Burdekin Shire Council;
- (e) *Local Law No.5 (Impounding of Animals)* of Burdekin Shire Council;
- (f) *Local Law No.6 (Regulated Parking) 2003* of Burdekin Shire Council;
- (g) *Local Law No.7 (Temporary Homes)* of Burdekin Shire Council;
- (h) *Local Law No.8 (Rental Accommodation with Shared Facilities) 2001* of Burdekin Shire Council;
- (i) *Local Law No.9 (Pests)* of Burdekin Shire Council;
- (j) *Local Law No. 10 (Cane Railways) 2008* of Burdekin Shire Council;
- (k) *Local Law No.12 (Roads) 2001* of Burdekin Shire Council;
- (l) *Local Law No.13 (Commercial Use of Roads) 2001* of Burdekin Shire Council;
- (m) *Local Law No.18 (Cemeteries)* of Burdekin Shire Council;
- (n) *Local Law No.24 (Gates and Grids)* of Burdekin Shire Council;
- (o) *Burdekin Shire Council Local Law No.25 (Riding Bicycles, Wheeled Recreational Devices and Wheeled Toys on Footpaths) 2002*.

4 Expiration

This local law expires on the day after notice of the making of the local law is published in the gazette.

196255-1

Local Law No. 1 (Administration) 2011

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 1 (Administration) 2011*.

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 laws¹

This local law—

- (a) is 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

¹ 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.

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

Maximum penalty for subsection (2)—

- for an activity for which no category has been declared by subordinate local law—50 penalty units; or
 - for a category 1 activity—50 penalty units; or
 - for a category 2 activity—200 penalty units; or
 - 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.

² 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.

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.

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) if the prescribed activity is the commercial use of a local government controlled area or road—the grant of the approval is consistent with the objective of the local government of 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
 - (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) the grant of the approval would be consistent with the purpose of any relevant local law; and
 - (f) if the application relates to trust land—the grant of the approval would be consistent with the terms and conditions of the trust; and
 - (g) 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.

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.

- (2) For the purpose of determining whether the criteria specified in subsection (1) have been satisfied—
- (a) the local government is not obliged to look beyond—
 - (i) the documents or materials submitted to the local government in respect of the application; and
 - (ii) any other information held by the local government which is relevant to the application; and
 - (b) the local government is not required to give the applicant a written notice

stating that the applicant may make written submissions, within a stated reasonable time, why the application should be granted.

- (3) 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.

- (4) However, the local government's powers in deciding the application are subject to the provisions of any relevant local law.
- (5) 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.
- (6) 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.

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.³

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.

³ 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, 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—
 - (a) may have regard to—
 - (i) the matters mentioned in section 9(1); and
 - (ii) whether the conditions of the approval are being complied with by the

- applicant; and
- (b) is not obliged to look beyond—
 - (i) the documents or materials submitted to the local government in respect of the renewal or extension of the approval; and
 - (ii) any other information held by the local government which is relevant to the renewal or extension of the approval; and
 - (c) is not required to give the applicant a written notice stating that the applicant may make written submissions, within a stated reasonable time, why the approval should be renewed or extended.
- (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 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*).⁴
- (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

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

satisfied about the matters mentioned in section 9(1).

- (7) For the purpose of determining whether the local government is satisfied about the matters mentioned in section 9(1)—
 - (a) the local government is not obliged to look beyond—
 - (i) the documents or materials submitted to the local government in respect of the application; and
 - (ii) any other information held by the local government which is relevant to the application; and
 - (b) the local government is not required to give the applicant a written notice stating that the applicant may make written submissions, within a stated reasonable time, why the application should be granted.
- (8) 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.
- (9) If the local government decides to grant the application to transfer the approval, the local government may amend the existing conditions of the approval.
- (10) The local government may amend the conditions of the approval under subsection (9) without following the procedure in section 18.
- (11) The local government must state, in the notice given under subsection (8)(a), any amendments to the conditions of the approval and the day that they take effect.
- (12) 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—
 - (iii) for the protection of public health or safety; or
 - (iv) to prevent environmental harm; or
 - (v) to prevent property damage or loss of amenity; or
 - (vi) to allow for works on roads or local government controlled areas; or
 - (vii) to improve access to a road; or
 - (viii) 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 appointment⁵ 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 person⁶

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 officer⁷ for a review of the decision under this part.⁸
- (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

⁵ See the Act, chapter 6, part 6, for the power to appoint authorised persons.

⁶ 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.

⁷ See definition of *chief executive officer* in the Act, schedule 4.

⁸ 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.

- (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.⁹
- (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 (3) 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

⁹ See the Act, section 132.

- (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) For the purpose of determining whether an authorised person may be satisfied about the matters mentioned in subsection (1)—
 - (a) the authorised person is not obliged to look beyond—
 - (i) the documents or materials submitted to the local government in respect of the matters; and
 - (ii) any other information held by the local government which is relevant to the matters; and
 - (b) the local government is not required to give the person a written notice stating that the person may make written submissions, within a stated reasonable time, about the matters.
 - (3) The authorised person may give¹⁰ a written notice (a **compliance notice**) to the person (the **recipient**) requiring the person to remedy the contravention.¹¹
 - (4) 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.
 - (5) The time under subsection (4)(c) must be reasonable having regard to—
 - (a) the action required to remedy the contravention; and
 - (b) the risk to public health and safety, the risk of 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.
 - (6) The compliance notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention or avoid further contravention.

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

¹¹ 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 138(2).

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.
- (7) The compliance notice must include, or be accompanied by, an information notice.
- (8) The recipient must comply with the compliance notice.¹²

Maximum penalty for subsection (8)—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;¹³ and
 - (b) the authorised person gives¹⁴ a compliance notice to the person (the *recipient*).¹⁵
- (2) For the purpose of determining whether an authorised person should give a compliance notice about a matter under subsection (1)—
- (a) the authorised person is not obliged to look beyond—
 - (i) the documents or materials submitted to the local government in respect of the matter; and
 - (ii) any other information held by the local government which is relevant to the matter; and
 - (b) the local government is not required to give any person a written notice stating that the person may make written submissions, within a stated reasonable time, about the matter.
- (3) 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.

¹² 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.

¹³ For example, see *Local Law No.4 (Local Government Controlled Areas, Facilities and Roads) 2011*, section 9(1) (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).

¹⁴ See also footnote 10.

¹⁵ See also footnote 11.

- (4) The specified action in subsection (3)(b) must not be inconsistent with action required, by a remedial notice, to be taken under another Local Government Act.
- (5) The time under subsection (3)(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.
- (6) The compliance notice must include, or be accompanied by, an information notice.
- (7) The recipient must comply with the compliance notice.¹⁶
Maximum penalty for subsection (7)—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) For the purpose of determining whether an authorised person should give a relevant person an order about a matter under subsection (1)—

¹⁶ See also footnote 12.

- (a) the authorised person is not obliged to look beyond—
 - (i) the documents or materials submitted to the local government in respect of the matter; and
 - (ii) any other information held by the local government which is relevant to the matter; and
 - (b) the local government is not required to give the relevant person a written notice stating that the person may make written submissions, within a stated reasonable time, about the matter.
- (3) An order under this section—
- (a) may be given orally or in writing; and
 - (b) operates until the earliest of the following happens—
 - (i) the expiry of the period, of no more than 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.
- (4) An authorised person must confirm an oral order in writing by the next business day following the giving of the order.
- (5) A person who receives an order under this section must comply with the order.
- Maximum penalty for subsection (5)—50 penalty units.
- (6) This section does not affect the local government's powers under another law.
- (7) 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 Audio and video recording of a meeting

- (1) An authorised person may make an audio or video recording of a local government meeting, a standing committee meeting, a special committee meeting or an advisory committee meeting for the purpose of verifying the accuracy of the minutes of the meeting.
- (2) An audio or video recording made under subsection (1) must be destroyed or dealt with as directed by the local government after being used to verify the accuracy of the minutes of the meeting that was recorded.

- (3) A person (other than an authorised person making an audio or video recording for the purpose of verifying the accuracy of the minutes) must not make an audio or video recording of a local government meeting, a standing committee meeting, a special committee meeting or an advisory committee meeting unless the chairperson at the meeting gives consent in writing to the recording of the meeting.

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

36 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.

37 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.

38 Dealing with seized and impounded items

- (1) This section applies where—
- an authorised person has exercised a power under a local law to seize and impound a structure, thing or goods (an *impounded item*);¹⁷ or
 - 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 animal¹⁸
- (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—
- written application is made to the chief executive officer; and

¹⁷ 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 36 in relation to abandoned goods.

¹⁸ 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.

- (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 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 sale or disposal; and
 - (b) secondly, towards the prescribed fee for impounding the impounded item; and
 - (c) thirdly, to the former owner of the impounded item.
- (7) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (6)(c) 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

39 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;¹⁹ and
- (b) the categories of prescribed activities for the purposes of maximum penalties;²⁰
- (c) the documents and materials that must accompany an application for an approval;²¹ and
- (d) additional criteria for the granting of approvals for prescribed activities;²² and

¹⁹ See section 6(3).

²⁰ See section 6(4).

²¹ See section 8(2)(a).

²² See section 9(1)(d).

- (e) the conditions that must be imposed on an approval or that will ordinarily be imposed on an approval;²³ and
- (f) application requirements for which a third party certifier's certificate may be accepted by the local government;²⁴ and
- (g) the individuals or organisations that are declared as third party certifiers for particular application requirements;²⁵
- (h) the qualifications that are necessary for an individual or organisation to provide a third party certificate about particular application requirements;²⁶ and
- (i) the term for which an approval for a prescribed activity remains in force;²⁷ and
- (j) the further term for which an approval for a prescribed activity may be renewed or extended;²⁸ and
- (k) categories of approvals that are non-transferable;²⁹ and
- (l) complementary accommodation prescribed as appropriate for caravan parks;³⁰ and
- (m) a State-controlled road to which this local law applies;³¹ and
- (n) public place activities prescribed as regulated activities on local government controlled areas and roads.³²

²³ See section 10(3).

²⁴ See section 12(1).

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

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

²⁷ See section 13(a).

²⁸ See section 14(1)(a).

²⁹ See section 15(2).

³⁰ See schedule 1, definition of *complementary accommodation*, paragraph (b).

³¹ See schedule 1, definition of *road*, subparagraph (b)(i).

³² See schedule 2, part 2, definition of *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 4³³.

caravan see *Residential Tenancies Act 1994*, section 3A.

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

DOGIT land means land that is DOGIT land under the *Aboriginal Land Act 1991*, section 13, or the *Torres Strait Islander Land Act 1991*, section 12.

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.

excluded accommodation means each of the following—

- (a) a residential tenancy under a residential tenancy agreement;
- (b) the provision of rental accommodation—
 - (i) by a person at the residence of the person for immediate family members of the person in exchange for the payment of money; or
 - (ii) at a building that is, or is located within, or is part of, an educational institution, residential college, boarding school or religious institution; or
 - (iii) at a building in which the only accommodation provided is for life savers; or
 - (iv) at a building in which the only accommodation provided is recreational accommodation for camps for school groups, girl guides, scouts or similar groups; or
 - (v) at premises used for—
 - (A) the operation of a camping ground; or

³³ See also section 20.

- (B) the operation of a caravan park; or
- (vi) at premises used to provide residential services as defined in the *Residential Services (Accreditation) Act 2002*; or
- (vii) at public housing as defined in the *Sustainable Planning Act 2009*; or
- (viii) at a hospital, nursing home or other institution where people are cared for on a live-in basis; or
- (ix) at a community titles scheme under the *Body Corporate and Community Management Act 1997*; or
- (x) at a private home in which accommodation is provided for not more than 2 boarders; or
- (xi) at premises excluded from the application of this local law under a subordinate local law.

goods does not include animals.

human remains means the body or part of the body of a deceased person.

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*—

- (a) means—
 - (i) land, facilities and other infrastructure owned by the local government; and
 - (ii) land, facilities and other infrastructure held in trust by the local government; and
 - (iii) land, facilities and other infrastructure otherwise controlled by the local government; but
- (b) does not include 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 Act³⁴.

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

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).

shared facility accommodation means accommodation occupied or available for occupation by residents, in return for payment, on the basis of residents sharing 1 or more of the following facilities—

- (a) dormitories or bedrooms;
- (b) toilets;
- (c) bathrooms, showers or other bathing facilities;
- (d) laundries;
- (e) dining facilities;
- (f) cooking facilities;
- (g) recreation facilities.

show cause notice see section 18(2).

the Act means the *Local Government Act 2009*.

³⁴ 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 cane railways

operation of caravan parks

operation of cemeteries

operation of public swimming pools

operation of rental accommodation

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*³⁵
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.

³⁵ 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.

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 Act³⁶; 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.

commercial use of local government controlled areas³⁷ 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 structure used or intended for temporary use as a place of residence but does not include—

- (a) a structure for erection which is constituted as development under the Planning Act; or
- (b) the establishment or the occupation of a temporary home on or in a camping ground or caravan park.

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.³⁸

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.

³⁶ See the definition of *Planning Act* in the Act, schedule 4.

³⁷ See footnote 36.

³⁸ 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 cane railways means the operation of a tramway or railway—

- (a) operated, entirely or partly, on an access right under the *Sugar Industry Act 1999*, chapter 2, part 4³⁹; and
- (b) used, or proposed to be used, to transport sugar cane, sugar or sugar cane by-products; and
- (c) that does not transport passengers or other freight for reward.

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.

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 rental accommodation—

- (a) means—
 - (iv) the provision of shared facility accommodation to holiday makers or travellers; and
 - (v) the provision of accommodation in a hotel or motel; but
- (b) does not include the provision of excluded accommodation.

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; or
- (c) disturbance of human remains in a local government cemetery.

undertaking regulated activities on local government controlled areas⁴⁰ and roads means undertaking one of the following activities on a local government

³⁹ *Sugar Industry Act 1999*, chapter 2 (Supply contracts and cane access rights), part 4 (Cane access, harvesting and mill supply).

⁴⁰ See footnote 36.

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.

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Local Law No. 2 (Animal Management) 2011

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 2 (Animal Management) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to regulate and manage the keeping and control of animals in the local government's area in a way that—
 - (a) balances community expectations with the rights of individuals; and
 - (b) protects the community against risks to health and safety; and
 - (c) prevents pollution and other environmental damage; and
 - (d) protects the amenity of the local community and environment.
- (2) The purpose is to be achieved by providing for—
 - (a) the regulation of the keeping of animals in terms of how many, what type, how, and where animals can be kept; and
 - (b) the prescription of minimum standards for keeping animals; and
 - (c) the proper control of animals in public places and koala conservation areas; and
 - (d) the management of dangerous or aggressive animals other than dogs;¹ and
 - (e) the seizure and destruction of animals in certain circumstances; and
 - (f) the establishment and administration of animal pounds.
- (3) The purpose of this local law is to be further achieved by adopting a regional approach to the regulation and management of the keeping and control of animals by having, as far as possible, an identical local law applying in the local government areas of each of—
 - (a) Burdekin Shire Council; and
 - (b) Charters Towers Regional Council; and
 - (c) Hinchinbrook Shire Council; and
 - (d) Townsville City Council.

3 Definitions—the dictionary

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

4 Relationship with other laws²

¹ The *Animal Management (Cats and Dogs) Act 2008* provides for the management of *regulated dogs*, comprising declared dangerous dogs, declared menacing dogs and restricted dogs.

² 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 Commonwealth. See the Act, section 27.

This local law is—

- (a) in addition to, and does not derogate from—
 - (i) laws regulating the use or development of land; and
 - (ii) other laws about the keeping or control or welfare of animals; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

Part 2 Keeping of animals

Division 1 Prohibition on keeping animals

5 Prohibition on keeping animals in prescribed circumstances

- (1) The local government may, by subordinate local law, prohibit the keeping of animals in prescribed circumstances.
- (2) The circumstances in which the keeping of animals is prohibited may be specified by reference to 1 or more of the following factors—
 - (a) species;
 - (b) breed;
 - (c) sex;
 - (d) age;
 - (e) number;
 - (f) whether an animal is a restricted dog;³
 - (g) the locality in which the animal would be kept;
 - (h) the nature of the premises in which the animal would be kept, including the size of the enclosure or the size of the allotment.⁴

Example for subsection (2)—

A prohibition may be imposed in relation to keeping certain species or a prescribed number of animals of a certain species in an urban locality.

- (3) A person must not keep an animal in contravention of a prohibition under this section.

Maximum penalty for subsection (3)—50 penalty units.

Division 2 Animals for which approval is required

³ Section 72(3) of the *Animal Management (Cats and Dogs) Act 2008* provides: “A permit application may be made for more than 1 restricted dog for the same place only if the keeping of more than 1 restricted dog and more than 1 dog of any breed is permitted under a local law.”

⁴ See the *Animal Management (Cats and Dogs) Act 2008*, chapter 4, regarding particular conditions on keeping regulated dogs, including requirements about enclosures.

6 Requirement for approval

- (1) Subject to subsections (3) and (4), the local government may, by subordinate local law, require an approval⁵ for keeping an animal or animals in prescribed circumstances.
- (2) The circumstances in which an approval is required may be specified by reference to 1 or more of the following factors—
 - (a) species;
 - (b) breed;
 - (c) sex;
 - (d) age;
 - (e) number;
 - (f) the locality in which the animal is to be kept, including whether it is an urban or non-urban locality;
 - (g) the nature of the premises in which the animal is to be kept, including the size of the enclosure or the size of the allotment.⁶
- (3) An approval under this section is not required for the keeping of animals on land if the keeping of the animals on the land is authorised by a development approval under the Planning Act⁷.
- (4) Under this section, the local government may not require an approval for keeping a restricted dog.⁸

Division 3 Animals for which desexing is required

7 Requirement to desex an animal

- (1) The local government may, by subordinate local law, require an animal of a particular species or breed to be desexed.
- (2) The subordinate local law may—
 - (a) specify that the requirement for desexing only applies once an animal reaches a certain age; and
 - (b) exempt animals under particular circumstances.

Example for paragraph (b)—

Exemption might be provided for an animal that is owned by a member of a recognised breeders'

⁵ Keeping an animal for which an approval is required under this local law is a **prescribed activity** under schedule 2 of *Local Law No. 1 (Administration) 2011*. The process for obtaining an approval for a prescribed activity is set out in part 2 of that local law and section 6 creates an offence for a person undertaking a prescribed activity without a current approval.

⁶ See note 4.

⁷ See the definition of *Planning Act* in the Act, schedule 4.

⁸ Section 71 of the *Animal Management (Cats and Dogs) Act 2008* requires a permit issued by the local government for a person to own or be responsible for a restricted dog. The processes for the granting of restricted dog permits are set out under chapter 4, part 3 of that Act.

association for the purposes of breeding or showing.

- (3) A person must not keep an animal that is required to be desexed unless the animal has been desexed.

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

- (4) The local government may, by written notice, request a person who is required to desex an animal under subsection (1) to provide documents or materials, for example, a certificate signed by a veterinary surgeon stating, or to the effect, that the animal has been desexed.

- (5) The recipient of a notice given under subsection (4) must comply with the notice.

Maximum penalty for subsection (5)—20 penalty units.

Division 4 Minimum standards

8 Minimum standards for keeping animals

- (1) The local government may, by subordinate local law, specify minimum standards for the keeping of animals or a particular species or breed of animal.

- (2) A person who keeps an animal must ensure that the relevant minimum standards prescribed by a subordinate local law are complied with.⁹

Maximum penalty for subsection (2)—20 penalty units.

- (3) If a person is required to hold an approval to keep an animal, the obligation to comply with the minimum standards prescribed by a subordinate local law is in addition to an obligation imposed by a condition of the approval.

Division 5 Identification of registered cats and dogs

9 Identification for cats and dogs in certain circumstances

The local government may, by subordinate local law, prescribe the identification required by the *Animal Management (Cats and Dogs) Act 2008* for a cat or dog that is at a place other than the address stated in the registration notice for the cat or dog.¹⁰

Part 3 Control of animals

Division 1 Animals in public places

10 Exclusion of animals

⁹ See also *Animal Management (Cats and Dogs) Act 2008*, schedule 1, sections 4 to 5, regarding the requirements about enclosures for declared dangerous dogs, declared menacing dogs and restricted dogs.

¹⁰ Section 45 of the *Animal Management (Cats and Dogs) Act 2008* requires a person who keeps a cat or dog at a place other than the address in the registration notice to ensure it bears the identification prescribed by the local government under a local law.

- (1) The local government may, by subordinate local law, specify public places where animals, or animals of a particular species or breed, are prohibited.
- (2) The owner or responsible person for an animal must ensure that the animal is not in a public place in contravention of a prohibition specified under subsection (1).
Maximum penalty for subsection (2)—20 penalty units.
- (3) The local government must take reasonable steps to provide notice to members of the public regarding the animals that are prohibited in a particular public place.
- (4) In this section—
reasonable steps include, as a minimum, the display of a notice at a prominent place within the particular public place, stating—
 - (a) the animals that are prohibited in the place; and
 - (b) in general terms, the provisions of subsection (2).

11 Dog off-leash areas

- (1) The local government may, under a subordinate local law, designate an area within a public place as an area where a dog is not required to be on a leash (a *dog off-leash area*).
- (2) The local government must take reasonable steps to provide notice to members of the public regarding the designation of an area as a dog off-leash area.
- (3) In this section—
reasonable steps include, as a minimum, the display of a notice at a prominent place within the dog off-leash area indicating the extent of the area.

12 Control of animals in public places¹¹

- (1) The owner or responsible person for an animal must ensure that the animal is not in a public place—
 - (a) unless the animal is under the effective control of someone; and
 - (b) if the animal is a declared dangerous animal¹²—unless the animal is securely restrained to prevent it from—
 - (i) attacking a person or animal; or
 - (ii) acting in a way that causes fear to a person or animal; or
 - (iii) causing damage to property.
 Maximum penalty for subsection (1)—20 penalty units.
- (2) The owner or responsible person for a dog that is on heat must ensure that the animal is not in a public place.

¹¹ See also *Animal Management (Cats and Dogs) Act 2008*, schedule 1, section 3, regarding the requirement for muzzling and effective control of regulated dogs in public and section 93, which applies this requirement where a dog is subject to a proposed declaration notice.

¹² See the definition of *declared dangerous animal* in the schedule.

Maximum penalty for subsection (2)—20 penalty units.

- (3) An animal is under the *effective control* of someone only if—
- (a) a person who is physically able to control the animal—
 - (i) is holding it by an appropriate leash, halter or rein; or
 - (ii) has appropriately tethered it to an object fixed to a place from which the object can not be moved by the animal and is continuously supervising the animal; or
 - (iii) has corralled it in a temporary enclosure adequate to contain the animal and is continuously supervising the animal; or
 - (b) the animal is tethered in or on a vehicle and unable to reach beyond the vehicle extremities; or
 - (c) the animal is a dog in a dog off-leash area and under the supervision of a person who is able to control the animal by voice command; or
 - (d) the animal is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for this section by the local government; or
 - (e) the animal is a working animal actually engaged in moving livestock and under the supervision of a person who is able to control the animal by voice command.

13 Person in control of dog or prescribed animal to clean up faeces

If a dog or any other animal prescribed by subordinate local law defecates in a public place, the person who has control of the dog or animal must immediately remove and dispose of the faeces in a sanitary way.

Maximum penalty—20 penalty units.

Division 2 Restraint of animals

14 Duty to provide adequate enclosure and prevent animal from wandering

- (1) A person who keeps an animal must maintain an adequate enclosure that—
- (a) prevents the animal from wandering or escaping from the person's land; and
 - (b) prevents the animal from being released from the person's land without the person's authority¹³.

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

- (2) It is a defence to a prosecution for an offence against subsection (1)(b) for the defendant to prove that—
- (a) the defendant maintained a locked enclosure for the animal; and

¹³ See also *Animal Management (Cats and Dogs) Act 2008*, schedule 1, sections 4 to 5, regarding the requirements about enclosures for declared dangerous dogs, declared menacing dogs and restricted dogs.

- (b) the defendant could not, by the exercise of reasonable diligence, have prevented the unauthorised release of the animal.
- (3) The local government may, by subordinate local law, prescribe minimum requirements for an adequate enclosure for an animal or species or breed of animal.
- (4) The owner of the animal must ensure that it is not wandering at large.¹⁴
Maximum penalty for subsection (4)—20 penalty units.
- (5) It is a defence to a prosecution for an offence against subsection (4) for the defendant to prove that—
 - (a) the defendant maintained an adequate enclosure for the animal and could not, by the exercise of reasonable diligence, have prevented the escape of the animal; or
 - (b) the animal was wandering at large in circumstances authorised by the conditions of an approval granted under a local law.

Example for paragraph (b)—

The conditions of an approval to keep racing pigeons might authorise the approval holder to release the pigeons from their enclosure for a certain amount of time each day and during official pigeon racing events.

15 Koala conservation requirements

- (1) The local government may, by subordinate local law, prescribe requirements for keeping a dog on land that is within a koala area.
- (2) The prescribed requirements may relate to—
 - (a) the enclosure in which the dog must be kept between sunset and sunrise; or
 - (b) tethering the dog between sunset and sunrise to prevent it from attacking a koala; or
 - (c) fencing that must be in place to separate dogs from koalas on the land or on a part of the land; or
 - (d) other measures that will be likely to prevent an attack by the dog on a koala between sunset and sunrise.
- (3) A person who keeps a dog on land that is within a koala area must comply with requirements prescribed under this section.
Maximum penalty for subsection (3)—20 penalty units.
- (4) In this section—

koala area means—

 - (a) a koala habitat area; or
 - (b) an area designated by subordinate local law as a koala area.

koala habitat area means an area designated as a koala habitat by—

 - (a) a conservation plan made under the *Nature Conservation Act 1992*; or
 - (b) a State planning instrument.

¹⁴ See the definition of *wandering at large* in the schedule.

Division 3 Aggressive behaviour by animals other than dogs

16 Limited application of division to dogs¹⁵

- (1) Unless otherwise indicated, this division does not apply in relation to aggressive behaviour by a dog.
- (2) In this section—
aggressive behaviour means attacking, or acting in a way that causes fear to, someone else or another animal.

17 Animals not to attack or cause fear to persons or animals

- (1) A responsible person for an animal must ensure that the animal does not attack, or act in a way that causes fear to, someone else or another animal.

Maximum penalty for subsection (1)—

- (a) if the attack causes the death of or grievous bodily harm to a person—300 penalty units; or
 - (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units; or
 - (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
 - (d) otherwise—20 penalty units.
- (2) A person must not allow or encourage an animal to attack, or act in a way that causes fear to, a person or another animal.

Maximum penalty for subsection (2)—300 penalty units.

- (3) In this section—

allow or encourage, without limiting the *Criminal Code*, sections 7 and 8, includes cause to allow or encourage.

another animal does not include vermin that are not the property of anyone.

Examples of vermin that are someone's property—

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992*.¹⁶

18 Section number not used

¹⁵ Aggressive behaviour by dogs is covered by the *Animal Management (Cats and Dogs) Act 2008*, sections 194 to 196.

¹⁶ See section 83 of that Act.

Division 4 Dangerous animals other than dogs¹⁷

19 Declaration of dangerous animal other than a dog

- (1) A local government may, by subordinate local law, specify criteria for an authorised person to declare an animal other than a dog to be a declared dangerous animal.
- (2) An authorised person may declare an animal other than a dog to be a declared dangerous animal if the animal meets the criteria prescribed by subordinate local law.
- (3) A declaration under subsection (2) takes effect at the time the local government gives the responsible person for the animal an information notice¹⁸ about the declaration.

20 Power to require responsible person for declared dangerous animal to take specified action

An authorised person may, by giving a compliance notice,¹⁹ require the responsible person for a declared dangerous animal to take specified action—

- (a) to warn persons who enter land on which the animal is kept of the presence of a declared dangerous animal on the land; and
- (b) to ensure that the animal remains in secure custody and is unable to attack or cause fear to persons or other animals or cause damage to another person's property.

Part 4 Seizure, impounding or destruction of animals

Division 1 Seizure of animals

21 Seizure of animals

- (1) An authorised person may seize²⁰ an animal, other than a dog,²¹ in the following circumstances—
 - (a) the animal is found wandering at large; or
 - (b) the responsible person for the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law; or

¹⁷ Dangerous dogs are dealt with in the *Animal Management (Cats and Dogs) Act 2008*.

¹⁸ See the definition of *information notice* in *Local Law No.1 (Administration) 2011*, schedule 1.

¹⁹ See *Local Law No.1 (Administration) 2011*, section 27 regarding the requirements for compliance notices and the offence for not complying with a compliance notice.

²⁰ See the *Local Government Act 2009*, chapter 5, part 2, division 1 in relation to authorised persons' enforcement powers, including entry to land.

²¹ See the *Animal Management (Cats and Dogs) Act 2008*, section 125, for seizure of a dog.

- (c) the animal has attacked, threatened to attack, or acted in a way that causes fear to, a person or another animal; or
 - (d) the authorised person considers on reasonable grounds that the animal has been abandoned, left or found on a road in the circumstances mentioned in section 100(12) of the *Transport Operations (Road Use Management) Act 1995*.²²
- (2) An authorised person may seize a dog in the following circumstances—
- (a) the dog is found wandering at large; or
 - (b) the responsible person for the dog has not complied with a compliance notice that has been issued in relation to compliance with this local law; or
 - (c) the authorised person considers on reasonable grounds that the animal has been abandoned, left or found on a road in the circumstances mentioned in section 100(12) of the *Transport Operations (Road Use Management) Act 1995*.
- (3) The authorised person may seize an animal under subsection (1)(a) or a dog under subsection (2)(a) where—
- (a) another person has found the animal or dog wandering at large and delivered it to the authorised person; or
 - (b) an occupier of private land has found the animal or dog wandering at large on the land, taken it under effective control and requested the authorised person to enter the land to seize it.
- (4) However, an authorised person is not obliged to accept the custody of an animal under this section.
- (5) For the purposes of seizing an animal, an authorised person may take any action, including the use of force, which is reasonable in the circumstances to capture or control the animal.

Division 2 Destruction of animal without notice

22 Power to immediately destroy seized animal

- (1) This section applies where an authorised person has seized an animal, other than a regulated dog,²³ under this local law or another law.
- (2) The authorised person may, without notice, immediately destroy the animal if—
 - (a) the authorised person reasonably believes the animal is dangerous and the authorised person can not control it; or
 - (b) the animal is significantly suffering as a result of disease, severe emaciation or serious injuries; or

²² The *Transport Operations (Road Use Management) Act 1995*, section 100(13) provides: "If a local law provides for a matter mentioned in subsection (12), subsections (3) to (11) no longer apply in the local government's area."

²³ See the *Animal Management (Cats and Dogs) Act 2008*, section 127, for power to destroy a seized regulated dog.

- (c) an owner of the animal has requested the authorised person to destroy it.

Division 3 Return or impounding of animals

23 Immediate return of animal seized wandering at large

- (1) This section applies where—
 - (a) an animal has been seized under section 21(1)(a) or section 21(2)(a); and
 - (b) the authorised person who seizes the animal knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person may return the animal to the owner or responsible person.

24 Impounding of seized animal

An authorised person who seizes an animal under this local law or another law may impound the animal at a place of care for animals operated by—

- (a) the local government; or
- (b) another organisation or local government prescribed by subordinate local law.

Example for paragraph (a)—

An animal pound.

Example for paragraph (b)—

A veterinary surgery or an animal refuge.

25 What is a notice of impounding

- (1) A **notice of impounding** means a written notice, given to the owner or responsible person for an animal, stating that—
 - (a) the animal has been impounded; and
 - (b) the animal may be reclaimed within the prescribed period provided that—
 - (i) the cost-recovery fee is paid; and
 - (ii) if an approval or registration is required for the keeping of the animal and the owner or responsible person does not have the approval or registration— the approval or registration is obtained; and
 - (iii) if the animal has been seized under section 21(1)(b) or 21(2)(b)— the owner or responsible person has complied with the relevant compliance notice; and
 - (iv) continued retention of the animal is not needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; and
 - (v) no destruction order has been made for the animal.

- (2) In this section—

relevant compliance notice means the compliance notice mentioned in section 21(1)(b) or 21(2)(b).

26 Dealing with animal seized and impounded for wandering at large

- (1) Subsection (2) applies where—
- (a) an authorised person has impounded an animal seized under section 21(1)(a) or 21(2)(a); and
 - (b) the animal was not a declared dangerous animal at the time of being seized; and
 - (c) the authorised person knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person must give the owner or responsible person a notice of impounding.
- (3) Subsection (4) applies where—
- (a) an authorised person has impounded a declared dangerous animal seized under section 21(1)(a); or
 - (b) an authorised person has impounded an animal that has been seized more than 3 times during a 12 month period.
- (4) The authorised person may—
- (a) give the owner or responsible person for the animal a notice of impounding; or
 - (b) make a destruction order for the animal under section 30.

27 Dealing with animal seized and impounded for non-compliance with local law

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(b) or 21(2)(b).
- (2) The authorised person may—
- (a) give the owner or responsible person for the animal a notice of impounding; or
 - (b) if the animal was being kept in contravention of section 5 of this local law or is an animal for which an approval cannot be granted under this local law or is an animal for which an application for approval under this local law has been rejected— dispose of the animal under division 5.

28 Dealing with animal seized and impounded for attacking etc a person or another animal

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(c).

- (2) The authorised person may²⁴—
 - (a) make a destruction order for the animal under section 30; or
 - (b) give the owner or responsible person a notice of impounding.

29 Reclaiming an impounded animal

- (1) This section applies where—
 - (a) the owner or responsible person for an animal has been given a notice of impounding; or
 - (b) an authorised person does not know, and cannot readily find out, the name and address of an owner or responsible person for the animal.
- (2) The animal may be reclaimed by an owner or responsible person if the owner or responsible person—
 - (a) reclaims the animal within the prescribed period; and
 - (b) pays the cost-recovery fee; and
 - (c) if an approval or registration is required for the keeping of the animal and the owner or responsible person does not have the approval or registration—obtains the approval or registration; and
 - (d) if the responsible person has not complied with a current compliance notice that has been issued in relation to compliance with this local law—complies with the compliance notice.
- (3) However, the animal may not be reclaimed by an owner or responsible person if—
 - (a) continued retention of the animal is needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; or
 - (b) a destruction order has been made for the animal.
- (4) The animal may be reclaimed by an owner or responsible person for the animal if an event as follows happens—
 - (a) if subsection (3)(a) applies—
 - (i) an authorised person advises the owner or responsible person that the animal's continued retention as evidence is no longer required; and
 - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d);
 - (b) if subsection (3)(b) applies—
 - (i) an application for a review or an appeal is made relating to the destruction order and, as a result of the review or appeal, the order is no longer in force; and
 - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d).

²⁴ An authorised person may also declare an animal as a declared dangerous animal under section 19 if specified criteria are met.

Division 4 Destruction of animal following notice

30 Destruction orders

- (1) An authorised person may make an order (a *destruction order*) stating the person proposes to destroy an animal 14 days after the order is served.
- (2) A destruction order may only be made in 1 or more of the following circumstances—
 - (a) the animal has attacked, threatened to attack, or acted in a way that causes fear to, a person or another animal; or
 - (b) the animal is a declared dangerous animal and was found wandering at large; or
 - (c) the animal has been seized more than 3 times during a 12 month period; or
 - (d) the animal has been identified wandering at large more than 3 times during a 12 month period (whether or not the identification led to the seizure of the animal or the prosecution of a responsible person for the animal under this local law).
- (3) The destruction order must—
 - (a) be served on a person who owns, or is a responsible person for, the animal; and
 - (b) include or be accompanied by an information notice.²⁵
- (4) If a destruction order is made for the animal, the person may destroy the animal 14 days after the order is served if no review application has been made relating to the decision to make the order.
- (5) If an application for review has been made relating to the decision to make the order, the person may destroy the animal if—
 - (a) the review is finally decided or is otherwise ended; and
 - (b) the order is still in force; and
 - (c) the time allowed for filing a notice of appeal has expired and no notice of appeal has been filed.
- (6) If an appeal is made relating to the decision to make the order, the person may destroy the animal if—
 - (a) the appeal is finally decided or is otherwise ended; and
 - (b) the order is still in force.
- (7) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
 - (a) a review relating to the decision to make the order is finally decided or is otherwise ended; and

²⁵ See note 17.

- (b) no application for an appeal has been made against the order; and
 - (c) the order is no longer in force; and
 - (d) the owner or responsible person has satisfied section 29(2)(b)-(d).
- (8) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
- (a) an appeal relating to the decision to make the order is finally decided or is otherwise ended; and
 - (b) the order is no longer in force; and
 - (c) the owner or responsible person has satisfied section 29(2)(b)-(d).
- (9) In this section—
- review** means a review conducted under the process mentioned in part 4 of *Local Law No.1 (Administration) 2011*.
- appeal** means an appeal under part 4 of this local law.

Division 5 Disposal of impounded animals

31 Application of this division

This division applies where—

- (a) an impounded animal has not been reclaimed within the prescribed period under section 29(2); or
- (b) if section 29(3)(a) applies— the impounded animal has not been reclaimed within 3 days of an authorised person’s advice to the owner or responsible person that the animal’s continued retention as evidence is no longer required; or
- (c) if section 29(3)(b) applies—the impounded animal has not been reclaimed within 3 days of the completion of a review or appeal that caused a destruction order to no longer be in force; or
- (d) an authorised person has seized an animal mentioned in section 27(2)(b); or
- (e) the owner of an animal has surrendered the animal to the local government.

32 Sale, disposal or destruction of animals

- (1) The local government may—
- (a) offer the animal for sale by public auction or by tender; or
 - (b) if the animal is an animal mentioned in section 27(2)(b) or is of a species, breed or class specified by subordinate local law for this paragraph—
 - (i) sell the animal by private agreement; or
 - (ii) dispose of the animal in some other way without destroying it; or
 - (iii) destroy the animal.

Example for paragraph (b)—

The subordinate local law might specify dogs, cats and other small domestic animals, for which a public auction or tender might not be practicable.

- (2) An animal may only be sold or disposed of under subsection (1) if the local government is satisfied that this will not result in the animal being kept in contravention of the requirements of this local law.

Examples—

- A pig that has been seized because it is being kept in an urban area in contravention of a prohibition under a subordinate local law could be sold to a person outside the urban area but not to another person in an urban area.
 - An animal that a subordinate local law has prohibited in any part of the local government area could not be sold to a person who resides within the local government area.
 - A declared dangerous animal could only be sold to a person who has complied with any specified requirements for keeping such an animal.
- (3) If an animal is to be offered for sale at a public auction under this section, notice of the time and place of the auction must be exhibited at the local government's public office for at least 2 days before the date of the auction.
- (4) An amount realised on sale of an impounded animal must be applied—
- (a) first, towards the costs of the sale; and
 - (b) second, towards the cost-recovery fee for impounding; and
 - (c) third, in payment of the remainder to the former owner of the animal, unless the owner had surrendered the animal to the local government.
- (5) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (4)(c) within 1 year of the date of the sale, the amount becomes the property of the local government.
- (6) If an animal that is offered for sale by public auction or tender is not sold through the auction or tender process, the local government may dispose of the animal as it considers appropriate.

Examples—

- The local government may give the animal away.
- The local government may have the animal destroyed.

Division 6 Other impounding matters

33 Register of impounded animals

- (1) The local government must ensure that a proper record of impounded animals (the *register of impounded animals*) is kept.
- (2) The register of impounded animals must contain the following information about each impounded animal—
- (a) the species, breed and sex of the animal; and
 - (b) the brand, colour, distinguishing markings and features of the animal; and

- (c) if applicable—the registration number of the animal; and
 - (d) if known—the name and address of the responsible person; and
 - (e) the date and time of seizure and impounding; and
 - (f) the name of the authorised person who impounded the animal; and
 - (g) the reason for the impounding; and
 - (h) a note of any order made by an authorised person relating to the animal; and
 - (i) the date and details of whether the animal was sold, released, destroyed or disposed of in some other way.
- (3) The register of impounded animals must be kept available for public inspection at the place of care for animals or, if the place has no public office, at an office prescribed by subordinate local law.

34 Access to impounded animal

- (1) This section applies to an animal impounded under section 24.
- (2) The local government must allow the owner of the animal to inspect it at any reasonable time, from time to time.
- (3) Subsection (2) does not apply if it is impracticable or would be unreasonable to allow the inspection.
- (4) The inspection must be provided free of charge.

35 Unlawful removal of seized or impounded animal

- (1) A person must not, without the authority of an authorised person, remove or attempt to remove—
 - (a) a seized animal from the custody or control of an authorised person; or
 - (b) an impounded animal from the local government's facility for keeping impounded animals.
- Maximum penalty for subsection (1)—50 penalty units.
- (2) Any costs arising from damage or loss caused by a person contravening subsection (1) are recoverable by the local government as a debt.

Part 5 Appeals against destruction orders

36 Who may appeal

An owner or responsible person for an animal the subject of a destruction order may appeal to the Magistrates Court against the decision to make the destruction order.

37 Starting appeal

- (1) An appeal must not be started unless a review of the decision to make the

destruction order has been finally decided or otherwise ended.

- (2) An appeal is started by—
 - (a) filing notice of appeal with the Magistrates Court; and
 - (b) serving a copy of the notice of appeal on the local government; and
 - (c) complying with rules of court applicable to the appeal.
- (3) The notice of appeal must be filed within 14 days after the appellant is given notice by the local government about the finalisation of the review of the decision to make a destruction order.
- (4) However, the court may, at any time, extend the time for filing the notice of appeal.
- (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

38 Stay of destruction order

Upon filing the notice of appeal, the destruction order is stayed until the court decides the appeal.

39 Hearing procedures

- (1) In deciding an appeal, the Magistrates Court—
 - (a) has the same powers as the local government; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

40 Court's powers on appeal

- (1) In deciding an appeal, the Magistrates Court may—
 - (a) confirm the decision appealed against; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the matter to the local government with directions the court considers appropriate.
- (2) If the court substitutes another decision, the substituted decision is, for the purposes of this local law, other than this part, taken to be the decision of the local government.
- (3) An order for the costs of an appeal may only be made against the local government if the court is satisfied that the animal was unlawfully seized or there was no reasonable basis for making the decision subject to the appeal.

41 Appeal to District Court

An appeal lies to a District Court from a decision of the Magistrates Court, but

only on a question of law.

Part 6 Miscellaneous

42 Sale of animals

- (1) The local government may, by subordinate local law, specify conditions to be complied with by persons who offer animals, or a particular species of animal, for sale.
- (2) Conditions specified under subsection (1) are in addition to requirements of the *Animal Management (Cats and Dogs) Act 2008* in relation to the supply of cats and dogs.
- (3) A person must not offer or display animals for sale in the area unless the person complies with conditions specified under subsection (1).

Maximum penalty for subsection (3)—50 penalty units.

43 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the circumstances in which the keeping of animals is prohibited;²⁶ or
- (b) the circumstances in which an approval is required for the keeping of animals;²⁷ or
- (c) the circumstances in which desexing of an animal is required;²⁸ or
- (d) minimum standards for keeping animals generally or animals of a particular species or breed;²⁹ or
- (e) the identification for cats and dogs required under the *Animal Management (Cats and Dogs) Act 2008*;³⁰ or
- (f) the exclusion of animals, or animals of a specified species, from public places;³¹ or
- (g) designated dog off-leash areas;³² or
- (h) animals whose faeces in public places must be removed and disposed of;³³ or

²⁶ See section 5(1).

²⁷ See section 6(1).

²⁸ See section 7(1).

²⁹ See section 8(1).

³⁰ See section 9.

³¹ See section 10(1).

³² See section 11(1).

³³ See section 13.

- (i) adequate enclosure requirements;³⁴ or
- (j) requirements for keeping a dog within a koala area;³⁵ or
- (k) designation of an area as a koala area;³⁶ or
- (l) the criteria for declaring an animal other than a dog to be a declared dangerous animal;³⁷ or
- (m) the organisation or local government that operates a place or care for impounded animals;³⁸ or
- (n) the species, breed or class of animal that may be disposed of other than by public auction or tender;³⁹ or
- (o) the office at which the register of impounded animals is available for public inspection;⁴⁰ or
- (p) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale;⁴¹ or
- (q) the exclusion of animals of a particular species from the application of this local law;⁴² or
- (r) the declaration of a species of animal as a declared dangerous animal;⁴³ or
- (s) the period within which an impounded animal may be reclaimed.⁴⁴

³⁴ See section 14(2).

³⁵ See section 15(1).

³⁶ See section 15(4).

³⁷ See section 19(1).

³⁸ See section 24(b).

³⁹ See section 32(1)(b).

⁴⁰ See section 33(3).

⁴¹ See section 42(1).

⁴² See the definition of *animal* in the schedule.

⁴³ See the definition of *declared dangerous animal* in the schedule.

⁴⁴ See the definition of *prescribed period* in the schedule.

Schedule Dictionary

Section 3

animal includes a mammal, fish, bird, reptile, amphibian or insect but does not include an animal of a species excluded by subordinate local law from the application of this local law.

attack, by an animal, means—

- (a) aggressively rushing at or harassing any person or animal; or
- (b) biting, butting, kicking, or otherwise causing physical injury to, a person or an animal; or
- (c) tearing clothing on, or otherwise causing damage to the property in the immediate possession of, a person.

compliance notice means a compliance notice mentioned in *Local Law No.1 (Administration) 2011*, section 27.

cost-recovery fee means the fee fixed by the local government to cover the costs associated with impounding an animal.⁴⁵

declared dangerous animal means an animal—

- (a) of a species declared by subordinate local law as a declared dangerous animal; or
- (b) declared under section 19 of this local law to be a declared dangerous animal.

destroy, an animal, includes causing it to be destroyed.

destruction order see section 30(1).

dog off-leash area see section 11(1).

effective control see section 12(3).

notice of impounding see section 25(1).

owner, of an animal, means

- (a) its registered owner;
- (b) a person who owns the animal, in the sense of it being the person's personal property;
- (c) a person who usually keeps the animal, including through an agent, employee or anyone else;
- (d) if a person mentioned in paragraphs (a) to (c) is a minor—a parent or guardian of the minor.

prescribed period means the period, fixed by subordinate local law, of not less than 3 business days, and commencing on the day a notice of impounding is given to a person or, if no notice is given to a person, on the day of the seizure.

registered owner, of an animal, means a person recorded as being the owner of the animal in a registry kept by a local government.

responsible person, for an animal, means—

- (a) the person, or the person's employee acting within the scope of the employment, who has immediate control or custody of the animal; or

⁴⁵ See the Act, section 97 for the power of a local government to fix a cost recovery fee.

- (b) the parent or guardian of a minor who has immediate control or custody of the animal; or
- (c) the person who occupies the place at which the animal is usually kept, but does not include—
 - (a) a person who occupies the place at which the animal is usually kept, if someone else who is an adult and lives at the place keeps the animal; or
 - (b) a person who has the control or custody of or keeps the animal as an employee of someone else, if the person is acting within the scope of the employment.

restricted dog see *Animal Management (Cats and Dogs) Act 2008*, section 63.

State planning instrument see *Sustainable Planning Act 2009*, schedule 3.

the Act means the *Local Government Act 2009*.

wandering at large means—

- (a) the animal is not under the effective control of someone; and
- (b) the animal is in either—
 - (i) a public place; or
 - (ii) a private place without the consent of the occupier.

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Local Law No. 3 (Community and Environmental Management) 2011

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 3 (Community and Environmental Management) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to protect the environment and public health, safety and amenity within the local government's area.
- (2) The purpose is to be achieved by providing for the elimination or reduction of risks and threats to the environment and public health, safety and amenity resulting from—
 - (a) inadequate protection against animal and plant pests; and
 - (b) vegetation overgrowth; and
 - (c) visual pollution resulting from accumulation of objects and materials; and
 - (d) fires and fire hazards not regulated by State law; and
 - (e) community safety hazards; and
 - (f) noise that exceeds noise standards.

3 Definitions—the dictionary

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

4 Relationship with other laws¹

This local law is—

- (a) in addition to and does not derogate from laws for pest management, regulation of fires and environmental protection; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

Part 2 Declared local pests

Division 1 Application

5 Application of part

- (1) This part does not apply to—
 - (a) an animal or plant that is a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*² or the *Plant Protection Act 1989*³; or

¹ 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.

² See the *Land Protection (Pest and Stock Route Management) Act 2002*, sections 36 and 37, regarding the declaration of plants and animals as declared pests for the State or part of the State.

³ See the *Plant Protection Act 1989*, section 4, regarding the declaration of pests that are harmful to the growth or quality of crop plants.

(b) noxious fisheries resources or diseased fisheries resources⁴.

(2) In this section—

declared pest see the *Land Protection (Pest and Stock Route Management) Act 2002*, section 8 and the *Plant Protection Act 1989*, section 4.

diseased fisheries resources see the *Fisheries Act 1994*, section 94.

noxious fisheries resources see the *Fisheries Act 1994*, schedule.

Division 2 Declaration of local pests

6 Declaration of local pests

- (1) The local government may, by subordinate local law, declare an animal or plant of a specified species to be a local pest.
- (2) Before the local government makes a declaration under this section, it must consult with the chief executive about the desirability of the declaration.
- (3) A declaration under this section—
 - (a) must be published in a newspaper circulating generally in the local government's area; and
 - (b) comes into force on the date of publication.

(4) In this section—

chief executive means the chief executive of the department in which the *Land Protection (Pest and Stock Route Management) Act 2002* is administered.

7 Emergency declarations

- (1) This section applies if the local government is satisfied urgent action is needed to avoid or minimise an immediate risk of environmental harm posed by a plant or animal.
- (2) The local government may, by resolution, declare an animal or plant of the relevant species to be a local pest.
- (3) A declaration under this section—
 - (a) must be published in a newspaper circulating generally in the local government's area; and
 - (b) comes into force on the date of publication; and
 - (c) comes to an end three months after the date of publication.
- (4) In this section—

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

⁴ See the *Fisheries Act 1994*, section 94, regarding the declaration of diseased fisheries resources.

8 Application of declaration

A declaration may apply—

- (a) to the whole of the local government's area or in a specified part or parts of the area; and
- (b) generally or only in specified circumstances.

Division 3 Control of local pests

9 Power to search for declared local pests

- (1) This section applies if an authorised person wants to enter a property to search for declared local pests.
- (2) After giving reasonable written notice to the owner and the occupier of the property, the authorised person may—
 - (a) enter the property without the permission of the occupier; and
 - (b) take reasonable action to search for declared local pests.
- (3) However, the authorised person—
 - (a) must, as soon as the authorised person enters the property, inform any occupier of the property—
 - (i) of the reason for entering the property; and
 - (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and
 - (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission.

10 Pest control notices

- (1) An authorised person may, by compliance notice⁵ given to the owner of land, require the owner⁶ to take specified action to control declared local pests.
- (2) The specified action may include action to—
 - (a) destroy declared local pests on the land; or
 - (b) minimise the risk of an outbreak of declared local pests on the land; or
 - (b) prevent or minimise seeding or reproduction by declared local pests; or

⁵ See *Local Law No.1 (Administration) 2011*, section 27, regarding the requirements for compliance notices and the offence for not complying with a compliance notice.

⁶ See the Act, section 140, in relation to the owner's right to enter property where the owner is not the occupier to take action to comply with a remedial notice, and section 141, in relation to an occupier's right to recover amounts incurred to satisfy an owner's obligations.

- (c) contain infestation by declared local pests within a localised area; or
 - (d) reduce the density or extent of infestation by declared local pests; or
 - (e) remove harbour provided to declared local pests.
- (3) The notice may require the repetition of a specified action at stated intervals or on the reappearance of the declared local pest within a specified period.

Division 4 Prohibition of sale and propagation

11 Prohibition on sale

- (1) A person must not—
- (a) sell or supply a declared local pest; or
 - (b) offer or display a declared local pest for sale or supply.
- Maximum penalty—50 penalty units.
- (2) However, subsection (1) does not apply to a person who has been prescribed under a subordinate local law for this subsection as exempt from the offence in subsection (1) in relation to a specified pest.

Example of a person that might be exempted from subsection (1) in relation to a specified pest—

A person who offers leucaena (*Leucaena Leucocephala*) for sale in circumstances where the person grows the plant in compliance with the requirements of the Leucaena Growers' Code of Conduct.

12 Prohibition on introducing, propagating etc a declared local pest

- (1) A person must not—
- (a) introduce, propagate or breed a declared local pest; or
 - (b) provide harbour to a declared local pest.
- Maximum penalty for subsection (1)—50 penalty units.
- (2) However, subsection (1) does not apply to a person who has been prescribed under a subordinate local law for this subsection as exempt from the offence in subsection (1) in relation to a specified pest.

Example of persons that might be exempted from subsection (1) in relation to specified pests—

- Staff of research organisations such as universities or the CSIRO who require a particular pest for research purposes.
- An employee of a circus using a particular pest to provide entertainment to the public.
- Staff of an organisation using a particular pest as part of an education program.
- An employee of a zoo that keeps a particular pest.

- (3) In this section—

introduce means to introduce, or cause to introduce, into the local government's area.

Part 3 Overgrown and unsightly allotments

13 Overgrown allotments

- (1) This section applies where an authorised person forms the opinion that an allotment is overgrown with vegetation to such an extent that it—
 - (a) has seriously affected the visual amenity of the allotment; or
 - (b) is likely to attract or harbour reptiles.
- (2) The authorised person may, by compliance notice⁷ given to the responsible person for the allotment, require the responsible person to—
 - (a) clear the vegetation to an extent specified in the notice; and
 - (b) for the period of 12 months after the compliance notice is given to the responsible person—ensure that the allotment is not overgrown with vegetation to such an extent that it—
 - (i) seriously affects the visual amenity of the allotment; or
 - (ii) is likely to attract or harbour reptiles.
- (3) However, the notice cannot prevent a use of land authorised under the Planning Act⁸ or the *Environmental Protection Act 1994*.
- (4) If, on more than 1 occasion in a 12 month period, the responsible person for an allotment is given a compliance notice under subsection (2), the responsible person commits an offence.
Maximum penalty—50 penalty units.
- (5) In this section—
vegetation includes a tree, bush, shrub, plant or grass, but does not include vegetation that is protected under a law⁹ of the State or Commonwealth or under the local government's planning scheme.

14 Accumulation of objects and materials on allotments

- (1) This section applies where an authorised person forms the opinion that objects or materials brought on to, or allowed to accumulate on, an allotment—
 - (a) have seriously affected the visual amenity of the allotment; or
 - (b) are likely to attract or harbour reptiles.

Examples for paragraph (a) of objects and materials that may seriously affect the visual amenity of an allotment—

- Discarded or disused machinery or machinery parts.
- Broken-down or severely rusted vehicles.

⁷ See footnote 5.

⁸ See definition of *Planning Act* in the Act, schedule 4.

⁹ For example, vegetation may be protected under the *Nature Conservation Act 1994*, the *Vegetation Management Act 1999*, the *Planning Act*, the *Queensland Heritage Act 1992*, the *Fisheries Act 1994* and the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

- Discarded bottles, containers or packaging.
 - Refuse or scrap material.
- (2) The authorised person may, by compliance notice¹⁰ given to the responsible person for the allotment, require the responsible person to—
- (a) remove objects or materials that are causing the circumstance mentioned in subsection (1)(a) or (b); or
 - (b) take other specified action to remedy the circumstance mentioned in subsection (1)(a) or (b).

Example of action that might be required under paragraph (b)—

Erecting an appropriate structure (in accordance with requirements under the Planning Act) to screen unsightly objects or materials from public view.

- (3) However, the notice cannot prevent a use of land authorised under the Planning Act or the *Environmental Protection Act 1994*.
- (4) If, on more than 1 occasion in a 12 month period, the responsible person for an allotment is given a compliance notice under subsection (2), the responsible person commits an offence.

Maximum penalty—50 penalty units.

¹⁰ See footnote 5.

Part 4 Fires and fire hazards

15 Regulation of lighting and maintaining fires in the open

- (1) This section does not apply to the lighting or maintaining of a fire that is authorised under the *Fire and Rescue Service Act 1990*.¹¹
- (2) The local government may, by subordinate local law, prohibit or restrict the lighting or maintaining of fires in the open in the whole, or designated parts, of the local government's area.

Example—

The subordinate local law might prohibit the lighting of fires, or a particular type of fire, in the open, unless 1 or more of the following conditions is met—

- the fire is contained in an approved incinerator;
- the fire is established in a specified way and specified precautions are taken to prevent the spread of fire;
- the fire is lit and extinguished within a specified time.

- (3) A person must comply with a prohibition or restriction imposed under this section.

Maximum penalty for subsection (3)—50 penalty units.

- (4) A person must not light or maintain a fire if the fire exposes property to the risk of damage or destruction by fire.

Maximum penalty for subsection (4)—50 penalty units.

- (5) However, a person does not commit an offence under subsection (3) or (4) if the person is authorised or required to light or maintain the fire in the performance of duties under another Act.

16 Fire hazards

- (1) This section applies where an authorised person forms the opinion that a fire hazard exists on an allotment.
- (2) The authorised person may, by compliance notice¹² given to the responsible person for the allotment, require the responsible person to take specified action to reduce or remove the fire hazard.¹³

¹¹ See the *Fire and Rescue Service Act 1990*, section 63, regarding fires authorised by notification, section 65 regarding fires authorised by permit and section 69, regarding notices requiring occupiers to take measures to reduce the risk of fire. For fires authorised by notification under section 63, see the Notification by the Commissioner of Fire and Rescue Service published in the gazette on 6 August 2004.

¹² See footnote 5.

¹³ See also the *Fire and Rescue Service Act 1990*, section 69, under which the Fire Services Commissioner can publish a general notification in the gazette requiring occupiers of land to take measures to reduce the risk of fire occurring or the risk to persons, property or environment in the event of fire occurring.

- (3) In this section—

fire hazard means—

- (a) anything that, because of its flammable nature, its position or its quantity, exposes property to significant risk of damage or destruction by fire; or
- (b) a thing that is declared to be a fire hazard under a subordinate local law for this paragraph.

Examples of fire hazards for paragraph (a)—

- Live cinders or hot ash that is not enclosed in a fireplace so constructed as to prevent the escape of cinders or ash.
- A substantial accumulation of grass clippings that is liable to spontaneous combustion.
- Dry vegetation that could be easily ignited or other flammable materials.

Part 5 Community safety hazards

17 What is a community safety hazard

A community safety hazard is—

- (a) a fence or structure on land that, because of its nature or its position, poses a significant risk of causing injury to a person or damage to property; or
- (b) objects or materials on land that are likely to become airborne in periods of high wind in a way that poses a significant risk of causing injury to a person or damage to property; or
- (c) a thing that is declared to be a community safety hazard under a subordinate local law for this paragraph.

Examples of a fence or structure that may be a community safety hazard for paragraph (a)—

- Barbed wire fencing adjoining a public park or reserve or located in an urban area.
- Electric fences adjoining public land.
- An unfenced dam adjacent to a public park or reserve.

18 Power to enter property to inspect for community safety hazards

- (1) This section applies if an authorised person wants to enter a property to inspect it to identify any community safety hazards.
- (2) After giving reasonable written notice to the owner and the occupier of the property, the authorised person may—
 - (a) enter the property without the permission of the occupier; and
 - (b) take reasonable action to inspect the property for community safety hazards.
- (3) However, the authorised person—
 - (a) must, as soon as the authorised person enters the property, inform any occupier of the property—
 - (i) of the reason for entering the property; and

- (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and
 - (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission.

19 Removal or reduction of community safety hazards

- (1) This section applies where an authorised person forms the opinion that a community safety hazard exists on an allotment.
- (2) The authorised person may, by compliance notice¹⁴ given to the responsible person for the allotment, require the responsible person to take specified action in relation to the community safety hazard to—
 - (a) remove the hazard; or
 - (b) reduce the level of risk to persons or property.

Example of specified action that might be required under paragraph (b) to reduce the risk to the community from a community safety hazard—

Securing objects or materials that may become airborne in periods of high wind.

- (3) If, on more than 1 occasion in a 12 month period, the responsible person for an allotment is given a compliance notice under subsection (2), the responsible person commits an offence.

Maximum penalty—50 penalty units.

20 Prescribed requirements

- (1) The local government may, by subordinate local law, prescribe requirements that must be met by responsible persons relating to specified types of community safety hazards located on the owner's land.

Example of prescribed requirements—

- A requirement to place signs on electric fences or barbed wire fences adjoining public land to warn persons of the risk of injury.
- A requirement to install and maintain an electric fence in accordance with appropriate standards.

- (2) A responsible person must comply with requirements prescribed under this section.

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

¹⁴ See footnote 5.

Part 6 Noise standards

21 Prescribed noise standards

- (1) This section applies if the local government is the administering authority for the *Environmental Protection Act 1994*, chapter 8, part 3B.¹⁵
- (2) The local government may, by subordinate local law, prescribe a noise standard in the whole, or designated parts, of the local government's area by—
 - (a) prohibiting the making of a stated noise (for example, by reference to the activity making the noise and the time at which the noise is made);¹⁶ and
 - (b) stating the section, in the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3, for which the subordinate local law provision is prescribing a noise standard.¹⁷

Part 7 Miscellaneous

22 Subordinate local laws

The local government may make subordinate local laws about—

- (a) declaring animals or plants of specified species to be local pests;¹⁸ or
- (b) lighting and maintaining of fires in the open;¹⁹ or
- (c) fire hazards;²⁰ or
- (d) community safety hazards;²¹ or
- (e) prescribed requirements relating to community safety hazards;²² or
- (f) prescribed noise standards for the *Environmental Protection Act 1994*.²³

¹⁵ See the *Environmental Protection Act 1994*, section 514, for the making of a regulation to devolve the administration and enforcement of parts of the Act to local governments as the administering authority. The *Environmental Protection Regulation 2008*, section 99, devolves the administration and enforcement of noise standards to local governments. Section 109 of the Regulation declares local government authorised persons to be authorised persons under the *Environmental Protection Act 1994*, section 445(1)(c). Chapter 9 of that Act provides for the investigation and enforcement powers of authorised persons.

¹⁶ See, however, *Local Law No.1 (Administration) 2011*, section 10(4)(a), regarding conditions of approvals that may authorise an act or omission that contravenes a noise standard.

¹⁷ Section 440(3) provides that a local law that prescribes a noise standard replaces the nominated default noise standard in the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3.

¹⁸ See section 6(1).

¹⁹ See section 15(2).

²⁰ See section 16(3)(b).

²¹ See section 17(c).

²² See section 20(1).

²³ See section 21(2).

Schedule Dictionary

Section 3

allotment means an individual parcel or piece of land.

animal means an organism (other than a human being) that is not a plant and includes eggs and semen.

compliance notice means a compliance notice mentioned in *Local Law No. 1 (Administration) 2011*, section 27.

declared local pest means a plant or animal declared to be a pest under section 6 or 7.

plant means vegetation of any type, including its flowers, roots, seeds and other parts.

reasonable written notice means a written notice given at least 7 days before a property is to be entered, that informs the owner and the occupier of the property of—

- (a) the local government's intention to enter the property; and
- (b) the reason for entering the property; and
- (c) the days and times when the property is to be entered.

responsible person means the person who has control or management of the place and includes a person in charge of activities or structures in the place that may result in contravention of this local law.

the Act means the *Local Government Act 2009*.

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Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to—
 - (a) protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads; and
 - (b) preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads.
- (2) The purpose is to be achieved by providing for—
 - (a) the regulation of access to local government controlled areas; and
 - (b) the prohibition or restriction of particular activities on local government controlled areas or roads; and
 - (c) miscellaneous matters affecting roads.

3 Definitions—the dictionary

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

4 Relationship with other laws¹

This local law is—

- (a) in addition to and does not derogate from laws² regulating the use of trust land and roads; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

Part 2 Use of local government controlled areas, facilities and roads³

5 Prohibited and restricted activities

¹ 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.

² Other legislation that may be relevant in the application of this local law includes the *Land Act 1994*, the *Land Regulation 1995* and the *Land Protection (Pest and Stock Route Management) Act 2002*.

³ *Local Law No. 1 (Administration) 2011* deals with activities on local government controlled areas and roads that require the local government's approval, such as commercial use of local government controlled areas and roads, alterations or improvements to local government controlled areas, and other miscellaneous regulated activities.

- (1) The local government may, under a subordinate local law, declare an activity to be—
 - (a) prohibited in a local government controlled area or road (a *prohibited activity*); or
 - (b) restricted in a local government controlled area or road (a *restricted activity*).

Example for paragraph (a)—

The local government may declare that the lighting of fires is a prohibited activity in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

Example for paragraph (b)—

The local government may declare that the playing of sport generally, or the playing of certain sports, is a restricted activity in that it is restricted to particular times of the day, week, month or year in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

- (2) The local government must take reasonable steps to provide notice to members of the public regarding restricted activities declared for local government controlled areas or roads.
- (3) In this section—

reasonable steps may include the display of a notice at a prominent place within each local government controlled area for which a declaration under subsection (1)(b) has been made, stating—

 - (a) if the declaration relates to the whole area—the restricted activities for the area; and
 - (b) if the declaration relates to a part of the area—the restricted activities and a description of the part of the area to which the declaration applies; and
 - (c) in general terms, the provisions of subsection (4).
- (4) A person must not engage in a prohibited activity or a restricted activity.

Maximum penalty - 20 penalty units

6 Motor vehicle access to local government controlled areas

- (1) A *motor vehicle access area* is an area within a local government controlled area that is—
 - (a) a car park or roadway for which there is no sign or traffic control device indicating that vehicles owned by members of the public are excluded; or
 - (b) declared under a subordinate local law for this paragraph as a motor vehicle access area.
- (2) For the purposes of *Local Law No.1 (Administration) 2011*, section 5(b), it is a prescribed activity⁴ to bring a motor vehicle onto or drive a motor vehicle on any part of a local government controlled area that is not a motor vehicle access area.

⁴ *Local Law No.1 (Administration) 2011*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

- (3) The local government may, by subordinate local law, declare a specific type of motor vehicle (a *prohibited vehicle*) as prohibited in a specified motor vehicle access area.
- (4) For the purposes of *Local Law No.1 (Administration) 2011*, section 5(b), it is a prescribed activity⁵ to bring a prohibited vehicle onto or drive a prohibited vehicle on the specified motor vehicle access area.
- (5) However, subsections (2) and (4) do not apply for an emergency vehicle.
- (6) The local government must take reasonable steps to provide notice to members of the public regarding—
 - (a) declarations of motor vehicle access areas under subsection (1)(b); and
 - (b) declarations of prohibited vehicles under subsection (3).
- (7) In this section—

emergency vehicle includes the following—

 - (a) an ambulance;
 - (b) a fire-engine;
 - (c) a police vehicle;
 - (d) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.

reasonable steps include, as a minimum, the display of a notice at a prominent place within each declared motor vehicle access area stating—

 - (a) a description of the declared motor vehicle access area; and
 - (b) a description of prohibited vehicles for the area; and
 - (c) in general terms, the provisions of subsections (2) and (4).

7 Opening hours of local government controlled areas

- (1) The local government may, by subordinate local law, declare the times when a local government controlled area is open to the public (the *opening hours*).
- (2) A person must not enter or remain in a local government controlled area outside the opening hours unless the person is authorised to do so by the chief executive officer⁶.

Maximum penalty for subsection (2)—20 penalty units.
- (3) If the local government declares the opening hours for a local government controlled area under subsection (1), it must place a notice showing the opening hours at each public entrance to the area.

8 Power of closure of local government controlled areas

- (1) The local government may, by resolution, temporarily close a local government controlled area to public access—

⁵ See footnote 3.

⁶ See definition of *chief executive officer* in the Act, schedule 4.

- (a) to carry out construction, maintenance, repair or restoration work; or
 - (b) to protect the health and safety of a person or the security of a person's property; or
 - (c) because of a fire or other natural disaster; or
 - (d) to conserve or protect the cultural or natural resources of the area or native wildlife.
- (2) A resolution under subsection (1)—
- (a) must state a period, not greater than 6 months, during which the area will be closed; and
 - (b) must be revoked by the local government as soon as practicable after the local government becomes satisfied that the reason for making the resolution no longer exists.
- (3) The local government may, by subordinate local law, permanently close a local government controlled area to public access for any of the following reasons—
- (a) the conservation of the cultural or natural resources of the area, including, for example—
 - (i) to protect significant cultural or natural resources; or
 - (ii) to enable the restoration or rehabilitation of the area; or
 - (iii) to protect a breeding area for native wildlife; or
 - (iv) to manage a significant Aboriginal area in the area in a way that is consistent with Aboriginal tradition; or
 - (v) to manage a significant Torres Strait Islander area in the area in a way that is consistent with Island custom;
 - (b) protection of the health and safety of members of the public;
 - (c) protection of a facility or service in the area, including, for example, infrastructure, water supply facilities or power generating equipment;
 - (d) protection of the amenity of an area adjacent to the area;
 - (e) the orderly or proper management of the area.
- (4) If the local government closes a local government controlled area under subsections (1) or (3), it must place at each public entrance to the area a notice of the closure, including a statement of the duration of the closure.

Example—

If the local government closes an area that is part of a wider local government controlled area, it must place notices at each public entrance to the closed area.

- (5) A person must not enter or remain in a local government controlled area while it is closed to public access under this section, unless the person is authorised to do so by the chief executive officer.

Maximum penalty for subsection (5)—20 penalty units.

- (6) In this section—

significant Aboriginal area see the *Aboriginal Cultural Heritage Act 2003*, section 9.

significant Torres Strait Islander area see the *Torres Strait Islander Cultural Heritage Act 2003*, section 9.

Part 3 Matters affecting roads

9 Power to require owner of land adjoining road or local government controlled area to fence land

- (1) This section applies if, in the local government's opinion, it is necessary for land adjoining—
 - (a) a road to be fenced to prevent the risk of—
 - (i) animals escaping from the land onto the road; or
 - (ii) interference with the safe movement of traffic or the safe use of the road; or
 - (b) a local government controlled area to be fenced.
- (2) The local government may, by giving a compliance notice⁷ to the owner—
 - (a) if the land is not currently fenced—require the owner to fence the land; or
 - (b) if a current fence on the land is in disrepair—require the owner to repair or replace the fence.
- (3) The local government may, by subordinate local law, set out the minimum standards with which the fence must comply.
- (4) In this section—

animal does not include a native animal, feral animal or pest animal.

feral animal see *Animal Care and Protection Act 2001*, section 42.

pest animal see *Animal Care and Protection Act 2001*, section 42.

10 Numbering of premises and allotments adjoining a road⁸

- (1) An owner of land must not adopt a number for a building or allotment that is inconsistent with a numbering system adopted by the local government under this section.
Maximum penalty for subsection (1)—10 penalty units.
- (2) An owner of land (other than vacant land) must display the number allocated so as to be easily identified from the adjoining road.
Maximum penalty for subsection (2)—10 penalty units.

11 Compliance notice about a road or footpath crossing

- (1) The local government may give a compliance notice to a person who is the owner or occupier of land adjoining or adjacent to a road to do 1 or more of the following—

⁷ See *Local Law No.1 (Administration) 2011*, section 27, regarding the requirements for compliance notices.

⁸ See the Act, section 60, regarding control of roads by a local government.

- (a) perform work on the land or the road;
 - (b) construct a vehicle crossing to provide vehicular access between the land and the road to a standard specified by the local government in the compliance notice;
 - (c) maintain or repair a vehicle crossing which provides vehicular access between the land and the road to a standard specified by the local government in the compliance notice if, in the opinion of an authorised person, the vehicle crossing—
 - (i) is not effective for its intended purpose; or
 - (ii) is causing a nuisance or poses a risk of a nuisance; or
 - (iii) constitutes an actual or potential safety hazard;
 - (d) alter a vehicle crossing, or construct a new or modified vehicle crossing between the land and the road to a standard specified by the local government in the compliance notice if, in the opinion of an authorised person, the vehicle crossing is no longer adequate having regard to—
 - (i) the volume or nature of traffic using the vehicle crossing; or
 - (ii) the manner in which the vehicle crossing is used by traffic; or
 - (iii) changes in the use of the land to which the vehicle crossing provides access; or
 - (iv) changes in the usual or expected standard of vehicle crossing provision in the relevant locality.
- (2) However, a compliance notice may only be given under subsection (1)(a) or (b) if the work to be carried out is required as a direct result of the intentional act or negligence of the person and, in the opinion of an authorised person, the work should be performed to—
- (a) protect public health, safety or amenity; or
 - (b) prevent environmental harm or environmental nuisance; or
 - (c) prevent interference with the safe movement of traffic or the safe use of a road.

Part 4 Enforcement

12 Performance of work

- (1) This section applies if a person commits an offence on a local government controlled area or a road under a local law.
- (2) The person must make good any damage caused directly or indirectly by the commission of the offence.
- (3) The local government may perform work on a local government controlled area or a road where a person has failed to perform work required to be performed on the local government controlled area or road by—
 - (a) subsection (2); or
 - (b) a compliance notice or a stop order issued under a local law; or

- (c) a condition of an approval; or
- (d) any other provision of a local law.
- (4) The local government may recover the amount that the local government properly and reasonably incurs in performing the work mentioned in subsection (3) as a debt payable by the person who failed to perform the work.
- (5) The local government must give the person who failed to perform the work written notice of the amount of the debt.
- (6) If the debt is not paid within 30 days after the date of the written notice, the local government may recover the debt as if the debt were overdue rates.
- (7) Interest is payable on the debt at the same rate that interest is payable on overdue rates levied by the local government.
- (8) For the avoidance of doubt, a court may order a person found guilty of an offence mentioned in subsection (1) to do 1 or more of the following —
 - (a) perform work required to be performed by—
 - (i) subsection (2); or
 - (ii) a compliance notice or a stop order issued under a local law; or
 - (iii) a condition of an approval; or
 - (iv) any other provision of a local law;
 - (b) pay to the local government the amount properly and reasonably incurred by the local government in performing the work.

13 Damage to a local government controlled area or a road

- (1) A person is liable to the local government in damages if the person, without the local government's authority—
 - (a) intentionally or negligently damages a local government controlled area, a road or a structure associated with a local government controlled area or a road; or
 - (b) creates a nuisance on a local government controlled area or a road.
- (2) The local government may—
 - (a) recover damages under this section in the same way as damages for a tort; and
 - (b) seek an injunction or other equitable remedy under this section in the same way as such remedies may be sought for a tort.

Part 5 Miscellaneous

14 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the declaration of prohibited activities or restricted activities;⁹ or
- (b) the declaration of motor vehicle access areas;¹⁰ or
- (c) the declaration of prohibited vehicles;¹¹ or
- (d) the opening hours for a local government controlled area;¹² or
- (e) closing a local government controlled area to public access;¹³ or
- (f) minimum standards for fences on land adjoining a road or local government controlled area.¹⁴

⁹ See section 5(1).

¹⁰ See section 6(1).

¹¹ See section 6(3).

¹² See section 7(1).

¹³ See section 8(3).

¹⁴ See section 9(3).

Schedule Dictionary

Section 3

environmental nuisance see *Environmental Protection Act 1994*, schedule 4.

land see *Local Government Act 2009*, schedule 4.

local government controlled area see *Local Law No.1 (Administration) 2011*, schedule 1.

occupier see *Local Government Act 2009*, schedule 4.

owner see *Local Government Act 2009*, schedule 4.

road see *Local Law No.1 (Administration) 2011*, schedule 1.

vehicle crossing means facilities provided for the purpose of vehicles making entry or exit at, or substantially at, right angles between a road and land adjoining or adjacent to the road and may include an invert, pipe or driveway at, or adjacent to, the boundary of the land.

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Local Law No. 7 (Aerodromes) 2011

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 7 (Aerodromes) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to regulate the use and operation of aerodromes controlled by the local government.
- (2) The purpose is to be achieved by—
 - (a) protecting the public against risk of injury and the community against damage; and
 - (b) ensuring that activities at the aerodromes are undertaken in an orderly and safe manner and do not create a hazard to public health or a threat to property; and
 - (c) controlling the public use of the aerodromes to the extent that the use is consistent with the rights, expectations and safety of the local community; and
 - (d) protecting the obstacle limitation surfaces (OLS) and minimising hazards to aircraft; and
 - (e) providing for—
 - (i) fees and charges for the rights described in paragraph (c); and
 - (ii) the powers and authority of persons authorised by the local government for the purposes of this local law; and
 - (iii) penalties for breaches of the local law; and
 - (iv) liability arising out of use of the aerodromes.

3 Definitions—the dictionary

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

4 Application of local law

This local law is in addition to, and does not derogate from—

- (a) laws regulating the use or development of land in the area in which the local government has jurisdiction; or
- (b) civil aviation laws; or
- (c) civil aviation safety laws.

Part 2 Use and operation of an aerodrome

5 Use by aircraft

- (1) Subject to civil aviation laws and civil aviation safety laws the local government

may, by means of signs, notices or markers placed on an aerodrome or a part of an aerodrome, regulate the use and operation of the aerodrome.

- (2) For example, under subsection (1), the local government may—
- (a) exclude from the aerodrome, any particular aircraft or type or class of aircraft or activity where the local government is of the reasonable opinion that the operation of the aircraft or type or class of aircraft or activity is unduly noisy, dangerous or not in the public interest; and
 - (b) subject any activity on or based on the aerodrome to such conditions as the local government considers necessary and desirable including, but not restricted to, conditions about the hours and duration of operation of the activity; and
 - (c) designate a part of the aerodrome where a particular activity may or may not be carried on; and
 - (d) during specified periods or at specified times, restrict the use by aircraft of the aerodrome for—
 - (i) departures; or
 - (ii) landings; or
 - (iii) servicing; or
 - (iv) embarkment of passengers; or
 - (v) disembarkment of passengers; or
 - (vi) transport of freight; or
 - (vii) any combination of paragraphs (i) to (vi); and
 - (e) restrict the use by aircraft of the aerodrome for training operations on any night or on every night during hours prescribed by the local government; and
 - (f) prohibit access to, or the use of, the whole or part of the aerodrome by persons, aircraft or vehicles during specified periods or at specified times.
- (3) Where an aircraft is used, or an activity is carried on, in contravention of subsection (1), an authorised person may give a written notice to a person who is a relevant person in relation to the aircraft or activity, directing the person, within a time specified in the notice—
- (a) to cease the use of the aircraft or activity; or
 - (b) to remove the aircraft from the aerodrome; or
 - (c) to remove the aircraft or activity to an area specified by the authorised person in the notice; or
 - (d) to pay prescribed fees; or
 - (e) to pay fees and charges imposed under section 14; or
 - (f) any combination of paragraphs (a) to (e).
- (4) A relevant person to whom a direction is given under subsection (3) must comply with the direction.

Maximum penalty for subsection (4) (other than where the direction is given under subsection (3)(d) or (e)) — 50 penalty units.

6 Aircraft parking

- (1) The local government may, by means of signs, notices or markers placed on an aerodrome—
 - (a) designate a part of the aerodrome to be an area for the parking of aircraft; and
 - (b) if the part is not to be used for the parking of all aircraft —specify the kind of aircraft that may be parked in the part; and
 - (c) specify the conditions (if any), including conditions relating to the times and periods during which aircraft may be parked in the part.
- (2) A person must not park an aircraft on an aerodrome—
 - (a) except in the part of the aerodrome designated under subsection (1) to be an area in which an aircraft, or a particular kind of aircraft, may be parked; and
 - (b) except in accordance with any conditions specified under subsection (1)(c).

Maximum penalty for subsection (2) — 50 penalty units.
- (3) Where an aircraft is parked in contravention of subsection (2), an authorised person may give a written notice to a person who is a relevant person in relation to the aircraft, directing the person to—
 - (a) remove the aircraft from the aerodrome; or
 - (b) remove the aircraft to an area specified by the authorised person in the notice.
- (4) A relevant person to whom a direction is given under subsection (3) must comply with the direction.

Maximum penalty for subsection (4) — 50 penalty units.
- (5) If a person fails to comply with a direction given under subsection (3) without reasonable and lawful excuse, an authorised person may, with such assistance and reasonable force as is necessary, remove the aircraft as required by the direction.
- (6) An action does not lie against the local government, an authorised person or any other officer, employee or agent of the local government acting in the course of his or her employment, for or in respect of—
 - (a) loss of, or damage to, an aircraft during its removal under subsection (5); or
 - (b) loss of, or damage to, an aircraft so removed while it is in the custody, possession or control of the local government, an authorised person or any other officer, employee or agent of the local government.
- (7) Subsection (6) does not apply to loss or damage wilfully or negligently caused by the local government, an authorised person or any other officer, employee or agent of the local government.

7 General use by vehicles within an aerodrome

- (1) The local government may determine and include or notify, by means of permanently displayed signs or notices, with or without reference to lanes or marked areas and positions within an aerodrome, areas in which a person is, or is not, permitted to park a vehicle or cause a vehicle to stand.

- (2) Where a sign or notice of a kind referred to in subsection (1) is displayed on an aerodrome, the sign or notice is, unless the contrary is proved, deemed to be in accordance with a determination under this local law and to be duly displayed in accordance with this local law.
- (3) A person must not park a vehicle, or cause a vehicle to stand, in contravention of the terms of a sign or notice displayed under subsection (1).

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

8 Use of vehicles on an airside area

- (1) A person must not use a vehicle on an airside area unless authorised by an approval (a *vehicle approval*).
- (2) This section does not apply to the use of an emergency vehicle on an airside area by an emergency worker who is—
 - (a) responding to an emergency; and
 - (b) taking reasonable care.
- (3) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), it is a prescribed activity to use a vehicle on an airside area.

9 Use of facilities

- (1) A person must not—
 - (a) use any convenience or amenity provided on an aerodrome for any purpose other than the purpose for which it is provided or intended; or
 - (b) destroy, remove, obliterate, deface, alter or otherwise interfere with any barrier, notice, sign or marking designed or intended for direction, guidance, warning or information of persons using an aerodrome; or
 - (c) deliberately or recklessly damage or destroy any building, fence, structure, ground work, improvement or other property of the local government at an aerodrome.

Maximum penalty for each of paragraphs (a), (b) and (c) — 50 penalty units.

- (2) The local government may, by subordinate local law, prescribe conditions for the use of buildings, facilities and amenities at an aerodrome.
- (3) A person must comply with a condition prescribed for the use of buildings, facilities or amenities at an aerodrome by subordinate local law under subsection (2).

Maximum penalty — 100 penalty units.

10 Safety requirements

- (1) The local government may, by subordinate local law, prescribe procedures to be complied with to preserve and enhance safety at an aerodrome.
- (2) For example, the local government may—
 - (a) prescribe procedures for—
 - (i) the protection of members of the public at the aerodrome; and

- (ii) the protection of infrastructure at the aerodrome; and
 - (iii) ensuring aircraft which use the aerodrome are operated in compliance with civil aviation laws and civil aviation safety laws; and
- (b) prescribe safety procedures for—
 - (i) the fuelling of aircraft; and
 - (ii) the movement of passengers to and from aircraft; and
 - (iii) aircraft servicing and the movement of aircraft on an aircraft stand.
- (3) A person must comply with a safety procedure prescribed by subordinate local law under subsection (1).

Maximum penalty for subsection (3) — 100 penalty units.

11 Conduct of persons on the airside area of an aerodrome

- (1) A person must not, without reasonable and lawful authority or excuse—
 - (a) enter or remain on an airside area; or
 - (b) bring or leave any property or dangerous goods or materials on an airside area.

Maximum penalty for each of paragraphs (a) and (b) — 50 penalty units.

- (2) An authorised person may, with such assistance and reasonable force as is necessary, remove a person, property, goods or materials from an aerodrome if —
 - (a) the person contravenes subsection (1); or
 - (b) the property, goods or materials are found in contravention of subsection (1)(b).
- (3) A person must not smoke or do any act to procure a naked flame —
 - (a) within 15m of a stationary aircraft; or
 - (b) in any non-smoking part of an aerodrome.

Maximum penalty for each of paragraphs (a) and (b) — 100 penalty units.

- (4) For the purposes of subsection (3), a non-smoking part of an aerodrome is a part declared by the local government and upon which is posted a sign or notice that—
 - (a) identifies the part; and
 - (b) indicates that smoking in the part is prohibited; and
 - (c) purports to have been posted with the authority of the local government.
- (5) A passenger or intending passenger of an aircraft must, whilst on an airside area, obey the directions of an authorised person as to the passenger's conduct and movements.

Maximum penalty for subsection (5) — 10 penalty units.

- (6) A person lawfully entering or being on an airside area must—
 - (a) behave in a proper manner and so as not to cause annoyance or inconvenience to any other person lawfully on the airside area; and
 - (b) obey any direction reasonably given to the person by an authorised person for the purpose of preserving order or promoting or facilitating the proper

use and enjoyment of the aerodrome.

Maximum penalty for each of paragraphs (a) and (b) — 10 penalty units.

12 Conduct of persons on any part of an aerodrome

- (1) For the purposes of this section a person is an *undesirable person* if the person, whether or not a passenger or intending passenger of an aircraft, is considered by an authorised person on reasonable grounds to be —
 - (a) intoxicated or so under the influence of intoxicants or drugs as to make the person's presence on an aerodrome dangerous to themselves or to other persons; or
 - (b) indulging in unruly, obscene, offensive or threatening behaviour towards another person.
- (2) An authorised person may direct an undesirable person —
 - (a) not to enter an aerodrome; or
 - (b) if already upon the aerodrome — to leave the aerodrome and not to return on the same day.
- (3) The person to whom a direction is given under subsection (2) must comply with the direction.

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

- (4) An authorised person may use reasonable force to —
 - (a) prevent an undesirable person from entering an aerodrome; or
 - (b) remove an undesirable person from an aerodrome.
- (5) A person must not, without the authority of an authorised person, discharge a firearm —
 - (a) on or over any part of an aerodrome; or
 - (b) adjacent to an aerodrome in such a manner that the projectile discharged from the firearm travels over, or is likely to travel over, any part of the aerodrome.

Maximum penalty for subsection (5) — 50 penalty units.

- (6) A person must not bring, or permit to stray, on to an aerodrome, an animal without the prior approval of an authorised person.¹

Maximum penalty for subsection (6) — 20 penalty units.

- (7) An animal unlawfully on an aerodrome may be removed from the aerodrome by an authorised person, or by any person under the direction of an authorised person.
- (8) An animal removed from an aerodrome under subsection (7) may be impounded at an animal pound established by the local government.
- (9) Subject to compliance with section 11(3), a person must not light a fire on an aerodrome without the prior approval of an authorised person².

¹ This subsection is subject to the provisions of the *Guide, Hearing and Assistance Dogs Act 2009*.

² A person may smoke on an aerodrome other than in those areas mentioned in section 11(3).

Maximum penalty for subsection (9) — 50 penalty units.

13 Special events

The local government may, on any special occasion, special event or other event of public interest at an aerodrome—

- (a) make particular arrangements for the control of the aerodrome; and
- (b) charge fees for participation and admission to the occasion or event; and
- (c) impose conditions for the use of the aerodrome for the occasion or event as the local government considers appropriate in the circumstances.

Part 3 Fees and charges

14 Fees and charges

- (1) The local government may impose fees and charges for each and every right of use of an aerodrome³, including charges for leasehold areas within an aerodrome.

Examples—

Charges may be imposed for landing at an aerodrome, or for parking or storing aircraft on the aerodrome, or for the number of embarking passengers (i.e. so-called "passenger charges").

- (2) All persons who use an aerodrome in a manner for which a fee or charge is imposed under subsection (1) are jointly and severally liable for the payment of the fees and charges.
- (3) The persons who use an aerodrome in relation to an aircraft include, without limitation—
 - (a) the relevant person for the aircraft; and
 - (b) the operator of the aircraft; and
 - (c) the owner of the aircraft.
- (4) Where a fee or charge imposed by the local government under subsection (1) is calculated by reference to the number of passengers carried on an aircraft, the local government may permit the owner of the aircraft to furnish to the local government on a monthly basis particulars of the number of passengers carried on each flight of the aircraft together with the fee or charge imposed under subsection (1).
- (5) The information, fees and charges required to be furnished to the local government under subsection (4) must be furnished to the local government not later than 21 days after the end of the calendar month to which the particulars relate.
- (6) If the owner of an aircraft fails or neglects to furnish to the local government the particulars specified in subsection (4) then, for the purposes of the calculation of fees and charges payable to the local government, each aircraft shall be deemed to have carried a full complement of passengers.
- (7) The local government may, in an appropriate case, waive or partially remit a fee or charge imposed under subsection (1).

³ See section 262(3)(c) of the Act.

Part 4 Prevention of hazards to aircraft

15 Application of part

This part applies to the removal of obstacles and hazards affecting, or likely to affect, the safe operation of aircraft in the vicinity of an aerodrome.

16 Notice to remove hazard

- (1) This section applies if there is, on any land adjoining, or in the vicinity of, an aerodrome—
 - (a) a tree penetrating, or through further growth in a short period likely to penetrate, the OLS; or
 - (b) a structure or part of a vehicle penetrating the OLS; or
 - (c) a light exhibited which, by reason of glare or by causing confusion or by interfering with the operation of aircraft, is likely to endanger the safety of aircraft; or
 - (d) a presence of waste foodstuffs which constitute, or are likely to constitute, such an attraction to birds as to create a hazard, or a potential hazard, to aircraft using or operating in the vicinity of the aerodrome.
- (2) The local government may give a written notice (a *compliance notice*) to a person, being the owner or occupier of the relevant land or the person apparently in charge of a vehicle to which subsection (1)(b) refers, requiring the person to—
 - (a) in the case of subsection (1)(a) — remove or lop that part of the tree penetrating, or likely to penetrate, the OLS; and
 - (b) in the case of subsection (1)(b) — remove or dismantle, to the extent necessary, the structure or part of the vehicle so that the structure or part does not penetrate the OLS; and
 - (c) in the case of subsection (1)(c) — extinguish the light or shield it to the extent necessary to remove any likely danger to the safety of aircraft operation and refrain from exhibiting the light, or any other light having similar effect, in the future; and
 - (d) in the case of subsection (1)(d) — remove or effectively cover the waste foodstuffs so that the waste foodstuffs do not constitute an attraction to birds.

Examples of paragraph (b)—

1. A structure includes a pole, or television or radio mast.
2. A part of a vehicle includes a crane, jib or height extension apparatus.

17 Application of Local Law No. 1 (Administration) 2011

Section 16 applies subject to section 27 of *Local Law No. 1 (Administration) 2011*.

18 Local government's power to carry out work

If a person to whom a compliance notice is given fails to comply with the notice the local government may, in addition to any penalty imposed under section 27 of

Local Law No. 1 (Administration) 2011, enter the relevant land under section 142 of the Act and perform the work specified in the notice and, in the case of a vehicle, remove the vehicle or carry out work on the vehicle to the extent necessary so that no part of the vehicle penetrates the OLS.

19 Recovery of local government's costs

If the person who failed to comply with a compliance notice—

- (a) is the owner of the relevant land, the amount properly and reasonably incurred by the local government in performing the work is recoverable (together with interest) by the local government under section 142 of the Act; or
- (b) is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable by the local government as a debt from the person in default (together with interest) under section 142 of the Act.

20 No compensation payable

- (1) The local government is not liable to pay compensation to a person —
 - (a) who is required to comply with a compliance notice and who complies with the notice; or
 - (b) who suffers loss or damage reasonably caused by the local government in performing work under section 18 because of the person's failure to comply with a compliance notice.
- (2) Subsection (1)(b) applies subject to section 147 of the Act⁴

21 Approval of temporary structures, etc.

- (1) The local government may permit a temporary structure or a part of a vehicle to penetrate the OLS for a limited period of time provided proper regard is given to the safe operation of aircraft in the vicinity of an aerodrome during the period for which the permit applies.
- (2) A permit may be granted subject to conditions the local government considers to be reasonably necessary so as not to endanger aircraft safety.
- (3) A person to whom a permit is granted must—
 - (a) not exceed the time limit for which the permit is granted; and
 - (b) ensure that the conditions of the permit are complied with.Maximum penalty for each of paragraphs (a) and (b) — 50 penalty units.
- (4) For the avoidance of doubt, the activity described in subsection (1) is not a prescribed activity for section 5(b) of *Local Law No. 1 (Administration) 2011*.

Part 5 Authority of authorised person

⁴ See *Local Government Act 2009*, section 147 (Compensation for damage or loss caused).

22 Seizure and detention of dangerous objects

- (1) An authorised person may seize an object from a person on an aerodrome if—
 - (a) the object is dangerous; or
 - (b) the person uses or has used the object in a dangerous way.
- (2) If an authorised person seizes an object under subsection (1), the local government must deal with the object in accordance with section 37 of *Local Law No. 1 (Administration) 2011*.

23 Removal of persons from an aerodrome

- (1) Any person found on an aerodrome committing an offence against this local law may be directed by an authorised person to leave the aerodrome.
- (2) A person must comply with a direction given under subsection (1).
Maximum penalty for subsection (2)—20 penalty units.
- (3) An authorised person may—
 - (a) remove or cause to be removed from an aerodrome any person who has failed to comply with a direction of an authorised person given under subsection (1); and
 - (b) for the purposes of the removal — use reasonable force.

24 Exclusion from aerodromes

A person who has been directed to leave an aerodrome under section 23(1) or who has been removed from an aerodrome under section 23(3) must not re-enter the aerodrome on the same day.

Maximum penalty—20 penalty units.

Part 6 Miscellaneous**25 Aerodrome damage**

Where a person offends against this local law the person is, in addition to any penalty prescribed for the offence, liable for any damage to an aerodrome arising from the offence and the cost of repairing the damage may be recovered by the local government from the person in a court of competent jurisdiction.

26 Service of notices

- (1) If this local law requires or permits a notice which involves the use of an aircraft to be served on a person, the notice may be served—
 - (a) on an individual—
 - (i) by delivering it to the person personally; or
 - (ii) by leaving it at, or by sending it by post, telex, facsimile or similar facility to, the address of the place of residence or business of the person last known to the person serving the notice; or
 - (b) on a body corporate — by leaving it at, or sending it by post, telex, facsimile or similar facility to, the head office, a registered office or a

principal office of the body corporate; or

- (c) if the person or body corporate cannot be found or the address of the person or body corporate is unknown to the person serving the notice — by securely placing or attaching the notice, addressed to the person or body corporate, as the case may be, without further description, on or to the aircraft in a conspicuous position.
- (2) If a notice is served under subsection (1)(c), it is taken to have been served on the person or body corporate, as the case may be, on the day it is placed on or attached to the aircraft.

27 Subordinate local laws

The local government may make subordinate local laws about —

- (a) the conditions for the use of buildings, facilities and amenities at an aerodrome⁵; and
- (b) the procedures to be complied with to preserve and enhance safety at an aerodrome⁶; and
- (c) other matters about which this local law specifically provides for the making of subordinate local laws.

⁵ See section 9(2).

⁶ See section 10(1).

Schedule Dictionary

section 3

aerodrome means any aerodrome within the meaning of the *Civil Aviation Act 1988 (Cwlth)*, section 3 but only if the aerodrome is—

- (a) located in the area; and
- (b) owned by or under the control of the local government.

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.

aircraft stand means an area at an aerodrome designated by the local government for the parking of aircraft including, but not limited to, the parking of aircraft for the purposes of loading and unloading freight, mail and cargo, and for the embarkation or disembarkation of passengers.

airside area means any area of an aerodrome where aircraft movements are conducted, including—

- (a) all aprons and areas on the operational side of any security fencing; and
- (b) areas designated as such by any signage; and
- (c) any area provided for the storage of aviation fuel; and
- (d) any area set aside for radio navigation aids, communication, or ground equipment.

area means the local government area of the local government.

authorised person means a person appointed by the local government to be an authorised person for this local law.

civil aviation laws means a law made by or under an Act enacted by the Commonwealth Parliament in relation to the use and operation of an aerodrome.

civil aviation safety laws means a law made by or under an Act enacted by the Commonwealth Parliament in relation to aircraft safety at, or in the vicinity of, an aerodrome.

compliance notice see section 16(2).

emergency vehicle means a vehicle driven by a person who is —

- (a) an emergency worker; and
- (b) driving the vehicle in the course of his or her duties as an emergency worker.

emergency worker means—

- (a) an officer of the Queensland Ambulance Service or an ambulance service of another State; or
- (b) an officer of the Queensland Fire and Rescue Service or a fire and rescue service of another State; or

- (c) an officer or employee of the Queensland Police Service; or
- (d) an officer of the State Emergency Service or a State emergency service of another State; or
- (e) an officer of Emergency Management Queensland.

local government area has the meaning given in the Act.

obstacle limitation surface or OLS —

- (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 OLS for an aerodrome becomes an obstacle to the operation of aircraft at the aerodrome.

operator means a person, organisation or enterprise engaged in, or offering to engage in, the operation of an aircraft, including all general movements of the aircraft.

owner in relation to—

- (a) a vehicle means—
 - (i) in the case of a vehicle registered under a law of a State or territory relating to the registration of vehicles — the person in whose name the vehicle is registered; or
 - (ii) in the case of any other vehicle — every joint owner or part owner of the vehicle and any person who has lawful possession and use of the vehicle under or subject to a hire–purchase agreement or a bill of sale at the material time; and
- (b) an aircraft includes—
 - (i) each lessee, lessor or charterer of the aircraft; and
 - (ii) the holder of a certificate of registration for the aircraft; and
 - (iii) any person who is or appears to be in control of the aircraft.

prescribed fee has the meaning given in *Local Law No. 1 (Administration) 2011*.

relevant person means—

- (a) in relation to an aircraft—
 - (i) the owner, operator, hirer or pilot in command of the aircraft; or
 - (ii) the person apparently in charge of the aircraft at the time a direction is given to the person under this local law; or
- (b) in relation to an activity, the person apparently in charge of organising the activity at the time a direction is given to the person under this local law.

the Act means the *Local Government Act 2009*.

undesirable person see section 12.

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

vehicle approval see section 8(1).

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Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011*.

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) 2011* 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) 2011* (the **authorising local law**).

4 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 4 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 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, this subordinate local law prescribes—
 - (a) the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) the individuals or organisations that are declared to be third party certifiers; and
 - (c) the qualifications that are necessary for an individual or organisation to be a third party certifier.

6 Approvals that are non-transferable—Authorising local law, s 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.

Part 3 Application to State-controlled roads

7 State-controlled roads to which the local law applies—Authorising local law, schedule 1

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are roads to which the authorising local law applies unless otherwise provided in the local law.

Schedule 1 Alteration or improvement to local government controlled areas and roads

Section 5

1. Prescribed activity

Alteration or improvement to local government controlled areas and roads.

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 alteration or improvement including plans and specifications.
- (2) Details of all building work and other work to be carried out under the approval.
- (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.
- (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 local government controlled area or 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) If requested— a traffic management plan which details —
 - (a) anticipated pedestrian and vehicular traffic which will be created by the undertaking of the prescribed activity; and
 - (b) anticipated impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken; and
 - (c) how the applicant will minimise the impact of the undertaking of the

prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken.

- (9) If requested — a report, study or certification from a suitably qualified person about —
- (a) the undertaking of the prescribed activity generally; or
 - (b) a specific aspect of the undertaking of the prescribed activity.

Examples—

1. A certificate of a registered professional engineer about the structural adequacy of a structure, improvement or building to be used in the undertaking of the prescribed activity.
2. A certificate of a registered professional engineer about the extent to which the undertaking of the prescribed activity will comply with relevant requirements of the Manual of Uniform Traffic Control Devices.

4. Additional criteria for the granting of an approval

The alteration or improvement must not—

- (a) result in—
 - (i) material harm to human health or safety; or
 - (ii) property damage or loss of amenity; or
 - (iii) unreasonable nuisance; or
 - (iv) obstruction of vehicular or pedestrian traffic; or
 - (v) environmental harm; or
 - (vi) environmental nuisance; or
- (b) have a material adverse affect on the amenity of the area in which the prescribed activity is to be undertaken.

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 alteration or approval must be carried out; and
 - (c) specify standards with which the alteration or improvement 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 alteration or improvement; 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; and
 - (vii) if the undertaking of the prescribed activity results in damage or loss of amenity to a local government controlled area or a road — promptly rectify the damage or loss of amenity.
- (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 vehicular or pedestrian traffic.

7. Term of an approval

- (1) The term of an approval must be determined by the local government 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 the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

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

Section 6

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

**Schedule 3 State-controlled roads to which the local
law applies**

Section 7

Subject to the chief executive's written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b), every State-controlled road in the local government area of the local government.

Schedule 4 Dictionary

Section 4

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*.

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

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Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*.

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) 2011* 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) 2011* (the **authorising local law**).

4 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 4 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 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, this subordinate local law prescribes—
 - (a) the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) the individuals or organisations that are declared to be third party certifiers; and
 - (c) the qualifications that are necessary for an individual or organisation to be a third party certifier.

6 Approvals that are non-transferable—Authorising local law, s 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.

Part 3 Application to State-controlled roads

7 State-controlled roads to which the local law applies—Authorising local law, schedule 1

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are roads to which the authorising local law applies unless otherwise provided in the local law.

Schedule 1 Commercial use of local government controlled areas and roads

Section 5

1. Prescribed activity

Commercial use of local government controlled areas and roads.

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) Details of the nature, time and place of the prescribed activity for which the approval is sought.
- (2) If the applicant wants to use a particular part of a local government controlled area or road for serving food and drink or for other business purposes—a plan showing the relevant part of the local government controlled area or road.
- (3) If the prescribed activity is to be operated from a site, stall or vehicle—specifications for the site, stall or vehicle which is proposed to be used in the operation of the prescribed activity.
- (4) Details of the name, street address, telephone number, facsimile number and email address of the person responsible for the operation of the prescribed activity.
- (5) A copy of the current registration certificate for each vehicle proposed to be used in the operation of the prescribed activity.
- (6) Details of the operation of the prescribed activity including—
 - (a) if goods or services are to be supplied—the nature of the goods and services to be supplied; and
 - (b) if the goods or services are to be supplied at particular times—the times during which the goods or services will be supplied; and
 - (c) if goods or services are to be supplied—the method of sale of the goods or services; and
 - (d) a copy of each policy of insurance of the applicant which relates to the operation of the prescribed activity; and
 - (e) how the applicant proposes to dispose of waste generated by the operation of the prescribed activity; and
 - (f) if signage is intended to be displayed – details of the signage and how the signage will be secured whilst displayed.

- (7) Subsection (8) applies if—
 - (a) the prescribed activity is to be operated at a place on a local government controlled area or road; and
 - (b) the place abuts, or is adjacent to, land other than a local government controlled area or road; and
 - (c) the operation of the prescribed activity may cause a nuisance, inconvenience or annoyance to the occupier of the land.
- (8) The application must be accompanied by—
 - (a) the written consent of the occupier of the land to the operation of the prescribed activity at the place; or
 - (b) a written statement from the occupier of the land in support of the operation of the prescribed activity at the place.
- (9) If requested — a report, study or certification from a suitably qualified person about —
 - (a) the undertaking of the prescribed activity generally; or
 - (b) a specific aspect of the undertaking of the prescribed activity.

Examples—

- 1. A certificate of a registered professional engineer about the structural adequacy of a structure, improvement or building to be used in the undertaking of the prescribed activity.
- 2. A certificate of a registered professional engineer about the extent to which the undertaking of the prescribed activity will comply with relevant requirements of the Manual of Uniform Traffic Control Devices.

4. Additional criteria for the granting of an approval

- (1) The prescribed activity for which the approval is sought must not unduly interfere with the proper use of the local government controlled area or road.
- (2) The physical characteristics of the local government controlled area or road must be suitable for the prescribed activity.
- (3) The prescribed activity must not cause unreasonable nuisance, inconvenience or annoyance to—
 - (a) the occupier of any land which adjoins the location of the prescribed activity; or
 - (b) vehicular traffic; or
 - (c) pedestrian traffic.
- (4) The prescribed activity must not have an unreasonable detrimental effect on the amenity of the surrounding area.

- (5) If the prescribed activity is mobile roadside vending or stationary roadside vending—
 - (a) whether the prescribed activity for which the approval is sought is competitive with business activities operated from fixed premises in the local government area; and
 - (b) whether the business activities operated from the fixed premises are sufficient to meet public demand for the goods or services proposed to be sold as part of the operation of the prescribed activity; and
 - (c) whether the grant of the approval will result in substantial competition between the applicant for the approval and operators of business activities operated from fixed premises in the local government area; and
 - (d) whether the goods or services proposed to be sold as part of the operation of the prescribed activity, or similar goods or services, are available for sale from fixed premises near the location of the prescribed activity.

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 require that the approval holder—
 - (a) limit the activities authorised by the approval to 1 or more of—
 - (i) a single specified location;
 - (ii) a number of specified locations;
 - (iii) a specified area;
 - (iv) a number of specified areas; and
 - (b) limit the activities to specified days and times; and
 - (c) limit the activities to—
 - (i) a specified period of time; or
 - (ii) specified periods of time; and
 - (d) display the approval in a specified position, and produce the approval for inspection on demand by an authorised person; and
 - (e) take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the approval, for example, the installation and maintenance of specified safety barriers; and

- (f) give specified indemnities and take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the approval; and
- (g) take specified measures to ensure that the activities authorised by the approval do not cause a nuisance; and
- (h) if the approval authorises the approval holder to use a specified part of a road for the operation of the activity — pay a specified rental to the local government at specified intervals; and
- (i) submit the operation of the activity, including any vehicle or premises used in the operation of the activity, for inspection by an authorised person; and
- (j) prominently and permanently display at a specified location each of—
 - (i) the approval number granted by the local government in numbers not less than 50mm in height; and
 - (ii) the name and address of the approval holder in letters not less than 75mm in height; and
- (k) if the approval relates to an activity on a road—give a written indemnity to the State; and
- (l) limit the activities authorised by the approval such that the activities may not be operated within a specified radius of—
 - (i) fixed premises which sell or offer for sale, the same or similar goods or services; or
 - (ii) the site of operation of another prescribed activity—
 - (A) the operation of which is authorised by an approval granted by the local government; and
 - (B) at which the same or similar goods or services are sold or offered for sale; and
- (m) limit the operation of the prescribed activity so that it does not—
 - (i) create a traffic nuisance; or
 - (ii) increase an existing traffic nuisance; or
 - (iii) detrimentally affect the efficiency of the road network in which the activity is undertaken; and
- (n) limit the operation of the prescribed activity so that it does not detrimentally affect the amenity of the neighbourhood in which the prescribed activity is undertaken; and
- (o) ensure that the operation of the prescribed activity does not create a

- road safety risk; and
 - (p) ensure that all facilities and equipment used in the operation of the prescribed activity are, at all times, maintained—
 - (i) in good working order and condition; and
 - (ii) in a clean and sanitary condition; and
 - (q) if the approval authorises the operation of a roadside vending activity on a road on specified days—remove the vehicle from the road after the close of business each day unless otherwise specified by the local government.
- (2) If the prescribed activity is mobile roadside vending, the conditions of the approval may also require that the approval holder—
- (a) limit the operation of the activity to—
 - (i) a specified vehicle; or
 - (ii) a number of specified vehicles; and
 - (b) if the approval holder is selling or offering for sale, goods, for example, food, or services—not engage in mobile roadside vending on any local government controlled area or road within a specified radius of fixed premises which sell or offer for sale, the same or similar goods or services.
 - (c) not—
 - (i) unless authorised by an authorised person—park the vehicle used for the activity for a period longer than is necessary to serve a customer who has hailed down the vehicle; or
 - (ii) amplify, or cause to be made, any noise identifying or otherwise drawing attention to the vehicle, except in accordance with standards laid down under the *Environmental Protection Act 1994*; or
 - (iii) place a sign or device advertising the activity of the approval holder on any local government controlled area or road; and
 - (d) keep and maintain the vehicle in a clean, tidy and orderly condition at all times; and
 - (e) produce the vehicle for inspection by an authorised person—
 - (i) prior to commencement of the prescribed activity; and
 - (ii) when required by the authorised person; and
 - (f) limit the operation of the activity to vehicles having specified characteristics, appropriate for the operation of the activity; and

- (g) only serve customers from the non-traffic or kerbside side of a vehicle used in the operation of the activity; and
 - (h) not operate the activity in a manner which is, or may be, a risk to road safety; and
 - (i) unless authorised by an authorised person—not permit or allow an animal in or about any vehicle used in the operation of the activity; and
 - (j) not discharge trade waste generated by the operation of the activity otherwise than in accordance with an approval under the *Water Supply (Safety and Reliability) Act 2008*; and
 - (k) for waste generated by the operation of the activity—
 - (i) only dispose of the waste—
 - (A) in a safe and sanitary manner; and
 - (B) in a manner which maintains the vehicle and its surrounds in a clean, tidy, sanitary and hygienic condition; and
 - (ii) not dispose of the waste—
 - (A) so as to attract pests; or
 - (B) into a water course; or
 - (C) at another location other than a location properly intended for the receipt of the waste.
- (3) If the prescribed activity is footpath dining, the conditions of the approval may also require that the approval holder—
- (a) limit the operation of the activity to a specified area which is contiguous to, or in the vicinity of, a registered café, restaurant, takeaway food shop or similar premises which are operated by the approval holder (*principal premises*); and
 - (b) limit the operation of the activity to the footpath immediately adjacent to the principal premises; and
 - (c) keep and maintain a clear unobstructed pedestrian corridor of a specified width depending on the density of pedestrian traffic; and
 - (d) limit the operation of the activity to the normal business hours of the principal premises; and
 - (e) remove all tables, chairs, fixtures and fittings from the area identified in the approval when the principal premises are not open for business; and
 - (f) keep and maintain the area identified in the approval, including all tables, chairs, fixtures, fittings and equipment used in the operation of

- the activity at all times in a clean, sanitary and tidy condition; and
- (g) keep and maintain in and about the area identified in the approval, adequate waste disposal facilities, for example, bins, and be responsible for the removal of all waste from the waste disposal facilities at such intervals as an authorised person may direct; and
- (h) not place or display any sign or device advertising the activity in the area identified in the approval otherwise than in accordance with an approval of the local government which authorises the use of the footpath for that purpose; and
- (i) not use an umbrella within the area identified in the approval unless the umbrella has not less than 2m clearance above ground level adjacent to the umbrella and is securely anchored to the satisfaction of an authorised person; and
- (j) only use furniture in the area identified in the approval which is—
 - (i) aesthetically acceptable to the local government; and
 - (ii) kept in a proper state of repair; and
- (k) provide, for use by patrons of each of the principal premises and the area identified in the approval, adequate toilet facilities; and
- (l) regularly clean the area identified in the approval—
 - (i) during business hours for the principal premises; and
 - (ii) daily, after the close of business of the principal premises.
- (4) If the prescribed activity is the display of goods for sale on a footpath, the conditions of the approval may also require that the approval holder—
 - (a) limit the operation of the activity to a specified area which is contiguous to, or in the vicinity of, retail premises which are operated by the approval holder (also *principal premises*); and
 - (b) limit the operation of the activity to the footpath immediately adjacent to the principal premises; and
 - (c) keep and maintain a clear unobstructed pedestrian corridor of a specified width depending on the density of pedestrian traffic; and
 - (d) limit the operation of the activity to the normal business hours of the principal premises; and
 - (e) only use, for the purposes of display of the goods for sale, a structure which is—
 - (i) of safe construction; and
 - (ii) in good condition and repair; and

- (iii) securely fixed to the footpath; and
- (f) only display goods for sale if the goods are in an orderly and sightly condition; and
- (g) only display goods for sale if the goods are the property of, or offered for sale by, the approval holder; and
- (h) remove all goods, and any structure designed for the display of the goods for sale, when the principal premises are not open for business.

7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.
- (3) An approval may be granted for a term of up to 3 years.

8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) The term for which an approval may be renewed or extended must not exceed 3 years.
- (3) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

Schedule 2 Categories of approval that are non-transferable

Section 6

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

**Schedule 3 State-controlled roads to which the local
law applies**

Section 7

Subject to the chief executive's written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b), every State-controlled road in the local government area of the local government.

Schedule 4 Dictionary

Section 4

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

goods includes wares, merchandise, chattels, money, stone, timber, metal, fluid and any other article, substance or material whatsoever and also includes an animal.

mobile roadside vending means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where—

- (a) the operator travels from place to place; and
- (b) the operator supplies the goods or services to a customer in response to the customer waiving down the operator.

principal premises has the meaning given in schedule 1, section 6(3)(a) and (4)(a).

sale includes —

- (a) to sell; and
- (b) sell for resale; and
- (c) offer, or expose for sale; and
- (d) agree or attempt to sell; and
- (e) receive, keep or have in possession for sale; and
- (f) cause or permit to be sold or offered or exposed for sale; and
- (g) provide a sample; and
- (h) barter; and
- (i) auction; and
- (j) supply or have available for supply; and
- (k) suffer or permit any of the above acts.

stationary roadside vending means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where—

- (a) the operator carries on the activity from—
 - (i) a specified place; or
 - (ii) a number of specified places; but
- (b) the activity is not footpath dining.

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

waste has the meaning given in the *Environmental Protection Act 1994*.

Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011

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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) 2011*.

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) 2011* 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) 2011* (the **authorising local law**).

4 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

5 Matters regarding the prescribed activity—Authorising local law, ss 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.

6 Approvals that are non-transferable—Authorising local law, s 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 5

1. Prescribed activity

Establishment or occupation of a temporary home

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 showing the design and dimensions of the proposed temporary home.
- (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) Details of the location of the temporary home.
- (4) 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.
- (5) Details of the name of each person who is to occupy the temporary home.
- (6) Details of the operation of the proposed temporary home including toilet, bathing, laundry, water storage and refuse facilities.
- (7) If a permanent residence or permanent structure is proposed to be constructed on the land the subject of the application—a copy of the development approval for the permanent residence or permanent structure.
- (8) If the applicant or another person is to live on site during construction of a permanent residence or permanent structure on the land—an independent itemised valuation of the construction cost (of both the proposed temporary home and the permanent residence or permanent structure) including an itemised valuation based on recognised current building industry rates covering all areas that are applicable to the construction of the temporary home and the permanent residence or permanent structure including, without limitation, the outstanding cost of purchase of the land, the cost of construction of the proposed temporary home and the cost of construction of the proposed

permanent residence or permanent structure.

- (9) Proof that the financial resources of the applicant are such that the applicant is capable of funding the construction of the temporary home and the permanent residence or permanent structure.
- (10) If the applicant is an owner/builder—evidence that the applicant is registered as an owner/builder with the Queensland Building Services Authority.
- (11) A progress chart or similar timetable showing significant milestones during the process of construction of each of the temporary home and the permanent residence or permanent structure 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.
- (5) The temporary home must be located on the land in such a way as to not have a materially adverse impact 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) the 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 provision of specified facilities for personal hygiene and sanitation, and for washing and drying clothes; and
 - (c) require the approval holder to provide specified equipment, or take specified action, to ensure that the temporary home is adequately supplied with water; and
 - (d) regulate the disposal of waste water and refuse from the temporary home; and
 - (e) require the approval holder to dismantle and remove the temporary home by a specified date;
 - (f) require the approval holder to keep the temporary home in good order and repair;
 - (g) require the approval holder to ensure that the temporary home is not unsightly or unhygienic; and
 - (h) restrict the number of persons who may occupy the temporary home; and
 - (i) 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.

7. Term of an approval

- (1) An approval may be granted for a term of up to 18 months.
- (2) The term of an approval may be assessed by an authorised person 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 the permanent residence or permanent structure.
- (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) the date on which the permanent residence or proposed permanent residence becomes fit for occupation as a place of residence.

8. Term of renewal of an approval

- (1) An approval cannot be renewed.
- (2) However, 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, and likely to be completed within a reasonable time.

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
Consistency of the proposed operation and management of the activity with the criteria in section 4(3) and (4) of this schedule.		A builder's licence (of the class BLR, BMR, BO or BPMS) issued by the Building Services authority OR A plumber's license issued by the Plumbers and Drainers Board

Schedule 2 Categories of approval that are non-transferable

Section 6

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

Schedule 3 Dictionary

Section 4

development approval see the *Sustainable Planning Act 2009*, schedule 3.

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Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2011*.

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) 2011* 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) 2011* (the **authorising local law**).

4 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 6 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 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, this subordinate local law prescribes—
 - (a) the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) the individuals or organisations that are declared to be third party certifiers; and
 - (c) the qualifications that are necessary for an individual or organisation to be a third party certifier.

6 Approvals that are non-transferable—Authorising local law, s 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.

Part 3 Application to State-controlled roads

7 State-controlled roads to which the local law applies—Authorising local law, schedule 1

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 5 are roads to which the authorising local law applies unless otherwise provided in the local law.

Schedule 1 Installation of advertising devices

Section 5

1. Prescribed activity

Installation of advertising devices.

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

- (1) An approval is not required under the authorising local law for the prescribed activity if—
 - (a) the activity is the installation, erection or display of a permitted advertisement that is visible from a road or other public place; or
 - (b) under the planning scheme of the local government, the prescribed activity is identified as—
 - (i) self assessable development; or
 - (ii) code assessable development; or
 - (iii) impact assessable development.
- (2) A permitted advertisement is an advertising device that is visible from a road or other public place which is—
 - (a) defined in schedule 3; and
 - (b) installed, erected, maintained and displayed in accordance with the prescribed criteria in schedule 3; and
 - (c) installed, erected, maintained and displayed in accordance with the general criteria specified in schedule 4.

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

- (1) Full details of the proposed advertising device including—
 - (a) the name and address of the premises at which the proposed advertising device will be installed; and
 - (b) the name and address of the person responsible for the installation of the advertising device; and
 - (c) the name and address of any business which will be advertised on the advertising device.
- (2) Details of all building work and other work to be carried out under the approval.

- (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.
- (6) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.
- (7) Plans and specifications detailing—
 - (a) the location of the proposed advertising device; and
 - (b) each item of equipment to be used in the installation, erection or display of the proposed advertising device; and
 - (c) the type and location of any utility, service or infrastructure to be used in the installation, erection or display of the proposed advertising device; and
 - (d) particulars of the content, design, dimensions and construction of the proposed advertising device; and
 - (e) a site plan, to scale, of the proposed advertising device; and
 - (f) if the applicant is not the owner of the premises on which the proposed advertising device is to be installed, erected or displayed, the consent of the owner of the premises to the installation, erection and display of the advertising device; and
 - (g) a copy of each development approval required for the installation, erection and display of the proposed advertising device; and
 - (h) a pictorial representation of the proposed advertising device.

4. Additional criteria for the granting of an approval

- (1) The conduct of the prescribed activity must not—
 - (a) result in—
 - (i) material harm to human health or safety; or
 - (ii) property damage or loss of amenity; or
 - (iii) unreasonable nuisance; or
 - (iv) obstruction of pedestrian or vehicular traffic; or
 - (v) environmental harm; or
 - (vi) environmental nuisance; or
 - (vii) a potential road safety risk; or

- (b) have a material adverse affect on the amenity of the area in which the prescribed activity is to be undertaken; or
 - (c) significantly obstruct the view of any premises.
- (2) The installation, erection and display of the proposed advertising device must comply with the general criteria specified in schedule 4.

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 undertaking of the prescribed activity must comply; and
 - (d) require the approval holder to—
 - (i) carry out specified additional work such as earthwork and landscaping; 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; and
 - (vii) construct the advertising device from specified materials; and
 - (viii) maintain the advertising device in good order and repair; and
 - (ix) install the advertising device at a specified location, or in a specified manner; and
 - (x) take specified measures to illuminate, or control the illumination of, the advertising device; and

- (xi) restrict the dimensions of the advertising device.
- (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.

7. Term of an approval

- (1) The term of an approval must be determined by the local government 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 the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

Schedule 2 Categories of approval that are non-transferable

Section 6

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

Schedule 3 Definitions and prescribed criteria for installation, erection and display of advertising devices

Schedule 1, section 2(2)(a) and (b)

1 Mobile sign



- (1) A *mobile sign* —
 - (a) is a temporary portable self supporting sign which is free-standing and may be mounted on wheels to facilitate movement; and
 - (b) includes an A-frame sign and a sandwich board; but
 - (c) does not include a free-standing sign or a real estate sign.
- (2) The criteria prescribed for a mobile sign are—
 - (a) the face area of the advertising device must not exceed 2.5m² on either side of the advertising device; and
 - (b) the display of mobile signs must not exceed 1 advertising device for each shop or business fronting a road; and
 - (c) where the advertising device advertises a particular shop or business, the advertising device must identify the shop or business; and
 - (d) the advertising device may only be placed on the premises of the shop or business it is advertising or promoting on a local government controlled area or a road if—
 - (i) no part of the advertising device protrudes more than 1m from the street front boundary of the premises; and
 - (ii) the advertising device is not a hazard to pedestrian or vehicular traffic; and
 - (iii) the advertiser takes out and maintains public liability insurance cover in an amount not less than \$10,000,000.00 against claims for personal injury and property damage resulting from the display of the advertising device; and
 - (e) the advertising device must be—
 - (i) placed so as to minimise visual clutter; and
 - (ii) kept erect and maintained in a good state of repair at all times; and
 - (iii) secured so as to prevent danger to pedestrian and vehicular traffic in windy conditions; and

- (f) the number of face areas of the advertising device must not exceed 2; and
- (g) the advertising device must not be illuminated.

2 Real estate sign



- (1) A *real estate sign* is a temporary, non-illuminated advertising device which promotes the sale, auction, lease or letting of premises.
- (2) The criteria prescribed for a real estate sign (other than a directional real estate sign) are—
 - (a) the advertising device must not—
 - (i) interfere with the safe and convenient passage of pedestrians; or
 - (ii) detract from the amenity of the area in which it is situated or unreasonably obstruct existing views; and
 - (b) the advertising device may be double sided; and
 - (c) the advertising device must not have a face area in excess of 0.6m²; and
 - (d) the number of real estate signs displayed at premises must not exceed 1 sign for each agent marketing the premises up to a maximum of 3 signs; and
 - (e) as an alternative to paragraphs (b) to (d) inclusive, an advertiser may display 1 sign having a maximum face area of 2.4m² at the premises; and
 - (f) the advertising device must not be displayed for—
 - (i) more than 14 days after the sale of the premises identified in the advertising device; or
 - (ii) more than 6 months in any 12 month period; and
 - (g) the advertising device must be kept erect and maintained in a good state of repair at all times; and
 - (h) if a high fence, foliage or the like obscures the advertising device, it must be located as close as practicable to the street front boundary of the premises.
- (3) The criteria prescribed for a directional real estate sign are—
 - (a) if the advertising device is displayed on land which is not a public place—
 - (i) a maximum of 3 advertising devices may be displayed; and
 - (ii) the face area of each advertising device must not exceed 0.6m²; and
 - (iii) the advertising device—
 - (A) must only be displayed on the day on which the premises

offered for sale are open for public inspection or offered for sale by auction; and

(B) must be located in close proximity to the premises; and

- (b) the advertising device must not be displayed on a road except subject to approval of an authorised person.

3 Inflatable sign



- (1) An **inflatable sign** is a fixed or captive balloon, including a tethered lighter than air device which is displayed in conjunction with a special event such as a fete, fair, circus, sales promotion or the like.
- (2) The criteria prescribed for an inflatable sign are—
- (a) the advertising device must not be displayed for more than 14 days in any 90 day period; and
 - (b) the method of securing the advertising device must be certified as to standard by an accredited engineer prior to the display of the advertising device; and
 - (c) the location of the advertising device must be such that the display of the advertising device will not interfere with any power lines or other public services; and
 - (d) the advertiser must take out and maintain public liability insurance cover in an amount not less than \$10,000,000.00 against claims for personal injury and property damage resulting from the display of the advertising device; and
 - (e) the advertiser must produce to the local government on request evidence of the existence of the insurance specified in paragraph (d).

4 Roof/sky sign



- (1) A **roof/sky sign** is an advertising device fitted to the roof of a building.

- (2) The criteria prescribed for a roof/sky sign are—
- (a) the advertising device must be contained within the existing or created outline of the building on which it is displayed; and
 - (b) if the advertising device creates a new outline for the building — the advertising device must be designed to appear as if it were part of the original building, or in some other way match or complement the architecture of the building; and
 - (c) the advertising device must not extend horizontally beyond the edge of the roof of the building on which it is displayed; and
 - (d) the advertising device must not be displayed less than 3m from any other roof/sky sign displayed on the building; and
 - (e) if there is more than 1 advertising device on a building, the advertising devices must match, align or otherwise be compatible with each other; and
 - (f) the source of illumination of the advertising device must be internal and not cause excessive light spill; and
 - (g) if the advertising device has a face area greater than 1.2m², the advertiser must obtain an engineer's certification for any structure dedicated for the support of the advertising device; and
 - (h) the advertising device must be installed without "guide wires" or exposed supporting framework.

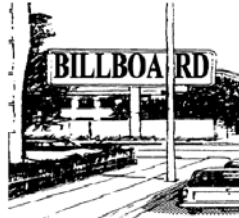
5 Under awning sign



- (1) An **under awning sign** is an advertising device affixed underneath, or suspended from, an awning or verandah.
- (2) The criteria prescribed for an under awning sign are that the advertising device must—
- (a) have a minimum clearance of 2.4m between its lowest point and any directly adjacent road related area; and
 - (b) not have a horizontal dimension greater than the width of the awning, a vertical dimension of more than 0.5m or a thickness of more than 0.3m; and
 - (c) be oriented at right angles to the front of the building on which it is displayed; and
 - (d) not be displayed less than 3m from another under awning sign; and
 - (e) not be displayed less than 1.5m from each side boundary of the premises on

- which it is displayed; and
- (f) not project beyond the awning or verandah to which it is affixed.

6 Billboard/hoarding sign



- (1) A *billboard/hoarding sign* is an advertising device which —
- (a) is free-standing; and
 - (b) has a face area greater than 2.4m²; and
 - (c) has a face area width greater than its face area height; and
 - (d) is normally elevated from the ground and supported by 1 or more vertical columns, pylons or poles; and
 - (e) is an erected structure used primarily for the display of advertising matter.
- (2) The criteria prescribed for a billboard/hoarding sign are—
- (a) the advertising device must —
 - (i) not have a face area in excess of 45m²; and
 - (ii) not have a height in excess of 15m; and
 - (iii) not face adjoining premises unless it is more than 3m from each boundary of the premises; and
 - (iv) not be located or constructed so as to expose an unsightly back view of the advertising device; and
 - (v) not have more than 2 faces; and
 - (b) if the advertising device has 2 faces — the angle between each face must not be more than 45 degrees; and
 - (c) only 1 double-sided billboard/hoarding sign may be displayed on premises except where the street front boundary of the premises exceeds 100m; and
 - (d) if the street front boundary of the premises exceeds 100m, more than 1 double-sided billboard/hoarding sign is permitted, however, each billboard/hoarding sign must be not less than 100m apart; and
 - (e) the advertising device must not be displayed less than 3m from any side boundary of the premises; and
 - (f) the advertising device must be installed without “guide wires” or exposed supporting framework.

Schedule 4 General criteria for installation, erection and display of advertising devices

Schedule 1, section 2(2)(c)

1. This schedule specifies general criteria for the installation, erection and display of advertising devices.
2. The advertising device must—
 - (a) not cause a nuisance; and
 - (b) be kept and maintained at all times in good order and repair, and free of graffiti.
3. The activity being advertised on the advertising device must be able to be lawfully conducted on the relevant premises.
4. The advertising device must be structurally sound.
5. The display of the advertising device must not cause obstruction of, or distraction to, pedestrian or vehicular traffic.
6. The advertising device must be of high design quality.
7. The face area of the advertising device must be appropriate for the location.
8. The height of the advertising device must be appropriate for the location.
9. The advertising device must not cause damage to public infrastructure.
10. The advertising device must be consistent with applicable environmental standards.
11. An illuminated advertising device must not be positioned so as to create glare or a nuisance to pedestrian or vehicular traffic.
12. The size and scale of the advertising device, whether attached to a building or free-standing, must be appropriate to the size and scale of the building (if any) and of the premises where it is erected or to be erected and the advertising device must not be oversized so as to detract from or dominate the building, premises or adjacent uses of the land on which it is to be displayed.
13. Where numerous small advertising devices are located adjacent to one another, the number, size, position and height of each advertising device must be limited to avoid visual clutter.
14. To avoid visual clutter, where more than 1 tenant or business occupies a building or attached premises, advertising devices located on the building, or free-standing signs, must be harmonious and co-ordinated in size and height.
15. The face area and size of an advertising device must be compatible with predominant land uses, the built environment and the orientation of the premises with respect to adjacent roads and buildings.
16. An advertising device mounted over a road or other place where vehicles are able to pass, must provide a clearance of not less than 5.7m from ground level directly adjacent to the advertising device.
17. The advertising device must be harmonious with the architectural style and character

of the location¹

18. The advertising device must blend with landscaping and street features of the location.²
19. This schedule also specifies the criteria that the local government must have regard to when deciding whether to approve the display of a free-standing sign by reference to the size of the advertising device.
20. The face area of any advertising device is generally the area bounded by the framework of a manufactured panel, hoarding or illuminated sign case and is calculated by multiplying the sign face area height and width parameters.
21. However, in the case of lettering, logos or designs applied to a lesser area than the panel parameters, or individual lettering applied to a wall or awning face, the area is calculated by drawing a rectangle around the advertising device lettering.
22. In the case of irregular shaped advertising devices, including words with ascending or descending upper or lower case letter strokes, or replicas or shapes, the face area is calculated by not more than 2 abutting and non-overlapping rectangles added together.
23. Decorative lines, stripes and architectural trims of an advertising device, whether illuminated or not, form part of the face area of the advertising device.
24. In calculating the size of an advertising device, v-shaped advertising devices are classed as 2 advertising devices unless otherwise determined by this subordinate local law.
25. The maximum face area for a free-standing sign is 45m².
26. The maximum allowable height for a free-standing sign is 15m.
27. An advertiser who installs an election sign or poster on premises for a government election must remove the election sign or poster from the premises not later than 7 days after the date of the government election.

¹ Where particular areas have unique or special characteristics which may affect advertising device requirements, separate guidelines or variations may be applied.

² Where additional treatment may enhance the compatibility of an advertising device, such treatment may be required.

**Schedule 5 State-controlled roads to which the local
law applies**

Section 7

Subject to the chief executive's written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b), every State-controlled road in the local government area of the local government.

Schedule 6 Dictionary

Section 4

advertiser means a person—

- (a) by whom an advertising device is installed, erected or displayed; or
- (b) whose business or place of business is advertised by an advertising device; or
- (c) who manages and controls, or has power to manage and control, the place at which an advertising device is installed, erected or displayed; or
- (d) who is—
 - (i) the owner of premises or a place on which an advertising device is installed, erected or displayed; or
 - (ii) the occupier of premises or a place on which an advertising device is installed, erected or displayed; or
 - (iii) the owner of a vehicle on which an advertising device is installed, erected or displayed.

advertising device means a structure or device which is visible from a road or other public place and which conveys information or directions of any kind (other than a structure or device displayed pursuant to the authority or requirements of an Act) and the term includes any structure forming part of the advertising device or to which the advertising device is attached or on which it is displayed.

awning means a permanent, roof like structure, attached to and projecting from the wall of a building which is generally designed or constructed to provide pedestrians with protection against the weather.

billboard/hoarding sign see schedule 3, section 6.

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

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

election sign or poster has the meaning given in section 36 of the Act.

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

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

face area see schedule 4, sections 20 to 24 inclusive.

free-standing sign —

- (a) means a sign which does not form part of a building or other structure which is erected on—
 - (i) a pole or poles, or a pylon structure; or
 - (ii) a solid, free-standing structure; and
- (b) includes—

- (i) a billboard/hoarding sign; and
- (ii) a real estate sign.

government election has the meaning given in section 36 of the Act.

height means the distance measured between the top of an advertising device and ground level directly adjacent to the advertising device.

illuminated, for an advertising device, means that the advertising device has specifically designed internal, or external or both internal and external, means of illumination of the whole or a portion of the advertising device.

inflatable sign see schedule 3, section 3.

land has the meaning given in the *Sustainable Planning Act 2009*.

mobile sign see schedule 3, section 1.

occupier, of premises —

- (a) means the person who has the control or management of the premises; and
- (b) includes the owner of the premises where there is no person in apparent occupation of the premises.

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

permitted advertisement see schedule 1, section 2(2).

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

public place has the meaning given in the Act.

real estate sign see schedule 3, section 2.

road has the meaning given in the Act.

road related area has the meaning given in the *Transport Operators (Road Use Management – Road Rules) Regulation 2009*.

roof means the protective covering, that covers or forms the top of a building.

roof/sky sign see schedule 3, section 4.

sign see advertising device.

street front boundary —

- (a) of premises, means the length, measured in metres, along the alignment of the premises abutting a road or abutting an access restriction strip directly between the premises and a road; and
- (b) if premises continuously abut more than 1 road or access restriction strip directly between the premises and a road, the street front boundary dimensions shall be the total length of those boundaries added together; and
- (c) if premises have more than 1 street front boundary that is not continuous, each street front boundary is to be considered separately.

structure has the meaning given in the Act.

under awning sign see schedule 3, section 5.

vehicle has the meaning given in the local law.

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