

Sunshine Coast Regional Council Local Law No. 1 (Administration) 2011

CONSOLIDATED VERSION NO.1

as in force on **XXX XXX 2013**

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section 32 of the *Local Government Act 2009*

Sunshine Coast Regional Council

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*.

1A Commencement

This local law commences on 1 January 2012.

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 to manage conduct that adversely affects the community; and
 - (c) a reviewable decision process to assist in the review of certain decisions made under local law; and
 - (d) statutory instruments to assist in meeting compliance and enforcement objectives of the local laws; and
 - (e) mechanisms to undertake legal proceedings; and
 - (f) miscellaneous administrative provisions relating to meetings, fees, abandoned goods, seized and impounded items.

3 Definitions—the dictionary

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

- (a) this local law; and
- (b) other local laws of the Sunshine Coast Regional Council, except where otherwise provided by that other law.

4 Relationship with other laws¹

This local law is—

- (a) in addition to, and does not derogate from, laws regulating land use planning and development assessment; and

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) applies to each of the local government's local laws subject to any specific provision in a local law that expresses a contrary intention.

Part 2 Approvals for prescribed activities

5 Meaning of prescribed activity

Prescribed activity means—

- (a) an activity prescribed in part 1 of schedule 2 and defined in part 2 of schedule 2; or
- (b) an activity prescribed by another local law as a prescribed activity for this section; or
- (c) an activity for which a Local Government Act, other than a local law, 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 (b).²
- (2) A person must not undertake a prescribed activity without a current approval granted by the local government.

Maximum penalty for subsection (2)—

- (a) for an activity for which no category has been declared by subordinate local law—50 penalty units; or
- (b) for a category 1 activity—½ penalty unit; or
- (c) for a category 2 activity—50 penalty units; or
- (d) for a category 3 activity—400 penalty units.
- (3) However, the local government may, by subordinate local law, declare that subsection (2) does not apply to 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

² For the offence for undertaking a prescribed activity mentioned in section 5(c) without a current approval, see the relevant Local Government Act that provides for the approval.

person operating such a camping ground would therefore not require an approval under this part.

- A subordinate local law may declare that subsection (2) does not apply to the establishment or operation of a temporary home in a particular part of the local government's area.

(4) In this section—

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

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

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

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

7 Approvals for prescribed activities to be obtained under this part

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

8 Form of application

(1) An application for the local government's approval to conduct a prescribed activity must be made by an adult 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

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.

(b) proof that the applicant currently holds any separate approval relating to the prescribed activity that is required under another law; and

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.

(c) the prescribed fee; and

(d) if the applicant is not the owner of the premises on which the prescribed activity is to be conducted—the written consent of the owner of the premises.

(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) A written notice issued 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) The local government may waive any of the requirements of this section—
- (a) in an emergency; or
 - (b) if there are special reasons for dispensing with the requirements; or
 - (c) in the circumstances specified in a subordinate local law.

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 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
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.
 - (b) either—
 - (i) the proposed operation and management of the activity is adequate to protect community health, safety and amenity and prevent environmental harm; or
 - (ii) if conditions imposed by the local government are complied with, the activity can be operated and managed in a manner that will adequately protect community health, safety and amenity and prevent environmental harm; and

- (c) the grant of the approval would be consistent with the purpose of any relevant local law; and
 - (d) the proposed operation and management of the activity would be consistent with any additional criteria prescribed for the activity under a subordinate local law for this paragraph; and
 - (e) if the application relates to trust land—the grant of the approval would be consistent with the terms and conditions of the trust; and
 - (f) if the application relates to a prescribed activity mentioned in section 5(b)—the grant of the approval would be consistent with any requirements or criteria specified in the local law in relation to the approval; and
 - (g) if the application relates to a prescribed activity mentioned in section 5(c)—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.
- (2) The local government may, by giving written notice to the applicant—
- (a) grant the approval unconditionally; or
 - (b) grant the approval subject to conditions determined in accordance with section 10; or
 - (c) refuse to grant the approval.

Examples for paragraph (b)—

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

non-standard condition means a condition that is not prescribed under section 10(3) as a condition that must be imposed on an approval or that will ordinarily be imposed on an approval.

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 activity will be adequate to protect community 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 law in relation to the approval; and
 - (d) if the approval is for a prescribed activity mentioned in section 5(c)—be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
 - (e) not conflict with the conditions of any other relevant approval issued under an Act; and
 - (f) 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*** has the meaning given by the *Environmental Protection Act 1994*.
- noise standard*** has the meaning given by the *Environmental Protection Act 1994*.

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.

³ See *Environmental Protection Act 1994*, schedule 1, section 3(b).

- (2) For a prescribed activity mentioned in section 5(c), 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.

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—the date specified in the approval.

14 Renewal of approval

- (1) The local government must, when inviting a renewal of an approval—
- (a) give the approval holder a minimum of 14 days (or a period specified under a Local Government Act) before the term of the approval expires, to make application for renewal; and
- (b) state—
- (i) the information for the approval holder stated in the approvals register; and
- (ii) the period of renewal; and

- (iii) the fee for effecting the renewal; and
 - (iv) the date when the renewal must be effected; and
 - (v) that the approval holder must, within 7 days, give the local government notice of any change to the information.
- (2) 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 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.
- (3) 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 a prescribed activity in a specified part of the local government area.
- (4) An application under subsection (2) must be—
 - (a) made by an adult in a form approved by the local government; and
 - (b) if the applicant is not the owner of the premises on which the prescribed activity is to be conducted—accompanied by the written consent of the owner of the premises on which the regulated or prescribed activity will be undertaken; and
 - (c) accompanied by the prescribed fee.
- (5) 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.
- (6) Section 8(4) to (7) applies to the notice as if it was a notice under section 8(3).
- (7) 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.
- (8) In deciding under subsection (7), the local government may have regard to—
 - (a) the matters mentioned in section 9(1); and
 - (b) whether the conditions of the approval are being complied with by the applicant.

- (9) 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.
- (10) The local government may amend the conditions of the approval under subsection (7)(b) without following the procedure in section 18.
- (11) 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 6—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 6—14 days after the applicant is given an information notice under subsection (9).

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 by an adult in a form approved by the local government; and
 - (b) if the applicant is not the owner of the premises on which the prescribed activity is to be conducted, the application must be accompanied by the written consent of the owner of the premises on which the regulated or prescribed activity will be undertaken; and
 - (c) 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).

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

- (6) The local government may grant an application to transfer an approval only if it is satisfied about the matters mentioned in section 9(1).
- (7) The local government may, by written notice to the approval holder and the proposed transferee—
 - (a) grant the application to transfer the approval; or
 - (b) refuse the application to transfer the approval.
- (8) If the local government decides to grant the application to transfer the approval, the local government may amend the existing conditions of the approval.
- (9) The local government may amend the conditions of the approval under subsection (8) without following the procedure in section 18.
- (10) The local government must state, in the notice given under subsection (7)(a), any amendments to the conditions of the approval and the day that they take effect.
- (11) The local government must give the approval holder and the proposed transferee an information notice if the local government—
 - (a) refuses the application; or
 - (b) grants the application and amends the approval to include non-standard conditions.

16 Amending conditions at request of approval holder

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

17 Grounds for amending, suspending, restricting or cancelling approval

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

- (a) the holder of the approval agrees to the amendment, suspension, restriction or cancellation; or

- (b) the amendment, suspension, restriction or cancellation is necessary—
 - (i) for the protection of community health or safety; or
 - (ii) to prevent environmental harm; or
 - (iii) to prevent property damage or loss of amenity; or
 - (iv) to allow for works on roads or local government controlled areas; or
 - (v) to improve access to a road; or
 - (vi) to improve the efficiency of vehicle or pedestrian traffic; or
- (c) another approval required for the prescribed activity under an Act has been suspended or cancelled; or
- (d) in undertaking the prescribed activity, the approval holder has failed to comply with a local law or an Act; or
- (e) the approval holder has failed to comply with a condition of the approval; or
- (f) the approval holder has failed to comply with a notice under sections 26 or 27 that relates to the conduct of a prescribed activity or has failed to comply with a stop order under section 29; or
- (g) 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, restricting or cancelling an approval

- (1) This section applies if the local government considers there is a ground under section 17 to amend, suspend, restrict 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, restrict 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 are grounds 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 restrict the approval—restrict the approval; or
 - (d) if the proposed action was to cancel the approval—cancel the approval.
- (5) If the local government decides to amend, suspend, restrict or cancel the approval, the local government must give the approval holder written 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, restrict 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 poses—
 - (a) an urgent and serious threat to community 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.

20 Register of approvals

- (1) The local government must keep a register of approvals authorised under a local law.
- (2) The local government must, upon receipt of a statutory declaration and on payment of the prescribed fee, provide an interested person with a copy of an approval from the register of approvals.

21 Unlawful possession of an approval

- (1) A person must not—
 - (a) in any application, notice or other document made or given to the local government or to an authorised person, make a statement that to the person's knowledge is false or misleading in a material particular; or
 - (b) by a false statement or representation, obtain or attempt to obtain an approval; or
 - (c) present any information that to the person's knowledge is false or misleading with respect to the particulars required to be presented in connection with an application for an approval; or
 - (d) forge an approval.

Maximum penalty for subsection (1)—165 penalty units.

- (2) A person must not, without reasonable excuse, have in their possession any—
 - (a) article resembling an approval and calculated to deceive; or
 - (b) document that was formerly an approval and is now void, cancelled, suspended or expired.

Maximum penalty for subsection (2)—165 penalty units.

- (3) A person must not—
 - (a) use an approval unless it is an approval duly issued to the person; or
 - (b) let another person use an approval that has been issued solely for the use of the first person.

Maximum penalty for subsection (3)—165 penalty units.

- (4) Unless authorised by this local law, a person must not make or cause, permit or allow to be made—
- (a) any endorsement other than the person's signature on an approval; or
 - (b) an addition or alteration to an approval; or
 - (c) any erasure from an approval.

Maximum penalty for subsection (4)—165 penalty units.

- (5) In relation to any act or attempted act referred to in subsections (1) to (4) that results in fraudulent use or unlawful possession of an approval, the local government may declare the—
- (a) approval null and void; and
 - (b) act or attempted act, null and void.

- (6) In this section—

forge has the meaning given by the *Criminal Code*.

Part 3 Authorised persons

22 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.

23 Threatening etc an authorised person⁶

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

Maximum penalty—50 penalty units.

Part 4 Regulation and compliance

24 Production of records

- (1) This section applies where an authorised person has entered a property under a Local Government Act to determine if a provision of the Local Government Act has been breached or the conditions of an approval have been complied with⁷.
- (2) An authorised person may require the occupier of the property to produce for inspection, records that are required by the Local Government Act or conditions of an approval.

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 the Act, section 132.

- (3) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

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

25 Analysis of samples

- (1) The local government may take a sample for analysis, where a local law provides the power to do so.
- (2) A person must not with intent to adversely affect the analysis of a thing, tamper with a—
- (a) thing, before an authorised person takes a sample of a thing, for analysis; or
 - (b) sample of a thing, after it is taken by an authorised person for analysis.

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

- (3) If a particular method of analysis has been specified under a local law, the local government must follow the method.
- (4) The local government must obtain from the analyst a certificate or report stating the results and interpretation of the analysis result.

26 Compliance notice for contravention of local law or approval condition

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

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

- If the contravention relates to a person's failure to take action that is required under a local law or a condition of an approval, then the matter can be remedied by the person taking that action.
- If the contravention relates to a person taking action that is prohibited under a local law or a condition of an approval, then the matter can be remedied by the person stopping that action.

- (2) The authorised person may give⁸ a written notice (a **compliance notice**) to the person (the **recipient**) requiring the person to remedy the contravention.⁹

⁸ See the *Acts Interpretation Act 1954*, sections 39 and 39A, regarding the service of documents on a person.

- (3) The compliance notice must state the following—
- (a) the particular provision of the local law or condition of an approval the authorised person believes is being, or has been, contravened; and
 - (b) briefly, how it is believed the provision of the local law or condition of an approval is being, or has been, contravened; and
 - (c) the time by which the recipient must remedy the contravention; and
 - (d) that it is an offence to fail to comply with the compliance notice; and
 - (e) the maximum penalty for failing to comply with the compliance notice.
- (4) The time under subsection (3)(c) must be reasonable having regard to—
- (a) the action required to remedy the contravention; and
 - (b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm posed by the contravention; and
 - (c) how long the recipient has been aware of the contravention.
- (5) The compliance notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention or avoid further contravention.
- Examples of reasonable steps to avoid further contravention—*
- The repetition of a specified action at stated intervals for a certain period.
 - Stopping taking an action that is prohibited by a local law or condition of an approval.
- (6) The compliance notice must include, or be accompanied by, an information notice.
- (7) The recipient must comply with the compliance notice¹⁰ unless a person has a reasonable excuse for not complying with the compliance notice
- Maximum penalty for subsection (7)—50 penalty units.
- (8) A compliance notice remains in effect for the period specified in the notice.

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 person¹¹; and

⁹ 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).

¹⁰ See also sections 17(e) and 18 regarding the local government's power to amend, suspend, restrict 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.

- (b) the authorised person gives¹² a compliance notice to the person (the **recipient**).¹³
- (2) The compliance notice must state the following—
- (a) the provision of the local law that authorises the authorised person to give a compliance notice; and
- (b) the specified action that the recipient must take to comply with the notice; and
- (c) the time by which the recipient must comply with the notice; and
- (d) that it is an offence to fail to comply with the notice; and
- (e) the maximum penalty for failing to comply with the notice.
- (3) The specified action in subsection (2)(b) must not be inconsistent with action required, by a remedial notice, to be taken under another Local Government Act.
- (4) The time under subsection (2)(c) must be reasonable having regard to the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm that may result from failure to comply with the notice.
- (5) The compliance notice must include, or be accompanied by, an information notice.
- (6) The recipient must comply with the compliance notice¹⁴ unless a person has a reasonable excuse for not complying with the compliance notice.
- Maximum penalty for subsection (6)—50 penalty units.
- (7) Where a compliance notice is issued under a local law, the compliance notice remains in effect for the period specified in the compliance notice.

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 local government controlled area or road in contravention of a local law.

¹¹ For example, see *Local Law No.4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011*, section 13(2) (Power to require owner of land adjoining road to fence land) and *Local Law No. 3 (Community Health and Environmental Management) 2011*, section 10(1) (Local pest control notices), section 13(2) (Overgrown allotments), section 14(2) (Accumulation of objects and materials on allotments), section 19(2) (Removal or reduction of community safety hazards).

¹² See also footnote 8.

¹³ See also footnote 9.

¹⁴ See also footnote 10.

- (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 community 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 37 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 a stop order to immediately stop a prescribed activity if the authorised person believes that continuation of the activity poses—
 - (a) an urgent and serious threat to public health or safety; or
 - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (2) An 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 a prescribed activity under section 19.
- (3) An authorised person must confirm an oral order in writing by the next business day following the giving of the stop order.
- (4) A person who receives a stop order under this section must comply with the stop order.
Maximum penalty for subsection (4)—50 penalty units.
- (5) This section does not affect the local government's powers under another law.

- (6) 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 5 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 Facilitation of proof

An allegation or statement of any matter of fact in any complaint or proceedings under a local law or Local Government Act shall be prima facie evidence of the matter of fact that is alleged or stated.

33 Responsibility for acts or omissions of representatives

- (1) If in a proceeding for an offence against a local law it is relevant to prove a person's state of mind about a particular act or omission, it is sufficient to show that the—
 - (a) act was carried out or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) representative had the state of mind.
- (2) An act carried out or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken in a proceeding for an offence against a local law to have been carried out or omitted to be done also by the person unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

34 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*.

35 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 6 Review of decisions

36 Reviewable decisions

A decision of the local government or of an authorised person made under a local law is reviewable (a ***reviewable decision***) unless it is a decision—

- (a) made by resolution of the local government; or
- (b) with which immediate compliance is required; or
- (c) to dispose of goods that have been lawfully impounded; or
- (d) made about an earlier application for review; or
- (e) to prosecute a person for an offence against a local law; or
- (f) to issue a penalty infringement notice for an offence against a local law.

37 Application for review

- (1) A person who is aggrieved by a reviewable decision may apply to the chief executive officer¹⁵ for a review of the decision under this part.
- (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 submitted in writing or electronically and be—
- (a) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and

¹⁵ See definition of ***chief executive officer*** in the Act, schedule 4.

- (b) supported by enough information to enable the local government to decide the application.

38 Review decision

- (1) The local government must review the original decision within 28 days after receiving a review application and make a decision (the *review decision*) to—
 - (a) confirm the original decision; or
 - (b) amend the original decision; or
 - (c) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision, unless the original decision was made by the chief executive officer.
- (3) The local government must, within 5 days of making the review decision, give the applicant notice of the decision (the *review notice*).
- (4) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.
- (5) If the local government does not give the review notice within the 5 days, the local government is taken to have made a review decision confirming the original decision.

39 Withdraw review

A person may withdraw a review application at any time prior to the review being finally decided.

40 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 or first becoming aware of 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 7 Miscellaneous

41 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.

42 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.

43 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.

44 Dealing with seized and impounded items

- (1) This section applies where—
 - (a) an authorised person has exercised a power under a local law to seize and impound a structure, thing or goods (an *impounded item*);¹⁶ or
 - (b) the local government has impounded an item that has been delivered into its custody pursuant to a local law (also an *impounded item*) and the local law states that this section is to apply.

¹⁶ See, for example, section 43 in relation to abandoned goods.

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- (2) However, this section does not apply to an impounded item that is an animal.¹⁷
 - (3) If the impounded item is perishable, it may be immediately disposed of as the chief executive officer directs and the proceeds applied in accordance with subsection (6).
 - (4) A person may reclaim the impounded item if—
 - (a) written application is made to the chief executive officer; and
 - (b) proof is produced to the satisfaction of the chief executive officer that the applicant is the owner of the item; and
 - (c) the applicant pays the prescribed fee for the impounding of the item.
 - (5) At the expiry of 1 month since the date of impounding, the impounded item is forfeited to the local government, which may dispose of the item—
 - (a) if it has no commercial value or has a value that would not cover the costs of 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.

¹⁷ See *Local Law No.2 (Animals) 2011*, part 6, in relation to the impounding of animals. See the *Animal Management (Cats and Dogs) Act 2008* in relation to the seizure of regulated dogs.

Part 8 Subordinate local laws

45 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;¹⁸ and
- (b) the categories of prescribed activities for the purposes of maximum penalties;¹⁹
- (c) the documents and materials that must accompany an application for an approval;²⁰ and
- (d) the circumstances in which the application requirements in section 8 are waived;²¹ and
- (e) additional criteria for the granting of approvals for prescribed activities;²² and
- (f) the conditions that must be imposed on an approval or that will ordinarily be imposed on an approval;²³ and
- (g) application requirements for which a third party certifier's certificate may be accepted by the local government;²⁴ and
- (h) the individuals or organisations that are declared as third party certifiers for particular application requirements;²⁵ and
- (i) the qualifications necessary for an individual or organisation to provide a third party certificate about particular application requirements;²⁶ and
- (j) the term for which an approval for a prescribed activity remains in force;²⁷ and
- (k) the further term for which an approval for a prescribed activity may be renewed or extended;²⁸ and
- (l) categories of approvals that are non-transferable;²⁹ and

¹⁸ See section 6(3).

¹⁹ See section 6(4).

²⁰ See section 8(2)(a).

²¹ See section 8(7)(c).

²² See section 9(1)(d).

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(2)(a).

- (m) animals excluded from the operation of a local law having regard to the species, breed, sex, age, use or class of animal;³⁰ and
- (n) complementary accommodation prescribed as appropriate for caravan parks;³¹ and
- (o) the declaration of a species of animal as a declared dangerous animal;³² and
- (p) the declaration of a mall, square, court or other public place as a footpath for the purposes of the definition of *footpath* in schedule 1;³³ and
- (q) the application of a local law to a State-controlled road;³⁴ and
- (r) the specification of other things included in the definition of *structure* in schedule 1;³⁵ and
- (s) public place activities prescribed as regulated activities on local government controlled areas and roads.³⁶

²⁹ See section 15(2).

³⁰ See schedule 1, definition of *animal*.

³¹ See schedule 1, definition of *complementary accommodation*, paragraph (b).

³² See schedule 1, definition of *declared dangerous animal*.

³³ See schedule 1, definition of *footpath*, paragraph (b).

³⁴ See schedule 1, definition of *road*, subparagraph (b)(i).

³⁵ See schedule 1, definition of *structure*, subparagraph (c).

³⁶ See schedule 2, part 2, definition of *regulated activities on local government controlled areas and roads*, paragraph (r).

Schedule 1 Dictionary

section 3

adult has the meaning given by the *Youth Justice Act 1992*.

allotment means for the purpose of *Local Law No. 3 (Community Health and Environmental Management) 2011* an individual parcel or piece of land.

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

animal means any live mammal (other than a human being), reptile, amphibian, insect, bird, poultry, an organism, including eggs and semen, and fish but does not include an animal excluded by a subordinate local law from the operation of a local law having regard to the species, breed, sex, age, use or class of the animal.

animal pound means for the purpose of *Local Law No. 2 (Animal Management) 2011* a place at which seized and impounded animals are held.

application, for part 2, means an application for an approval to undertake a prescribed activity.

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

aquatic equipment means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011*—

- (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.

AS means an Australian/New Zealand Standard issued or approved by the Council of Standards Australia and the Council of Standards New Zealand.

asset means for the purpose of *Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011*—

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

attack means for the purpose of *Local Law No. 2 (Animal Management) 2011* to rush at or approach a person or an animal in such a manner so as to be likely to cause fear or alarm in a public place, whether or not the attacking animal actually contacts, bites or worries the person or animal.

authorised person, except for the purposes of *Local Law No. 6 (Bathing Reserves) 2011*, see the Act, schedule 4³⁷.

bathing includes for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* all activities involving the immersion or partial immersion of the body in water.

bathing area see *Local Law No. 6 (Bathing Reserves) 2011*, section 6.

bathing reserve means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* 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.

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

camp has the meaning given by the *Recreation Areas Management Act 2006*.

caravan has the meaning given by the *Residential Tenancies and Rooming Accommodation Act 2008*.

cat means an animal of the species *felis silvestris catus* but does not include a Class 2 pest animal as provided by the *Land Protection (Pest and Stock Route Management) Regulation 2003*.

Class 2 pest animal has the meaning given by the *Land Protection (Pest and Stock Route Management) Regulation 2003*.

chief executive officer means the person appointed and employed by the local government as its chief executive officer.

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.

commercial vehicle identification label means for the purpose of *Local Law No. 5 (Parking) 2011*, a label of the type depicted in the Manual of Uniform Traffic Control Devices as a commercial vehicle identification label.

compliance notice means a compliance notice given under—

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

cost-recovery fee means for the purpose of *Local Law No.2 (Animal Management) 2011*, the fee fixed by the local government to cover the costs associated with impounding an animal.³⁸

dangerous item of aquatic equipment see *Local Law No. 6 (Bathing Reserves) 2011*, section 14.

dangerous object see *Local Law No. 6 (Bathing Reserves) 2011*, section 14.

³⁷ See also section 22.

³⁸ See the Act, section 97 for the power of a local government to fix a cost recovery fee.

declared dangerous animal means for the purpose of *Local Law No. 2 (Animal Management) 2011* an animal—

- (a) of a species declared by subordinate local law as a declared dangerous animal; or
- (b) declared under section 21 of *Local Law No. 2 (Animal Management) 2011* to be a declared dangerous animal.

declared local pest means for the purpose of *Local Law No. 3 (Community Health and Environmental Management) 2011* a plant or animal declared to be a pest under section 6 or 7 of that local law.

designated access means the gateway, opening, entrance or other means of ingress to or egress from the local government controlled area designated by the local government by a sign exhibited at the local government controlled area.

destroy, an animal, includes causing it to be destroyed.

destruction order see section 35 of *Local Law No. 2 (Animal Management) 2011*.

development approval has the meaning given by the *Sustainable Planning Act 2009*.

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

election means—

- (a) a government election; or
- (b) a referendum; or
- (c) an election of a person to a position in accordance with the provisions of an Act.

election period means—

- (a) for a local government election—the period of 28 days preceding the day of the election; or
- (b) for a State government election—the meaning given in the *Electoral Act 1992*, section 2; or
- (c) for a Commonwealth government election—the period beginning on the day after the writ for the election is issued and ending on the day of the election; or
- (d) for another election—
 - (i) the election period stipulated by the Act providing for the election; or
 - (ii) if no period is stipulated by the Act—the period of 28 days preceding the day of the election; or
- (e) for a referendum—the period beginning on the day after the writ for the referendum is issued and ending on the day of the referendum.

election sign means a device that is able, or is intended, to—

- (a) influence a person about voting at an election; or

- (b) affect the result of an election.

electorate means—

- (a) for a Commonwealth government election—an electoral division as provided for under the *Commonwealth Electoral Act 1918* (Cwlth); and
- (b) for a State government election—an electoral district as provided for under the *Electoral Act 1992*.

disability has the meaning given by the *Disability Services Act 2006*.

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

dog means an animal of the species *canis familiaris* but does not include a Class 2 pest animal as provided by the *Land Protection (Pest and Stock Route Management) Regulation 2003*.

dog off-leash area see section 12(1) of *Local Law No. 2 (Animal Management) 2011*.

drover's dog means for the purpose of *Local Law No. 2 (Animal Management) 2011* a dog—

- (a) kept by a person as a requirement of that person's employment; and
- (b) which is primarily used for the handling or management of cattle, sheep or goats as part of that person's employment.

effective management see section 6 of *Local Law No. 2 (Animal Management) 2011*.

electric fencing means for the purpose of *Local Law No. 3 (Community Health and Environmental Management) 2011* a fence as defined under AS 3014-1991.

enclosure means for the purpose of *Local Law No. 2 (Animal Management) 2011* an enclosure, building or structure within which an animal is enclosed to prevent it from escaping the keeper's premises.

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 has the meaning given by the *Environmental Protection Act 1994*.

extraordinary traffic means traffic that is—

- (a) reasonably likely to cause damage to the road beyond that caused by the ordinary traffic on the road; or
- (b) substantially different to the ordinary traffic on a road; or
- (c) reasonably likely to give rise to a risk of—
- (i) harm to human health or safety or personal injury; or
- (ii) property damage or damage to the road; or
- (iii) interference with a road.

facility means for the purpose of *Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011* any building, structure, car parking area, pedestrian access, vehicle access, fence, picnic shelter, toilet block, playground equipment, park bench, pond, waterfall, fountain, monument, amenities or grounds or any other fixture or fitting or improvement made to the property or facility.

farm work dog means for the purpose of *Local Law No. 2 (Animal Management) 2011* a dog that is primarily used to assist in the handling or management of cattle, sheep or goats.

footpath means—

- (a) a footpath as defined in the TORUM Act; and
- (b) a mall, square, court or other public place declared to be a footpath in a subordinate local law for this paragraph.

goods does not include animals.

government election is an election for a local, State or Commonwealth government.

grievous bodily harm has for the purpose of *Local Law No. 2 (Animal Management) 2011* the meaning given by the *Criminal Code*.

guard dog means for the purpose of *Local Law No. 2 (Animal Management) 2011* a dog which is kept on premises not primarily used for residential purposes for the purpose or apparent purpose of acting as a deterrent to intruders and includes a dog used in the security industry.

hazard means a situation in which there is a potential to cause loss whether it be of life, health, property or amenity.

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

impound means for the purpose of *Local Law No. 2 (Animal Management) 2011* to incarcerate, keep or hold any seized animal.

indication, on an official traffic sign, has the meaning given by the TORUM Act.

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

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) if the decision is a reviewable decision—
 - (i) 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
 - (ii) how to apply for a review.

infringement notice penalty means for the purpose of *Local Law No. 5 (Parking) 2011*, an infringement notice fine under the *State Penalties Enforcement Act 1999*.

interference includes for the purpose of *Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011* damage, destruction, tampering, removal, alteration, defacing, disturbance or change.

keeper, of an animal, means—

- (a) the registered owner of the animal; or

- (b) the person (other than an authorised person) who has the immediate custody and management of the animal; or
- (c) if the person who has the immediate custody and management of an animal is a minor—the minor’s parent or guardian; or
- (d) the occupier of the premises on which the animal is ordinarily kept; or
- (e) the owner of the premises on which the animal is ordinarily kept if there is no occupier of the premises.

knowledge includes actual or constructive knowledge.

land has the meaning given by the *Sustainable Planning Act 2009*.

life-saving club means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* a body—

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

life-saving equipment means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* equipment for use in sea rescue, life-saving, or the provision of first aid.

life-saving patrol means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* the members of a recognised life-saving club assigned by the club or SLSQ or RLSSQ to patrol a bathing reserve, or part of a bathing reserve, at a particular time.

local government means for the purpose of a local law or subordinate local law, the Sunshine Coast Regional Council.

Local Government Act see the Act, schedule 4.

local government election means an election of a member of the local government.

local government controlled area—

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

Examples of local government controlled areas—

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

- (b) A *local government controlled area* includes part of a local government controlled area.

local government logo means any logo, crest or badge of which the local government is the author or owner.

minor means a person under the age of 17 years.

minor traffic offence for the purpose of *Local Law No. 5 (Parking) 2011* has the meaning given by the TORUM Act.

movable advertising device means an advertising device that is easily relocated or moved by a person, but does not include an election sign.

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

noise sensitive place means any of the following—

- (a) a dwelling; or
- (b) a library, child care centre, kindergarten, school, college, university or other educational institution; or
- (c) a hospital, surgery or other medical institution; or
- (d) a protected area, or an area identified under a conservation plan as a critical habitat, or area of major interest under the *Nature Conservation Act 1992*; or
- (e) a marine park under the *Marine Parks Act 2004*; or
- (f) a park or garden that is open to the community (whether or not on payment of money) for use other than for sport or organised entertainment; or
- (g) a cemetery during a funeral.

notice of impounding see section 30(1) of *Local Law No. 2 (Animal Management) 2011*.

occupier means the person who has the control or management of the premises and includes a person in charge of the operation of the prescribed activity on premises.

official traffic sign for the purpose of *Local Law No. 5 (Parking) 2011* has the meaning given by the TORUM Act.

off-street regulated parking area for the purpose of *Local Law No. 5 (Parking) 2011* has the meaning given by the TORUM Act.

on-site sewerage facility has the meaning given by the *Plumbing and Drainage Act 2002*.

owner, of an animal, means for the purpose of *Local Law No. 2 (Animal Management) 2011*—

- (a) the animal's registered owner; or
- (b) a person who owns the animal, in the sense of it being the person's personal property; or
- (c) a person who usually keeps the animal, including through an agent, employee or anyone else; or
- (d) if a person mentioned in paragraphs (a) to (c) is a minor—a parent or guardian of the minor.

owner means in the case of—

- (a) premises—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; and
- (b) a vehicle—the person in whose name the vehicle is registered within a State or Territory; and
- (c) property other than premises or a registered vehicle—the person who has a legal or beneficial interest in the property.

parking permit for people with disabilities for the purpose of *Local Law No. 5 (Parking) 2011* has the meaning given by the TORUM Act.

patrol flag means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* a beach safety flag of the design and colour prescribed by Australian Standard No. 2416.

person has the meaning given by the *Acts Interpretation Act 1954*.

planning scheme has the meaning given by the *Sustainable Planning Act 2009*.

planning scheme policy has the meaning given by the *Sustainable Planning Act 2009*.

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

potable water means water that is acceptable for human consumption.

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

prescribed activity see section 5.

prescribed fee means a cost-recovery fee fixed by the local government, by local law or by resolution, under the Act.³⁹

private place means premises which is not a public place.

property has the meaning given by the *Acts Interpretation Act 1954*.

protected area see *Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011*, section 11.

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

public office see the Act, section 261.

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

reasonable written notice means for the purpose of *Local Law No. 4 (Community Health and Environmental Management) 2011*, 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

³⁹ See the Act, section 97.

- (b) the reason for entering the property; and
- (c) the days and times when the property is to be entered.

recognised life-saving club means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* 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.

register of impounded animals means for the purpose of *Local Law No. 2 (Animal Management) 2011* the register the local government is required to keep pursuant to section 25 of that local law.

registered owner, of an animal, means for the purpose of *Local Law No. 2 (Animal Management) 2011* a person recorded as being the owner of the animal in a registry kept by a local government.

register of approvals means the register which the local government is required to maintain pursuant to section 20.

representative means in the case of—

- (a) a corporation—an executive officer, employee or agent of the corporation; or
- (b) an individual—an employee or agent of the individual; or
- (c) an individual with a disability—a person lawfully representing the individual.

reserve means—

- (a) a bathing reserve; or
- (b) a stock reserve; or
- (c) foreshore; or
- (d) another premises which is placed under the control of the local government pursuant to legislation; or
- (e) a place defined as a reserve under the local government's planning scheme; or
- (f) a road.

reserve sign see *Local Law No. 6 (Bathing Reserves) 2011*, section 5(1).

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

residential caretaker means a person living in temporary accommodation while caretaking, supervising or participating in the construction of that person's permanent dwelling.

responsible person, for an animal, means for the purpose of *Local Law No.2 (Animal Management) 2011*—

- (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
- (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.

responsible person means for the purpose of *Local Law No. 3 (Community Health and Environmental Management) 2011* 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 that local law.

restricted dog has the meaning given by the *Animal Management (Cats and Dogs) Act 2008*.

review decision see section 38(1).

reviewable decision see section 36.

RLSSQ means for the purposes of *Local Law No.6 (Bathing Reserves) 2011*, the Royal Life Saving Society of Queensland Inc.

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 a stated local law applies unless otherwise provided; and
 - (ii) in respect of which the chief executive has given written agreement under the TORUM Act, section 66(5)(b).

sanitary, for a facility, includes the matters (such as shower, toilet and ablution facilities) specified in the *Building Code of Australia*.

sell means sell by retail, wholesale or auction, and includes—

- (a) offer or agree to sell; and
- (b) invite to treat or expose for sale; and
- (c) cause or permit to be sold; and
- (d) supply under a lease, exchange, hiring or other commercial arrangement.

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.

shop has the meaning given by the local government's planning scheme.

shopping centre means for the purpose of *Local Law No.3 (Community Health and Environmental Management) 2011* any building or structure or group of buildings or structures containing 2 or more shops.

shopping centre precinct means for the purpose of *Local Law No.3 (Community Health and Environmental Management) 2011* the area, immediately adjacent to a shopping centre, that is provided and maintained for the use of customers of the centre.

show cause notice see section 18(2).

site caretaker means a person living in temporary accommodation while caretaking existing facilities or structures or the construction of new facilities or structures, with the aim of reducing theft, vandalism or damage to those facilities.

SLSQ means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* Surf Life Saving Queensland Inc.

state of mind of a person includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

structure means—

- (a) a structure as defined in the Act; and
- (b) a pipe, scaffolding, door, gate, grid, fence, wall, light, lamp, sign, down pipe, facility, line, cord, pole, stage or equipment; and
- (c) another thing specified in a subordinate local law for this definition.

structure associated with a local government road includes for the purpose of *Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011* the pavement, road surface, kerb and channelling, table drains, culverts, drainage pipes, drainage structures, bridges, footpaths, verges and official traffic signs.

surveillance means the visual supervision of an area.

the Act means the *Local Government Act 2009*.

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

traffic includes the use by any person of any road or off-street regulated parking area, or the presence therein or thereon of any person, vehicle, tram, train, animal or other moveable article or thing whatsoever.

traffic area for the purpose of *Local Law No. 5 (Parking) 2011* has the meaning given by the TORUM Act.

vegetation means for the purpose of *Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011* any tree, bush, shrub, grass, fungi,

algae or other thing terrestrial or aquatic including all natural parts of it or things naturally produced of, by or from it.

vehicle has the meaning given by the TORUM Act.

waste has the meaning given by the *Environmental Protection Act 1994*.

waste container means a weatherproof container for the storage of waste that—

- (a) is designated pest proof; and
- (b) can be readily cleaned; and
- (c) is constructed of durable material; and
- (d) is non-reactive with the intended contents; and
- (e) is leak proof; and
- (f) minimises the loss of material into the environment.

waste water means a liquid waste.

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

white water area means for the purpose of *Local Law No. 6 (Bathing Reserves) 2011* a bathing reserve, or part of a bathing reserve, that is directly exposed to the open sea.

worry means for the purpose of *Local Law No. 2 (Animal Management) 2011*, the act of an animal holding in a public place any part of a person or animal in its mouth whether or not—

- (a) the holding is accompanied by shaking, pulling or pushing; or
- (b) the person or animal suffers any injury or damage.

Schedule 2 Prescribed activities

section 5

Part 1 Prescribed activities

alteration or improvement to local government controlled areas and roads
 building removal
 commercial use of local government controlled areas and roads
 display of election signs
 establishment or occupation of a temporary home
 keeping of animals
 operation of accommodation parks
 operation of temporary entertainment events
 placement of movable advertising devices
 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*⁴⁰
 means—

- 1 *Alteration or improvement to local government controlled areas and roads*
 means—
 - (a) installing, changing, damaging or removing a structure in a local government controlled area or on a road; or
 - (b) planting, clearing or damaging of vegetation in a local government controlled area or on a road.
- 2 *Alteration or improvement to local government controlled areas and roads*
 does not include an alteration or improvement—
 - (a) that constitutes development under the *Sustainable Planning Act 2009*; or
 - (b) for which a tree clearing permit is required under the *Vegetation Management Act 1999*; or
 - (c) that involves a network connection; or

⁴⁰ 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.

- (d) for which written approval of the local government is required under section 75 of the Act.

building removal means the transportation in, on, across or over a road of—

- (a) a building; or
 (b) a structure as defined under the *Building Act 1975*.

commercial use of local government controlled areas 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 Sustainable Planning Act 2009;
 (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.

Examples of commercial use of local government controlled areas and roads—

- a restaurant offering footpath dining;
- offering goods or food for sale on a roadside;
- touting for business in a public park;
- providing amusement rides in a public park.

display of election signs means the display of one or more election signs visible from a road or other public place.

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 *Sustainable Planning Act 2009*; or
 (b) the establishment or the occupation of a temporary home on or in a camping ground or caravan park.

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

operation of accommodation parks means to operate, or permit access to or use of, on a commercial basis, 1 or more of the following—

- (a) a place for parking and residing in caravans, including a place that provides also for complementary accommodation;

- (b) a relocatable home park;
- (c) a camping ground.

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 *Sustainable Planning Act 2009*.

placement of movable advertising devices means the placement of a movable advertising device in a place that is visible from a road or other public place.

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 areas and roads means undertaking one of the following activities on a local government controlled area or road—

- (a) abseiling;
- (b) camping;
- (c) depositing goods or materials;
- (d) occupying a local government controlled area or road for the purposes of construction work on private property;
- (e) driving or leading of animals to cross a road;
- (f) driving extraordinary traffic;
- (g) entering or leaving a local government controlled area other than through a designated access;
- (h) conducting a wedding service;
- (i) holding a public meeting;
- (j) holding a social gathering of more than fifty people, excluding a wedding service or a temporary entertainment event;
- (k) landing an aircraft or vessel within a park reserve;
- (l) launching a hang glider;
- (m) obstructing access to any footpath thoroughfare, track, walkway or other means of access into a local government controlled area;
- (n) operating a loudspeaker or other sound amplifying device, other than as part of a temporary entertainment event;
- (o) operating model aircraft propelled by a motor;
- (p) providing public entertainment, excluding a temporary entertainment event;
- (q) riding a horse in a local government controlled area;

-
- (r) undertaking a public place activity prescribed under a subordinate local law for this paragraph, excluding the operation of a temporary entertainment event.

Example for paragraph (r)—

A subordinate local law could prescribe that a display or information booth in a public park or on a footpath is a regulated activity.

Endnotes

1 Date to which amendments incorporated

This consolidated version includes all amendments that commenced operation on or before **XX XXXXX 2013**.

2 Table of consolidated versions

| Consolidated Version No. | Amendments included | Effective | Notes |
|--------------------------|---|--------------|-------|
| 1 | Amendment Local Law No.1 (Miscellaneous) 2013 | 26 July 2013 | |

3 List of amending local laws

Amendment Local Law No.1 (Miscellaneous) 2013

date of Council resolution 25 July 2013

date of gazettal 26 July 2013

commenced on date of gazettal

4 List of annotations

SCHEDULE 1—DICTIONARY

definition *election* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s4(1)

definition *election period* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s4(1)

definition *election sign* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s4(1)

definition *electorate* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s4(1)

definition *local government election* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s4(1)

definition *movable advertising device* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s4(1)

definition *government election* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s4(1)

definition *information notice* amended by Amendment Local Law No.1 (Miscellaneous) 2013 s4(2)

SCHEDULE 2—PRESCRIBED ACTIVITIES**Part 1—Prescribed activities**

‘installation of advertising devices’ omitted by Amendment Local Law No.1 (Miscellaneous) 2013 s5(1)

‘display of election signs’ inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s5(2)

‘placement of movable advertising devices’ inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s5(2)

Part 2—Definitions of prescribed activities

definition *installation of advertising devices* omitted by Amendment Local Law No.1 (Miscellaneous) 2013 s5(3)

definition *display of election signs* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s5(4)

definition *placement of movable advertising devices* inserted by Amendment Local Law No.1 (Miscellaneous) 2013 s5(4)