



**Alteration of Public Land
Local Law 2023**

Proposed

Moreton Bay City Council

Alteration of Public Land Local Law 2023

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Proposed

Moreton Bay City Council

Alteration of Public Land Local Law 2023

Part 1 Preliminary

Division 1 Introductory provisions

1 Short title

This Local Law may be cited as the *Alteration of Public Land Local Law 2023*.

Division 2 Object and achievement of Local Law

2 Object

The object of this Local Law is to ensure that any alteration of public land is undertaken in a way that does not unreasonably impact—

- (a) the fitness for use of public land; and
- (b) the amenity of public land; and
- (c) the environment; and
- (d) public health and safety; and
- (e) properties near public land; and
- (f) ~~infrastructure~~ infrastructure or property of the local government or the State government.

3 How object of Local Law is to be achieved

The object of this Local Law is to be achieved by—

- (a) establishing the concept of undertaking an alteration of public land; and
- (b) prohibiting the alteration of public land, except in certain circumstances; and
- (c) providing mechanisms for enforcement where there is non-compliance with conditions of an approval or provisions of this Local Law; and
- (d) providing a framework to assess and approve—
 - (i) the alteration of public land; and
 - (ii) other activities where a Local Government Act authorises the local government to grant an approval, but does not make any provision, except a provision that is consistent with part 3, about the process for the local government to grant the approval.

Division 3 Interpretation

Subdivision 1 Dictionary

4 Definitions

The dictionary in Schedule 1 defines particular words used in this Local Law.

Subdivision 2 Key concepts

5 Alteration

alteration includes—

- (a) planting, depositing, clearing, damaging, removing or interfering with flora, fauna, flora material, fauna material, soil, sand, rock, water or other material; and
- (b) ~~erecting, installing, damaging, removing, moving or interfering with, or interfering with the operation of, any public transport infrastructure or other infrastructure, any property, any building or structure, any sign or any equipment; and erecting, installing, damaging, removing, moving or interfering with any public transport infrastructure, building, structure, sign or equipment; and~~
- (c) depositing, stacking, storing or exposing goods or material; and
- (d) lighting a fire; and
- (e) interfering with the ordinary use or enjoyment of land.

6 Public land

public land means—

- (a) the whole or part of any land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government; and
- (b) a road.

Examples of public land—

- *Parks, reserves and gazetted foreshores.*
- *Jetties.*
- *Canals.*

Division 4 Operation of Local Law

7 Relationship with other Acts

This Local Law is in addition to and does not derogate from—

- (a) any other laws that may regulate—
 - (i) the use or development of land; or
 - (ii) the alteration of public land; or

- (b) any provision of the *Local Government Act 2009*.

Part 2 Offences and enforcement

Division 1 What this part is about

8 Overview

This part outlines—

- (a) offences relating to this Local Law; and
- (b) the enforcement mechanisms that can be utilised by the local government; and
- (c) offence proceedings in the Magistrates Court; and
- (d) defences for offences against this Local Law.

Division 2 Offences

Subdivision 1 Offence in relation to the undertaking of an alteration to public land

9 Offence to undertake an alteration of public land

- (1) Subject to subsection (2) and subsection (3), a person must not undertake an alteration of public land, unless—
 - (a) the alteration arises from cutting or maintaining grass on a road; or
 - (b) the alteration is necessary to lessen or prevent an urgent and serious threat to personal or public health and safety; or
 - (c) the alteration is necessary to lessen or prevent an urgent and serious risk of environmental harm or property damage; or
 - (d) the person is authorised or required under an Act to undertake the alteration and does so in accordance with any conditions of that authorisation or requirement; or
 - (e) the person is an employee, agent, contractor or volunteer of the local government and undertakes the alteration in the course of their duties for the local government; or
 - (f) the alteration is allowed under a contract with the local government; or
 - (g) the person has an approval to undertake the alteration; or
 - (h) the alteration is an accepted alteration.

Maximum penalty— 50 penalty units.

- (2) It is not an offence under this Local Law for a person to undertake an alteration of public land that is made unlawful by operation of a Local Government Act.

- (3) An alteration of the type contemplated under subsection (2) is regulated by the Local Government Act that makes the alteration of public land unlawful.

Example—

An alteration of the type contemplated under section 75 of the Local Government Act 2009 is regulated by the Local Government Act 2009.

Subdivision 2 Other offences

10 Providing false or misleading information

A person must not give information in connection with this Local Law (either orally or in a document) that the person reasonably knows or ought to have known is false or misleading.

Maximum penalty— 20 penalty units.

11 Threatening an authorised person

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

Maximum penalty— 50 penalty units.

12 Failure to comply with conditions of approval

- (1) A person must not contravene an approval.

Maximum penalty— 50 penalty units.

- (2) Subsection (1) does not apply to the contravention of the conditions of a general approval if the Local Government Act that provides for the local government to grant an approval stipulates a penalty for contravening a condition of the approval.

Example—

Section 75(5) of the Local Government Act 2009 stipulates a penalty for contravening a condition of an approval that the local government is authorised to grant.

13 Attempts to commit offences

- (1) A person who attempts to commit an offence under this Local Law commits an offence.

Maximum penalty— half the maximum penalty for committing the offence.

- (2) The provisions of the *Criminal Code* (relevant to attempts to commit offences) apply to the attempt.

14 Joint and several liability

- (1) Where this Local Law imposes a liability on an owner or occupier of a place, or a person engaged in a particular activity, and 2 or more persons are the owners or occupiers of the relevant place, 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*.

15 Liability of third parties

- (1) Any person involved in a contravention of this Local Law commits an offence.

Maximum penalty— the penalty for which any person who committed the contravention would be liable.

- (2) For subsection (1), a person involved in a contravention of this Local Law is any person who—
- (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced, whether by a threat or a promise or otherwise, the contravention; or
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) has conspired with another person to effect the contravention; or
 - (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

16 Liability for encroaching alterations

Where an alteration is undertaken in contravention of section 9 and that alteration is an encroaching alteration, the following persons are liable for that contravention—

- (a) the person who undertook the alteration; and
- (b) any owner of land that is not public land over which the encroaching alteration, when viewed as a whole, is present; and
- (c) any occupier of land, other than the local government, over which the encroaching alteration, when viewed as a whole, is present.

Division 3 Powers of the local government

17 Appointment of authorised persons

The document that appoints an authorised person must state this Local Law, or the provisions of this Local Law, as the Local Law or the provisions for which the person is appointed as an authorised person.

18 Directions generally

- (1) An authorised person may direct a person contravening this Local Law to—
- (a) cease any conduct or activity which contravenes this Local Law; and
 - (b) take such action determined by the authorised person to ensure that the person does not contravene this Local Law.
- (2) A person must comply with a direction of an authorised person given under subsection (1).

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

19 Compliance notice for contravention of Local Law

- (1) This section applies if a person contravenes this Local Law.
- (2) An authorised person may give a notice, in writing (***compliance notice***), to—
 - (a) a person who contravenes this Local Law; or
 - (b) any person involved in the contravention of this Local Law under section 15.
- (3) The compliance notice may require a person to—
 - (a) stop a contravention, if the contravention is of a continuing or recurring nature; or
 - (b) take reasonable steps necessary to stop or remedy the contravention, by the date and time specified in the compliance notice, whether or not the contravention is of a continuing or recurring nature.
- (4) The compliance notice must state the following—
 - (a) the particular provision of this Local Law the authorised person believes is being, or has been, contravened; and
 - (b) briefly, how the provision of this Local Law is being, or has been, contravened; and
 - (c) the date and time by which the person must stop or remedy the contravention; and
 - (d) the reasonable steps necessary to remedy the contravention or avoid further contravention; and
 - (e) that it is an offence to fail to comply with the compliance notice; and
 - (f) the maximum penalty for failing to comply with the compliance notice.

Examples of reasonable steps to avoid further contravention in paragraph (d)—

- *The repetition of a specified action at stated intervals for a certain period.*
- *Stopping taking an action that is prohibited by this Local Law.*
- *Safely removing an alteration from public land after having all required permits and approvals to do so.*
- *Providing the local government with a report or plan, prepared by a suitably qualified expert, which, to the satisfaction of the local government, sets out how a contravention may be properly remedied.*

- (5) The date and time under subsection (4)(c) must be reasonable having regard to—
 - (a) the action required to stop or remedy the contravention; and
 - (b) the risk to public health and safety, the risk of impacts on fitness for use of public land, 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 person has been aware of the contravention.
- (6) The compliance notice must include, or be accompanied by, a decision notice.
- (7) A person who is given a compliance notice must comply with the compliance notice.

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

20 Stop notice

- (1) This section applies where an authorised person reasonably believes that an alteration of public land causes, exacerbates or impedes the local government's ability to respond to—
 - (a) an urgent and serious risk to public health or safety; or
 - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity; or
 - (c) a serious obstruction to urgent works on public land; or
 - (d) a serious obstruction of access to a road or public transport; or
 - (e) a serious or urgent threat to the safety of vehicle or pedestrian traffic; or
 - (f) an urgent and serious threat to animal welfare; or
 - (g) a serious obstruction to the use of the public land for its intended purpose.
- (2) An authorised person may give a person, other than a distributor-retailer, a notice to immediately stop the alteration (*a stop notice*).
- (3) A stop notice—
 - (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 5 business days, specified by the authorised person when the notice is given; or
 - (ii) where there is an approval— the local government immediately suspends the approval under section 43.
- (4) An authorised person must confirm a stop notice given orally by giving written notice of the stop notice to the person to take action under the stop notice, by the next business day following the giving of the stop notice orally.
- (5) A person who receives a stop notice must comply with the stop notice.

Maximum penalty for subsection (5)— 50 penalty units.

- (6) This section does not affect the local government's powers under another law.

21 Remediation notice for certain alterations

- (1) Where an authorised person reasonably believes a person, other than a distributor-retailer, has undertaken an alteration of public land, the authorised person may give the person a notice to remediate the alteration or a part of the alteration.
- (2) Where an authorised person reasonably believes a person, other than a distributor-retailer, has undertaken an alteration of public land that has caused public land to become unsafe, the authorised person may give the person a notice to make safe the alteration or a part of the alteration.
- (3) A notice under subsection (1) or subsection (2) is a *remediation notice*.

- (4) A remediation notice must—
 - (a) be given in writing; and
 - (b) specify, with sufficient detail, the way in which the alteration or part of the alteration the subject of the notice must be remediated; and
 - (c) specify a reasonable amount of time for the alteration or part of the alteration the subject of the notice to be remediated; and
 - (d) include, or be accompanied by, a decision notice.
- (5) A person who receives a remediation notice must comply with the remediation notice.

Maximum penalty for subsection (5)— 50 penalty units.

22 Local government power to take action required under a notice to act

- (1) This section applies if—
 - (a) a person (the **responsible person**) is given either a compliance notice, a stop notice or a remediation notice (a **notice to act**); and
 - (b) the responsible person failed to take an action required under the notice to act within the time specified in that notice.
- (2) The local government may take the action required to have been taken by the responsible person who failed to take action under the notice to act.
- (3) The local government may recover the amount that the local government properly and reasonably incurs in taking the action as a debt payable by the responsible person.
- (4) The local government must give the responsible person who failed to take action a notice of the amount of the debt.

23 Local government power to seize and cost recover

- (1) An authorised person may seize, by dismantling if necessary, and impound an item where the item has been brought onto or installed in, on, across, under or over public land in a manner that contravenes this Local Law, if—
 - (a) in the reasonable opinion of the authorised person, the immediate removal of the item is necessary in the interests of public health or safety or to prevent environmental harm, property damage or loss of amenity; or
 - (b) a person has not complied with a compliance notice requiring the person to remove the item.
- (2) The local government may recover the cost of action taken under this section as a debt from the person responsible for the item seized under subsection (1) being brought onto or installed in, on, across, under or over public land.

24 Dealing with impounded items

- (1) This section applies where an item has been seized and impounded under section 23 (an **impounded item**).

- (2) If an impounded item is, in the reasonable opinion of an authorised person, perishable or of negligible commercial value, then the local government may immediately dispose of it as the chief executive officer directs.
- (3) If the local government possesses an impounded item, then a person may reclaim that impounded item from the local government by—
 - (a) making a written application to the chief executive officer to reclaim the impounded item; and
 - (b) producing proof, to the satisfaction of the chief executive officer, that the person is the owner of the impounded item; and
 - (c) paying the prescribed fee for the impounding of the impounded item.
- (4) If an impounded item is not reclaimed under subsection (3) within 20 business days of the item being seized and impounded under section 23, that item is forfeited to the local government.
- (5) If an impounded item has been forfeited to the local government under subsection (4), then the local government may dispose of that impounded item—
 - (a) if, in the reasonable opinion of the authorised person, the commercial value of the impounded item is so slight that it would not cover the reasonable cost of seizing, impounding and selling the impounded item— as the chief executive officer directs; or
 - (b) by sale through a public auction; or
 - (c) if the impounded item has been offered for sale under paragraph (b) but has not been sold within a period that, in the reasonable opinion of the authorised person, is reasonable for the sale of that type of item— as the chief executive officer directs.
- (6) Where an impounded item has been sold under this section, the proceeds of the sale must be applied in order—
 - (a) firstly, towards the direct and indirect costs of the sale; and
 - (b) secondly, towards the local government in an amount equivalent to the prescribed fee for the impounding of the impounded item as if it was to be reclaimed under subsection (3); and
 - (c) thirdly, if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cth)— in payment of the amount owing under the security interest; and
 - (d) fourthly, to the former owner of the impounded item.
- (7) If no person establishes a valid claim for the amount to which the former owner of an impounded item that has been sold under this section is entitled to under subsection (6)(d) within 3 months of the date of that entitlement arising, the amount becomes the property of the local government.
- (8) Except where expressly stated, the local government incurs no liability to a person, and no person has any claim for relief or compensation against the local government, in respect of any action taken by the local government under this

section or section 23, if the local government has acted in good faith and without negligence.

Division 4 Offence proceedings in Magistrates Court

25 Enforcement orders

- (1) After hearing proceedings for an offence against this Local Law, a Magistrates Court may make an order (an ***enforcement order***) for the defendant to take stated action within a stated period.
- (2) The enforcement order may be in terms the Court considers appropriate to secure compliance with this Local Law.
- (3) An enforcement order must state the period within which the defendant must comply with the order.
- (4) An enforcement order may be made under this section in addition to the imposition of a penalty.

Division 5 Defences

26 Defence of reasonable excuse

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

27 General defence to owners or occupiers of land

It is a defence to an offence against this Local Law that involves an encroaching alteration for the owner or occupier of land over which the alteration, when viewed as a whole, is present to prove that—

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

Part 3 Alteration of public land approvals and general approvals

Division 1 What this part is about

28 Overview

This part details the process for obtaining an approval to—

- (a) do something which the local government is authorised to grant an approval for under an Act but where no provision in that Act, except for a provision that is consistent with section 29, is made about the process for a local government to grant the approval; and

- (b) undertake an alteration of public land under this Local Law.

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Division 2 General approvals

29 General approvals

- (1) This section applies if, under a Local Government Act, the local government is authorised to grant an approval but where no provision in that Act, except for a provision that is consistent with this section, is made about the process for a local government to grant the approval (a ***general approval***).
- (2) Subject to any other Act, the process in part 3, division 3 is the process for the local government to grant a general approval.

Division 3 Approvals

Subdivision 1 Application process

30 Making an application

- (1) An application for a general approval or an approval to undertake an alteration of public land (an ***application***) must be—
 - (a) made in the form prescribed by the local government; and
 - (b) accompanied by—
 - (i) the documents required by the prescribed form; and
 - (ii) the prescribed fee for the application.
- (2) The local government—
 - (a) must accept an application that the local government is satisfied complies with subsection (1); and
 - (b) may accept an application that the local government is satisfied does not comply with subsection (1).
- (3) An application that complies with subsection (1), or that the local government accepts under subsection (2)(b), is a properly made application (***properly made application***).
- (4) The local government may prescribe forms for this Local Law.

Subdivision 2 Timeframes for deciding applications

31 Timeframe for deciding applications when no further information is needed

- (1) This section applies if the local government—
 - (a) receives a properly made application; and
 - (b) does not require any further information in relation to the application.
- (2) The local government must decide the application within 21 business days of receiving it, or a further period agreed with the applicant.

32 Timeframe for deciding applications when further information is needed

- (1) This section applies if the local government—
 - (a) receives a properly made application; and
 - (b) requires further information in relation to the application.
- (2) The local government may make an information request to the applicant within 21 business days of receiving an application, or a further period agreed with the applicant.
- (3) An applicant must respond to an information request within 10 business days of receiving it, or a further period agreed with the local government (***information request response period***).
- (4) The local government must decide the application within 10 business days of the earlier of—
 - (a) an information request response being received; or
 - (b) the information request response period ending.
- (5) In this section—

information request means a notice to the applicant, requiring them to provide further information or documents in relation to the properly made application.

information request response means a response to an information request.

33 Timeframe for dealing with applications that are not properly made

If the local government receives an application which is not a properly made application, the local government must—

- (a) provide the applicant with written notice to that effect within 21 business days of receiving the application, or a further period agreed with the applicant; and
- (b) take no further action in relation to the application.

Subdivision 3 Deciding an application

34 Deciding an application

- (1) The local government must, after carrying out an assessment of a properly made application, decide to—
 - (a) approve the application; or
 - (b) approve the application, but impose conditions on the approval; or
 - (c) refuse the application.
- (2) Subject to subsection (3), the local government may refuse an application under subsection (1)(c) if it considers that approving the application would be inconsistent with the object of this Local Law.
- (3) If the application is for a general approval, the local government may refuse the application under subsection (1)(c) if it considers that approving the application—

- (a) would be inconsistent with any requirements or criteria specified in the relevant Local Government Act in relation to the general approval; or
 - (b) would unreasonably impact—
 - (i) the fitness for use of public land; or
 - (ii) the amenity of public land; or
 - (iii) the environment; or
 - (iv) public health and safety; or
 - (v) properties near public land; or
 - (vi) infrastructure of the local government or the State government.
- (4) For a decision made under subsection (1), the local government must give a decision notice to the applicant.

35 Effect of failure to decide application on time

The local government is taken to have refused an application if the local government fails to decide a properly made application in accordance with—

- (a) section 31(2); or
- (b) section 32(4).

36 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.

- (2) In this section—

application requirement means a matter that the local government must be satisfied about, or have regard to, before granting an application for approval under this Local Law.

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.

37 Permitted conditions

- (1) Subject to subsection (2), any condition imposed on an approval must relate to the object of this Local Law.
- (2) If an approval is a general approval, any condition imposed on the approval must—
- (a) be consistent with the requirements or criteria specified in the relevant Local Government Act in relation to the approval; and

- (b) be reasonably necessary to ensure that the activity to which the approval relates is undertaken in a way that will not unreasonably impact—
 - (i) the fitness for use of public land; and
 - (ii) the amenity of public land; and
 - (iii) the environment; and
 - (iv) public health and safety; and
 - (v) properties near public land; and
 - (vi) infrastructure of the local government or the State government.

38 Term of approval

An approval is valid for the term specified in the approval.

Subdivision 4 Administering approvals

39 Key definition for this subdivision

In this subdivision—

show cause notice means a written 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 the stated reasonable time as to why the proposed action should not be taken.

40 Renewal and transfer of approval

- (1) Subject to subsections (4) and (5), an approval holder may, before the end of the term of the approval granted under section 34 (the ***existing approval***), apply to the local government to transfer the approval (***transfer application***) or renew the approval (***renewal application***).
- (2) An application under this section must be—
 - (a) made in the form prescribed by the local government; and
 - (b) accompanied by—
 - (i) the documents required by the prescribed form; and
 - (ii) the prescribed fee for the application.
- (3) For a transfer application, the approval holder must apply together with the person to whom the approval is proposed to be transferred (***proposed transferee***).

- (4) An approval holder may not apply to renew an existing approval where the local government has given the approval holder written notice that the existing approval is not renewable.
- (5) An approval holder may not apply to transfer an existing approval where the local government has given the approval holder written notice that the existing approval is not transferable.
- (6) For a renewal application, the local government may determine the term of the renewal.
- (7) Subdivision 2 applies to a renewal application or a transfer application as if it were a properly made application.
- (8) The local government must, after carrying out an assessment of a renewal application or transfer application, decide to—
 - (a) grant the application; or
 - (b) grant the application and amend the conditions of the existing approval; or
 - (c) refuse the application.
- (9) In deciding a renewal application or a transfer application under subsection (8), the local government may have regard to—
 - (a) if the application relates to an approval to undertake an alteration of public land— the object of this Local Law; and
 - (b) if the application relates to a general approval— those matters mentioned in section 37(2); and
 - (c) if the application is a renewal application— whether the conditions of the existing approval have been complied with by the applicant.
- (10) For a decision made under subsection (8), the local government must give a decision notice to—
 - (a) for a renewal application— the applicant; or
 - (b) for a transfer application— the applicant and proposed transferee.
- (11) The local government may amend the conditions of the existing approval under subsection (8)(b) without following the procedure in section 42.
- (12) If an approval holder makes a renewal application, the existing approval remains in force until—
 - (a) if the renewal application is granted, with or without amendment of the conditions— the date the renewal application is granted; or
 - (b) if the renewal application is refused —
 - (i) 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
 - (ii) and the applicant has not applied for a review of the decision under part 4— 15 business days after the applicant is given a decision notice under subsection (10).

41 Approval holder may apply to amend conditions

- (1) An approval holder may apply to the local government to amend the conditions of the approval (***amendment application***).
- (2) An amendment application must be—
 - (a) made in the form prescribed by the local government; and
 - (b) accompanied by—
 - (i) the documents required by the prescribed form; and
 - (ii) a statement of the proposed amendment and reasons for it; and
 - (iii) the prescribed fee.
- (3) Sections 31 and 32 apply to an amendment application as if it were a properly made application.
- (4) The local government must, after carrying out an assessment of an amendment application, decide to—
 - (a) grant the application; or
 - (b) refuse the application.
- (5) In deciding an amendment application under subsection (4), the local government may have regard to—
 - (a) if the application relates to an approval to undertake an alteration of public land— the object of this Local Law; and
 - (b) if the application relates to a general approval— those matters mentioned in section 37(2); and
 - (c) whether the conditions of the existing approval have been or are being complied with by the applicant.
- (6) For a decision made under subsection (4), the local government must give a decision notice to the applicant.
- (7) The local government may amend the conditions of the approval under this section without following the procedure in section 42.

42 Local Government may amend, suspend or cancel approval

- (1) This section applies if the local government is satisfied that one of the following grounds for amending, suspending or cancelling an approval exists—
 - (a) amendment, suspension or cancellation is necessary—
 - (i) for the protection of public health or safety; or
 - (ii) to prevent environmental harm; or
 - (iii) to prevent property damage or loss of amenity; or
 - (iv) to allow for works on public land; or
 - (v) to improve access to a road; or
 - (vi) to improve the efficiency of vehicle or pedestrian traffic; or
 - (vii) for the protection of animals; or

- (b) another approval required under an Act has been suspended or cancelled; or
 - (c) the approval holder has failed to comply with an Act; or
 - (d) the approval holder has failed to comply with a condition of the approval; or
 - (e) the approval holder has failed to comply with—
 - (i) a direction under section 18; or
 - (ii) a notice to act; or
 - (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.
- (2) Before taking action to amend, suspend or cancel an approval (***proposed action***), the local government must give the approval holder a show cause notice.
- (3) If a show cause notice is issued, the approval holder may, within a stated reasonable time of at least 15 business days after the notice is given (***stated reasonable time***), make written submissions to the local government as to why the proposed action should not be taken.
- (4) Notwithstanding subsection (3), where the approval holder consents or agrees to the proposed action, they may waive their right to provide written submissions within the stated reasonable time.
- (5) The local government must consider all submissions made in accordance with subsection (3).
- (6) If the local government decides that—
- (a) a ground under subsection (1) no longer exists to take the proposed action, the local government must take no further action in respect of the show cause notice; or
 - (b) a ground exists to take the proposed action, the local government may—
 - (i) if the proposed action was to amend the approval— amend the approval; or
 - (ii) if the proposed action was to suspend the approval— suspend the approval for no longer than the period stated in the notice; or
 - (iii) if the proposed action was to cancel the approval— amend the approval, suspend it for a period or cancel it.
- (7) For any decision made under subsection (6), the local government must give a decision notice to the approval holder.
- (8) This section does not limit the power a local government may have apart from this section to amend, suspend or cancel an approval.

43 Procedure for immediate suspension of approval

- (1) Despite section 42, the local government may immediately suspend an approval if the local government believes that the continuation of the alteration or 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; or
 - (c) a serious obstruction to urgent works on public land; or
 - (d) a serious obstruction to road access; or
 - (e) a serious or urgent threat to the safety of vehicle or pedestrian traffic; or
 - (f) an urgent and serious threat to animal welfare.
- (2) The local government must give a notice to the approval holder about the decision to immediately suspend the approval (**suspension notice**), together with a show cause notice about the proposed action under section 42.
- (3) The suspension operates immediately upon the notices in subsection (2) being given to the approval holder.
- (4) The suspension continues to operate until the earliest of the following occurs—
 - (a) the local government cancels the suspension; or
 - (b) the local government gives the approval holder a decision notice under section 42(7) for a decision made under section 42(6); or
 - (c) 15 business days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice; or
 - (d) 15 business 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 4 Reviewing decisions

44 Application for review

- (1) A person who is given, or is entitled to be given, a decision notice may apply to the local government for a review of the decision (a **review application**).
- (2) The review application must be made within 15 business days of—
 - (a) if the person is given a decision notice— the day the person receives the notice; or
 - (b) if paragraph (a) does not apply— the day the person otherwise becomes aware of the decision.
- (3) The review application must be in writing and accompanied by a statement of the grounds on which the applicant seeks the review of the decision.

45 Review decision

- (1) The local government must review the original decision within 20 business days of 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 that person was the chief executive officer.
- (3) The local government must, within 5 business days of the review decision being made, give the applicant notice of the decision (the **review notice**).
- (4) If a 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 to the applicant in accordance with subsection (3), the local government is taken to have made a review decision confirming the original decision.

46 Stay of operation of original decision

A review application does not stay the original decision that is the subject of the application.

Part 5 Administrative provisions

47 Fees

- (1) If this 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 *Local Government Act 2009*, chapter 4, part 2.
- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.
- (3) Unless specific provision to the contrary is made in this Local Law or resolution fixing a fee, the local government may, in an appropriate case, waive or partially remit a fee.

48 Rewards

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of a person for an offence against this 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.

49 Subordinate Local Laws

The local government may make Subordinate Local Laws about—

- (a) any application requirement for which a third-party certifier's certificate may be accepted by the local government under section 36(1); and
- (b) declaring an individual or organisation as a third-party certifier for particular application requirements under section 36(2)(a); and

- (c) prescribing qualifications necessary for an individual or organisation to provide a certificate about particular application requirements under section 36(2)(b).

50 Extrinsic material

- (1) The local government may make an explanatory note to assist in the interpretation of this Local Law.
- (2) The local government makes an explanatory note by—
 - (a) passing a resolution to make the explanatory note; and
 - (b) publishing the explanatory note on the local government's website.
- (3) An explanatory note made in accordance with this section is declared to be a relevant document for the purposes of section 14B of the *Acts Interpretation Act 1954* (as modified by section 15 of the *Statutory Instruments Act 1992*).

Note—

Pursuant to part 4, division 1 of the Statutory Instruments Act 1992, the Acts Interpretation Act 1954 (AIA) is modified so that a document declared by a Local Law to be a "relevant document" for the purposes of section 14B of the AIA is extrinsic material which may assist in the interpretation of a provision of this Local Law.

51 Transitional provisions

- (1) The transitional provisions for decisions made under the repealed *Moreton Bay Regional Council Local Law No. 1 (Administration) 2011* relating to—
 - (a) carrying out works on a road or interfering with a road or its operation; and
 - (b) the alteration or improvement of local government controlled areas and roads,

are set out in the *Commercial Use of Public Land and Roads Local Law 2023*, part 7.

Schedule 1 Dictionary

Section 4

accepted alteration means—

- (a) an alteration listed as an accepted alteration on a form prescribed by the local government under section 30(4) of this Local Law; and
- (b) an alteration undertaken for a matter regulated under another local law but for which an approval is not required.

Act—

- (a) has the same meaning as in the *Acts Interpretation Act 1954*, sections 6 and 7; and
- (b) includes a local law made by the local government.

alteration see section 5.

amendment application see section 41(1).

another local law means a law made by the local government other than this Local Law.

application see section 30(1).

approval means an approval granted under section 34(1)(a) or section 34(1)(b).

authorised person means a person—

- (a) appointed by the chief executive officer as an authorised person under section 202 of the *Local Government Act 2009*; and
- (b) whose instrument of appointment provides that they are an authorised person for this Local Law, or a provision of this Local Law.

application requirement see section 36(2).

boundary means the boundary line between contiguous parcels of land.

building has the same meaning as in the *Building Act 1975*.

compliance notice means a compliance notice given under section 19.

decision means—

- (a) a decision by the local government to give a decision notice under sections 34, 40, 41 or 42; or
- (b) a decision by an authorised person to give a compliance notice under section 19 or remediation notice under section 21.

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

- (a) the decision; and
- (b) any relevant details about the decision; and
- (c) the reasons for the decision; and
- (d) that the person to whom the notice is given may apply for a review of the decision within 15 business days after the notice is given; and
- (e) how to apply for a review.

Example for paragraph (b)— the date on which the decision takes effect or actions required under the notice must be taken.

development has the same meaning as under the *Planning Act 2016*.

distributor-retailer has the same meaning as in the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

encroaching alteration means an alteration that, when viewed as a whole, crosses the boundary between a parcel of public land and a parcel of land owned by a person other than the local government.

enforcement order see section 25(1).

existing approval see section 40(1).

general approval see section 29(1).

impounded item see section 23(1).

information request see section 32(5).

information request response see section 32(5).

information request response period see section 32(3).

item means any material thing, including a building, structure or vehicle, other than an animal.

land has the same meaning as in the *Planning Act 2016* and includes land occupied by water.

local government means Moreton Bay City Council.

Local Government Act has the same meaning as in the *Local Government Act 2009*.

local government area means the local government area of the local government under the *Local Government Act 2009*, including an area taken to be part of a local government area under a Local Government Act.

Local Law includes any Subordinate Local Laws made under this Local Law.

notice to act see section 22(1)(a).

occupier, of a place, means—

- (a) a person who occupies, or has the control or management of, or is apparently in charge of, the place; and
- (b) includes a person who has a lease, licence, permission, approval, right or authority to occupy the place, including under an Act.

original decision means a decision the subject of a review application under section 44.

owner, of a place, means the person for the time being entitled to receive the rent for the place if it were let to a tenant at a rent.

place means any land, road, property, building, vehicle, boat, building or structure and includes ~~and part~~ **any part** of a place.

prescribed fee means a fee fixed by the local government under section 47 or under the *Local Government Act 2009*, section 97.

prescribed form means a document which the local government makes available at its administration centres or on its website for the purpose of making an application, an amendment application, a transfer application or a renewal application under this Local Law.

properly made application see section 30(3).

proposed action see section 42(2).

proposed transferee see section 40(3).

public land see section 6.

public notice means a notice that is published in a newspaper that is circulating generally in the local government area or on the local government's website.

public transport infrastructure has the same meaning as in the *Transport Operations (Passenger Transport) Act 1994*.

remediation notice see section 21(3).

renewal application see section 40(1).

responsible person see section 22(1)(a).

review application see section 44(1).

review decision see section 45(1).

review notice see section 45(3).

road—

- (a) subject to paragraph (b), **road** has the same meaning as in the *Local Government Act 2009* at subsections 59(2) and 59(3); and
- (b) despite section 59(3)(a) of the *Local Government Act 2009*, **road** includes a State-controlled road listed in Schedule 2, table 1, columns 1 to 4 in relation to the matters outlined in Schedule 2, table 1, column 5.

show cause notice see section 39.

stated reasonable time see section 42(3).

stop notice see section 20(2).

structure—

- (a) has the same meaning as in the *Local Government Act 2009*; and
- (b) includes a structure as defined in the *Building Act 1975*.

suspension notice see section 43(2).

third-party certifier see section 36(2).

transfer application see section 40(1).

Schedule 2 State-controlled roads to which this Local Law applies

Schedule 1

Definitions for Schedule 2

- (1) In table 1, column 5 of this Schedule, all terms have the same meaning as in the TORUM Act.
- (2) **TORUM Act** means the *Transport Operations (Road Use Management) Act 1995*.

Table 1				
Column 1	Column 2	Column 3	Column 4	Column 5
Road ID	Road Name	Local Name	Section	Matters
10A	Bruce Highway	Bruce Highway	Brisbane - Gympie	(a) The regulation of the stacking, storing or exposure of goods in, on or over a road and the seizure, removal, detention and disposal of any goods so stacked, stored or exposed, as per section 66(3)(e) of the TORUM Act. This excludes goods and materials owned by the Department of Transport and Main Roads or contractors of the Department of Transport and Main Roads; and
40A	D'Aguilar Highway	Caboolture Bypass	Bruce Highway - Old Gympie Road	
40A	D'Aguilar Highway	D'Aguilar Highway	Mary Street in Kilcoy	
120	Redcliffe Road	Anzac Avenue	Intersection at Dayboro Road - Intersection with Redcliffe Parade	
121	Deception Bay Road	Deception Bay Road	Bruce Highway - Anzac Avenue	
122	Brighton - Redcliffe Road	Houghton Highway	From Hornibrook Highway - Intersection of Elizabeth Avenue	
122	Brighton - Redcliffe Road	Hornibrook Esplanade	Intersection of Elizabeth Avenue - Intersection of Oxley Avenue	
122	Brighton - Redcliffe Road	Oxley Avenue	Intersection of Oxley Avenue - Intersection of Klingner Road	
123	Clontarf - Anzac Avenue	Elizabeth Avenue	Intersection of Hornibrook Esplanade - Intersection of King Street	
123	Clontarf - Anzac Avenue	Snook Street	Intersection of King Street - Intersection of Korsch Street	
123	Clontarf - Anzac Avenue	Elizabeth Avenue	Intersection of Korsch Street - Intersection of Anzac	(b) The regulation of lights, notices and signs on a road or near a road if the lights, notices and signs endanger, or are likely to endanger, traffic, as per section 66(3)(g) of the TORUM Act; and
				(c) Paragraphs (a) and (b) exclude

			Avenue	advertising devices (including illuminated street signs), traffic signs and lighting.
126	Caboolture - Bribie Island Road	Bribie Island Road	Bruce Highway - Intersection of Welsby Parade	
127	Beerburrum Road	Beerburrum Road	Intersection of King Street - Intersection of Steve Irwin Way	
128	Caboolture - Beachmere Road	Beachmere Road	Intersection of Bribie Island Road - Intersection of Bishop Road	
128	Caboolture - Beachmere Road	Main Street	Intersection of Bishop Road - End of Main Street	
401	Brisbane - Woodford Road	Gympie Road	South Pine River - Intersection of Anzac Avenue	
401	Brisbane - Woodford Road	Dayboro Road	Intersection of Anzac Avenue - Intersection of Fingerboard Road	
401	Brisbane - Woodford Road	Hay Road	Intersection of Fingerboard Road - Intersection William Street	
401	Brisbane - Woodford Road	Mt Mee Road/Brisbane-Woodford Road	Intersection of William Street - D'Aguilar Highway	
402	Samford - Mount Glorious Road	Mt Glorious Road	Intersection of Samford Road - Intersection of Mt Nebo Road	
403	South Pine Road	South Pine Road	Intersection of Gympie Road - Intersection of Flamingo Drive	
403	South Pine Road	Albany Creek Road	Intersection of Flamingo Drive - Albany Creek	
406	Burpengary - Caboolture Road	Morayfield Road/Burpengary Caboolture Road	Intersection of King Street - Intersection of Uhlmann Road	
406	Burpengary - Caboolture Road	Uhlmann Road	Intersection of Uhlmann Road - Bruce Highway	
407	Samford Road	Samford Road	Intersection of Mt Glorious Road - Kedron Brook	
490	Glass House	Steve Irwin	Southern Intersection	

	Mountains Road	Way/Glass House Mountains Road	of Bruce Highway - Intersection of Bell Road
490	Glass House Mountains Road	Steve Irwin Way	Intersection of Bell Road - Northern Intersection of Bruce Highway
492	Kilcoy Beerwah Road	Kilcoy Beerwah Road	Intersection of Maleny Stanley River Road to Intersection D'Aguliar Road
493	Maleny - Stanley Road	Maleny Stanley River Road	Intersection of Myrtle Street and Beech Street, Maleny - Intersection of Peachester Road
900	Everton Park - Albany Creek Road	Old Northern Road	Intersection of Flamingo Drive - Bennetts Road
901	Burpengary Service Road	Morayfield Road/Burpengary Caboolture Road	Intersection of Uhlmann Road - Intersection of Station Road
901	Burpengary Service Road	Old Gympie Road	Intersection of Station Road - Intersection of Deception Bay Road
902	Linkfield Connection Road	Linkfield Connection Road	South Pine River - Intersection of South Pine Road
1204	Pumicestone Road	Pumicestone Road	Intersection of Bruce Highway Off Ramp - Intersection of Freeman Road
1204	Pumicestone Road	Freeman Road	Intersection of Bruce Highway Off Ramp - Intersection of Freeman Road
4023	Mount Glorious Road	Mt Glorious Road	Intersection of Mt Nebo Road - Intersection of Laceys Creek Road
4023	Mount Glorious Road	Northbrook Parkway	Intersection of Laceys Creek Road - Intersection of Wivenhoe Somerset Road

<u>4032</u>	<u>Strathpine - Samford Road</u>	<u>Eatons Crossing Road</u>	<u>Intersection of South Pine Road - Intersection of Mt Samson Road</u>
<u>4032</u>	<u>Strathpine - Samford Road</u>	<u>Mt Samson Road</u>	<u>Intersection of Mt Samson Road - Intersection of Serendipity Drive</u>
~~4032~~	~~Strathpine - Samford Road~~	~~Eatons Crossing Road~~	~~Intersection of South Pine Road - Intersection of Mt Samford Road~~
~~4032~~	~~Strathpine - Samford Road~~	~~Mt Samford Road~~	~~Intersection of Mt Samford Road - Intersection of Serendipity Drive~~
4032	Strathpine - Samford Road	Main Street	Intersection of Serendipity Drive - Intersection of Mt Glorious Road
9905	Caboolture Connection Road	Caboolture Connection Road	Intersection of Bruce Highway - Intersection of Burnett Road
9905	Caboolture Connection Road	Lower King Street	Intersection of Burnett Road - Intersection of Charles Street
9905	Caboolture Connection Road	King Street	Intersection of Charles Street - Intersection of D'Aguilar Highway

Endnotes

1 Index to Endnotes

- 2 Date to which amendments incorporated
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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before 2 February 2024.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation
amd	= amended
ch	= chapter
def	= definition
div	= division
hdg	= heading
ins	= inserted
om	= omitted
p	= page
pt	= part
renum	= renumbered
rep	= repealed
s	= section
sch	= schedule
sdiv	= subdivision

4 Table of reprints

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this Local Law.

Reprint No.	Amendments included	Reprint date
1	<i>Amendment Local Law (State-controlled Roads) 2024</i>	2/2/2024

5 List of legislation

Amendment Local Laws

Amendment Local Law (State-controlled Roads) 2024 date of public notice 2 February 2024.

6 List of annotations

PART 1 PRELIMINARY

Definitions

s 4 om/ins Amendment Local Law (State-controlled Roads) 2024, s 5.

PART 3 ALTERATION OF PUBLIC LAND APPROVALS AND GENERAL APPROVALS

Deciding an application

s 34(3)(b) ins s 34(3)(b)(vi) Amendment Local Law (State-controlled Roads) 2024, s 6(1).

s 34(4) om Amendment Local Law (State-controlled Roads) 2024, s 6(2).

Procedure for immediate suspension of approval

s 43(4)(b) om/ins Amendment Local Law (State-controlled Roads) 2024, s 7.

PART 5 ADMINISTRATIVE PROVISIONS

s 49(b) om/ins Amendment Local Law (State-controlled Roads) 2024, s 8.

SCHEDULE 1 DICTIONARY

hdg/om/ins Amendment Local Law (State-controlled Roads) 2024, s 9(1).

om/ins def ***accepted alteration*** Amendment Local Law (State-controlled Roads) 2024, s 9(2).

om/ins def ***Act*** Amendment Local Law (State-controlled Roads) 2024, s 9(2).

om/ins def ***road*** Amendment Local Law (State-controlled Roads) 2024, s 9(2).

SCHEDULE 2 STATE-CONTROLLED ROADS TO WHICH THIS LOCAL LAW APPLIES

ins Schedule 2 Amendment Local Law (State-controlled Roads) 2024, s 10.

Proposed