



**Moreton Bay City Council**

# **Amendment Local Law (Effective Control of Dogs and Other Matters) 2025**

**Explanatory Notes**

2025 | Version 1.0

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# Short title

This Amendment Local Law may be cited as the *Amendment Local Law (Effective Control of Dogs and Other Matters) 2025*.

## Reference to laws

This Amendment Local Law amends the following Local Laws (**relevant Local Laws**)—

- *Alteration of Public Land Local Law 2023*;
- *Animal Management Local Law 2023*;
- *Commercial Use of Public Land and Roads Local Law 2023*;
- *Community Standards for Public Land and Roads Local Law 2023*;
- *Election Signs Local Law 2023*;
- *Events Local Law 2023*;
- *Parking Local Law 2023*;
- *Signs Local Law 2023*.

## What is this Amendment Local Law trying to achieve and why?

This Amendment Local Law is required to amend the relevant Local Laws to ensure the local laws align with recent changes to State legislation and to address both operational issues and drafting anomalies that have become evident since the commencement of Council's new suite of Local Laws in December 2023.

### ***Alteration of Public Land Local Law 2023***

The amendments to the *Alteration of Public Land Local Law 2023* aim to:

- provide further scope to the definition of 'alteration'. The definition is not an exhaustive definition, and the inclusions provided are in addition to the ordinary definition of the word 'alteration'; and
- make other minor amendments.

### ***Animal Management Local Law 2023***

The amendments to the *Animal Management Local Law 2023* aim to:

- remove the local law requirements for effective control of dogs in public places to ensure consistency with State legislation. Amendments to the effective control provisions in the *Animal Management (Cats and Dogs) Act 2008 (AMCDA)* commenced on 31 July 2024 (see *Agriculture and Fisheries and Other Legislation Amendment Act 2024*);
- clarify that if another person finds an animal wandering at large and delivers it to a veterinary surgery, an authorised person may seize the animal for wandering at large;
- give an authorised person power to inspect a person's property to ensure they have an 'effective enclosure' if their animal has been seized for wandering at large 3 times in a 12 month period. The inspection must occur prior to releasing an impounded animal back to its owner. This additional measure is to ensure the safety of the public;
- amend the noise nuisance defence for the keeping of roosters; and
- make other minor and consequential amendments.

### ***Commercial Use of Public Land and Roads Local Law 2023***

The amendments to the *Commercial Use of Public Land and Roads Local Law 2023* aim to:

- clarify the transitional provision in s 55 as it relates to the keeping of animals. The amendment will ensure that a person who lawfully kept an animal with an approval under the *Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011* (repealed) can continue to keep the animal for the life of the animal, even though keeping the animal is not generally

allowed under the *Animal Management Local Law 2023*. This will reduce the number of exceptional circumstances applications currently required to allow the continued keeping of such animals. The owners will be allowed to continue to keep the animal as of right (i.e. no application required), for the life of the animal; and

- make other minor and consequential amendments.

### ***Community Standards for Public Land and Roads Local Law 2023***

The amendments to the *Community Standards for Public Land and Roads Local Law 2023* aim to:

- allow Council to delegate the power to temporarily close an area of public land to public access. This will allow more flexibility in temporarily closing public land and better equip Council to respond in emergency situations;
- allow Council to delegate the power to make (and amend) the verge garden guideline. This will allow more flexibility to amend the guideline as and when required;
- remove Council's power to regulate abandoned ships, or parts of ships, in Queensland waters. The State government has power to deal with such matters under s 175A of the *Transport Operations (Marine Safety) Act 1994*; and
- make other minor and consequential amendments.

### ***Election Signs Local Law 2019***

The amendments to the *Election Signs Local Law 2019* are minor.

### ***Events Local Law 2023***

The amendments to the *Events Local Law 2023* aim to:

- include additional public safety criteria for the definition of a small gathering, which relate to road safety;
- allow Council to immediately cancel an event approval if the continued operation of the event poses certain risks arising from a disaster or weather event; and
- make other minor and consequential amendments.

### ***Parking Local Law 2023***

The amendments to the *Parking Local Law 2023* are minor.

### ***Signs Local Law 2023***

The amendments to the *Signs Local Law 2023* are minor.

# Plain English explanations of key sections of the Amendment Local Law

## Part 1 - Preliminary

### Section 1 - Short title

This section establishes the short title of this Amendment Local Law.

### Section 2 - Local Laws amended

This section provides that this Amendment Local Law amends the relevant Local Laws.

### Section 3 - Object

This section provides the scope and context for the provisions of this Amendment Local Law (the **object**). The provisions of this Amendment Local Law must be consistent with the object, which is to amend the relevant Local Laws for the reasons stated in section 3.

## Part 2 - Amendment of Alteration of Public Land Local Law 2023

### Section 4 - Local Law amended

This section states that part 2 amends the *Alteration of Public Land Local Law 2023* (APLLL).

### Section 5 - Amendment of s 2 (Object)

This section amends section 2(f) of the APLLL to include reference to property. The amendment is made to support the amendment to section 5(b) and to ensure the object is broad enough to cover alterations to other assets of Council that may not be classed as 'infrastructure', having regard to the ordinary meaning of that word.

### Section 6 - Amendment of s 5 (Alteration)

This section amends section 5(b) of the APLLL to expand the definition of the word **alteration** to include 'interference with the operation of' those things listed in the paragraph and extends those things to include 'other infrastructure' and 'any property'. The intention behind the amendment is to:

- capture those alterations of public land that affect the operation of those things. For example, alteration that affects the operation of a drainage pipe (noting the relevance also of s 80 *Local Government Act 2009* in this example); and
- make it clear that alteration includes any interference with any Council infrastructure or property.

The definition in section 5 of the APLLL and the amendments made by s 6 of the Amendment Local Law is in addition to the ordinary meaning of the word 'alteration' and is not intended to replace that ordinary meaning.

### Section 7 - Amendment of Schedule 1 (Dictionary)

This section amends a typographical error in the definition of **place** in Schedule 1.

### Section 8 - Amendment of Schedule 2 (State-controlled roads to which this Local Law applies)

This section amends three typographical errors in the road names in Table 1 of Schedule 2.

## Part 3 - Amendment of Animal Management Local Law 2023

### Section 9 - Local Law amended

This section states that part 3 amends the *Animal Management Local Law 2023 (AMLL)*.

### Section 10 - Amendment of s 41 (Animal nuisance)

This section amends section 41(3) to limit the noise nuisance defence for the keeping of a rooster to properties that are more than 20,000m<sup>2</sup>. This better aligns the defence to the number caps for keeping a rooster in the *Animal Management Subordinate Local Law 2023*. Under the Subordinate Local Law, a person can keep 1 rooster per 20,000m<sup>2</sup> on properties greater than 20,000m<sup>2</sup>. No approval is required. However, a person on a property that is 6,000m<sup>2</sup> to 20,000m<sup>2</sup> may only keep 1 rooster with approval. That approval may have conditions relating to noise and Council considers it appropriate to enforce any noise conditions, given the size of the property and potential proximity to neighboring houses.

### Section 11 - Amendment of s 48 (Duty to provide proper enclosure and prevent animal from wandering)

This section amends a typographical error in subsection (4).

### Section 12 - Amendment of s 52 (Control of animals in public places)

This section replaces section 52, which now only applies to animals other than dogs. The change is required to ensure consistency with State legislation, following an amendment to the effective control provisions in the AMCDA, which now apply to all dogs. See *Agriculture and Fisheries and Other Legislation Amendment Act 2024* (the provisions relating to effective control commenced on 31 July 2024). Effective control provisions for regulated dogs continue to be contained in the AMCDA (now at s 192(1)).

Key differences between the effective control provision for dogs in the AMLL and the State legislation are as follows:

| AMLL                                                                                                                                                                                                                                                                                                                                                                 | AMCDA                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dog off leash areas (DOLA) require:<br>(a) dog to be under direct supervision of person who could physically control the dog<br>(b) person to have no more than 2 dogs under supervision<br>(c) dog is not to harass, intimidate, stalk or attack other dogs or people<br>(d) for a DOLA that is not fenced, the dog must be able to be controlled by voice command. | DOLA requires person to be able to supervise the dog and control using voice command.                                                                                                                                 |
| Dogs in other public places:<br>(a) person must be able to physically control the dog<br>(b) dog to be on an effective leash<br>(c) no more than 4 dogs under a person's supervision.                                                                                                                                                                                | Dogs in other public places:<br>(a) person must be able to physically control the dog<br>(b) dog to be on an effective leash.                                                                                         |
| Penalty - 20 penalty units.                                                                                                                                                                                                                                                                                                                                          | The maximum penalties range from 50 penalty units to 600 penalty units depending on the circumstances of aggravation and level of harm, if any. Maximum penalties of imprisonment between 6 months, and up to 2 years |

### Section 13 - Amendment of s 60 (Seizure of animals)

This section amends section 60(3)(a) of the AMLL. Under s 60(3), if another person finds an animal wandering at large and delivers it to an authorised person, the authorised person may seize the animal for wandering at large. Once seized, the authorised person may then immediately destroy the animal (under s 61), return the animal to the owner (under s 62) or impound the animal (under s 64).

It is often the case that a member of the public finds an animal wandering and delivers the animal to a veterinary surgery (rather than delivering it to an authorised person). When an authorised person collects the animal from the veterinary surgery, the animal is not (at that time) wandering at large, as the animal is under the effective control of someone at the surgery. The AMLL was not clear as to whether an authorised person can seize the animal from a veterinary surgery for wandering at large. To provide clarity, section 60(3) is amended to state that if another person finds an animal wandering at large and delivers it to a veterinary surgery, an authorised person may seize the animal for wandering at large.

This section also inserts a definition of **veterinary surgery**, with reference to the AMCDA.

#### **Section 14 - Amendment of s 65 (Requirements for reclaiming an impounded animal)**

This section amends section 65(1) of the AMLL to require an authorised person to be reasonably satisfied that the enclosure at the person's property complies with the 'proper enclosure' requirements prior to releasing an impounded animal back to its owner (**the requirement**). An authorised person may need to attend the property to determine this (see *Local Government Act 2009* for powers of entry). The requirement is only relevant if a person's animal has been seized for wandering at large at least 3 times in a 12 month period. This additional measure is to ensure the safety of the public and to act as an interim measure prior to the exercise of any power under section 66(3) to destroy the animal if it has been seized at least 4 times in a 12 month period.

#### **Section 15 - Amendment of s 66 (Dealing with animal seized and impounded for wandering at large)**

This section amends a typographical error in subsection (2)(a).

#### **Section 16 - Amendment of s 75 (Sale, disposal or destruction of animals)**

This section amends a typographical error in subsection (6).

#### **Section 17 - Amendment of Schedule 1 (Dictionary)**

This section:

- inserts a definition of **dog** in the Schedule Dictionary with reference to that term in the AMCDA;
- inserts a definition of **veterinary surgery** in the Schedule Dictionary, consistent with the amendment to section 60 of the AMLL; and
- replaces the definition of **effective control** in the Schedule Dictionary, consistent with the amendment to section 52 of the AMLL.

#### **Section 18 - Amendment of Schedule 2 (State-controlled roads to which this Local Law applies)**

This section amends three typographical errors in the road names in Table 1 of Schedule 2.

## **Part 4 - Amendment of Commercial Use of Public Land and Roads Local Law 2023**

#### **Section 19 - Local Law amended**

This section states that part 4 amends the *Commercial Use of Public Land and Roads Local Law 2023* (CUPLRLL).

#### **Section 20 - Amendment of s 23 (Renewal and transfer of approval)**

This section amends a typographical error in subsection (11).

#### **Section 21 - Amendment of s 55 (Transitional provisions for animal keeping under the repealed local law)**

This section amends section 55 of the CUPLRLL, which is the transitional provision for keeping an animal with an approval under *Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011* (repealed) (**repealed Local Law**). The amendment ensures that a person who lawfully kept an animal with an approval can continue to keep the animal for the life of the animal, notwithstanding that the keeping of the animal is not generally allowed under the *Animal Management Local Law 2023*. This will reduce the number of exceptional circumstances applications currently required to allow the continued keeping of such animals. The owners will be allowed to continue to keep the animal as of right (i.e. no application required), for the life of the animal.

#### **Section 22 - Amendment of Schedule 2 (Dictionary)**

This section inserts a definition of *continuing animal* in the Schedule Dictionary, consistent with the amendment to section 55 of the CUPLRLL.

#### **Section 23 - Amendment of Schedule 3 (State-controlled roads to which this Local Law applies)**

This section amends three typographical errors in the road names in Table 1 of Schedule 3.

## **Part 5 - Amendment of Community Standards for Public Land and Roads Local Law 2023**

#### **Section 24 - Local Law amended**

This section states that part 5 amends the *Community Standards for Public Land and Roads Local Law 2023* (CSPLRLL).

#### **Section 25 - Amendment of s 7 (Overview)**

This section amends section 7 by removing from the object of the CSPLRLL the maintenance and repair of road verges. This amendment is necessary given the omission of s 15 of the CSPLRLL by s 26 of the Amendment Local Law. The framework for self-assessable gardens on the road verge remains an object of the CSPLRLL.

#### **Section 26 - Amendment of s 15 (Maintenance of road verges)**

This section removes section 15 from the CSPLRLL. This means Council will no longer have power to issue a compliance notice requiring an owner or occupier of land adjacent to an overgrown road verge to cut and remove the vegetation on the road verge.

#### **Section 27 - Amendment of s 16 (Self-assessable verge gardens)**

This section amends section 16 of the CSPLRLL by removing the requirement for a resolution to make (or amend) the verge garden guideline. By removing the requirement of a resolution, the power of the Council to make (and amend) the guideline can be delegated.

## Section 28 - Amendment of s 24 (Power to close areas of public land)

This section amends section 24 of the CSPLRLL by replacing subsections (1) and (2) and introducing new subsections (2A) and (2B), which have then been renumbered as subsections (3) and (4). The remaining subsections have then been renumbered (5) to (8).

The aim of the amendment is to enable Council to temporarily close public access to public land without a resolution of Council. By removing the resolution requirement, the Council may delegate the power to temporarily close the land. This will allow Council to respond quickly to situations where public access to public land needs to be immediately restricted (for example, because of health and safety concerns). The circumstances in which land can be temporarily closed remain the same, as do the timeframes for closure.

The new subsection (3) clarifies that, notwithstanding the timeframes for closure specified in subsection (2), Council can make a subsequent decision to close the same area of land if the closure remains necessary. This reflects the operational intent of the section, as explained in the Explanatory Notes to the CSPLRLL for s 24.

The new subsection (4) preserves the intent of what was subsection (2)(c).

## Section 29 - Amendment of s 55 (Abandoned items)

This section amends section 55(3) of the CSPLRLL to limit the operation of section 55(2), which no longer applies to a ship, or part of a ship, abandoned in Queensland waters. This means that Council will not have jurisdiction to seize and impound a ship, or part of a ship, abandoned in Queensland waters. The amendment has been made because the State Government has power to deal with these things under s 175A of the *Transport Operations (Marine Safety) Act 1994* (TOMSA).

Council will continue to have jurisdiction to deal with ships, or parts of ships, abandoned on land adjacent to Queensland waters. The term "Queensland waters" is defined in the *Acts Interpretation Act 1954*, Schedule 1. It includes rivers and canals.

Although subsection (1) uses the term vessel (and elsewhere the CSPLRLL refers to a 'vessel', which is a defined term), subsection (2) intentionally uses the term 'ship'. This is because s 175A of the TOMSA applies to a 'ship', which is defined in s 10 of the TOMSA and has a different meaning to the term 'vessel' in the CSPLRLL (although they are very similar). The new section 55(4) of the CSPLRLL defines 'ship' for the purposes of section 55 with reference to the TOMSA. If there is a vessel that does not fall within the definition of 'ship', then Council will have power to deal with that vessel under section 55 of the CSPLRLL.

## Section 30 - Amendment of s 69 (Subordinate Local Laws)

This section amends section 69(d) of the CSPLRLL to update the subsection reference following amendment of section 24.

## Section 31 - Amendment of Schedule 1 (Dictionary)

This section:

- inserts a definition of **ship** in the Schedule Dictionary, consistent with the amendment to section 55 of the CSPLRLL;
- inserts a definition of **temporary closure decision** in the Schedule Dictionary, consistent with the amendment to section 24 of the CSPLRLL;
- amends a typographical error in the definition of **road verge** in the Schedule Dictionary; and
- removes the definitions of **adjacent land** and **vegetation** from the Schedule Dictionary, consistent with the amendment to section 15 of the CSPLRLL.

## Section 32 - Amendment of Schedule 2 (State-controlled roads to which this Local Law applies)

This section amends three typographical errors in the road names in Table 1 of Schedule 2.

# Part 6 - Amendment of Election Signs Local Law 2019

## Section 33 - Local Law amended

This section states that part 6 amends the *Election Signs Local Law 2019*.

## Section 34 - Amendment of Schedule 2 (State-controlled roads to which this Local Law applies)

This section amends three typographical errors in the road names in Table 1 of Schedule 2.

# Part 7 - Amendment of Events Local Law 2023

## Section 35 - Local Law amended

This section states that part 7 amends the *Events Local Law 2023 (ELL)*.

## Section 36 - Amendment of s 6 (Small gatherings)

This section amends section 6(1)(b) of the ELL to include additional criteria for a 'small gathering'. The criteria are relevant for small gatherings on public land and road and aims to improve public safety by limiting the proximity of small gatherings to busy areas of road, railway crossings and bus stops. Necessary definitions have been included in subsection (2).

## Section 37 - Amendment of s 26 (Procedure for immediate suspension of approval)

This section amends section 26 of the ELL to include a power for the local government to immediately cancel an event due to a disaster or weather event.

The process under section 26 of the ELL allowed Council to immediately suspend an approval and then follow a show cause process under section 25 regarding an amendment, suspension or cancellation of the approval. Under that process, the approval holder has up to 15 business days to respond to the show cause notice.

In practice, suspensions arising from disasters or weather events often occur close to the event date (i.e. the day before or same day). As such, the process under section 25 and 26 can be redundant once the event date has passed. To enable Council to properly respond to disaster and weather event scenarios where the need to immediately cancel an approval arises (e.g. where there is no rain date), section 26 is amended to introduce subsections (5) to (8), being an immediate cancellation process. This process gives Council power to immediately cancel an event in circumstances where the threats, risks or obstructions stated in subsection (1) arise from a disaster or weather event. Unlike a decision under subsection (1) (which has a show cause process), a decision under subsection (5) requires Council to issue a Decision Notice. This gives the approval holder internal review rights (see definition of **decision notice**).

The term **disaster** has been defined to mean a disaster under the *Disaster Management Act 2003* and a **weather event** has been broadly defined to mean a cyclone, flood, storm, storm tide, significant rainfall or other natural happening.

## Section 38 - Amendment of s 38 (Compliance notice for contravention of Local Law)

This section amends a typographical error in subsection 4(c) and subsection 5.

### **Section 39 - Amendment of Schedule (Dictionary)**

This section inserts definitions arising from the amendments to sections 6 and 26 and amends the definition of 'decision' with reference to section 26(5).

## **Part 8 - Amendment of Parking Local Law 2023**

### **Section 40 - Local Law amended**

This section states that part 8 amends the *Parking Local Law 2023*.

### **Section 41 - Amendment of Schedule 2 (State-controlled roads to which this Local Law applies)**

This section amends three typographical errors in the road names in Table 1 of Schedule 2.

## **Part 9 - Amendment of Signs Local Law 2023**

### **Section 42 - Local Law amended**

This section states that part 9 amends the *Signs Local Law 2023*.

### **Section 43 - Amendment of Schedule 1 (Self-assessable signs)**

This section amends typographical errors in Table 1 of Schedule 1.

### **Section 44 - Amendment of Schedule 3 (State-controlled roads to which this Local Law applies)**

This section amends three typographical errors in the road names in Table 1 of Schedule 3.

# Is this law consistent with fundamental legislative principles?

The Amendment Local Law is generally consistent with fundamental legislative principles.

## **Community Standards for Public Land and Roads Local Law 2023**

Sections 27 and 28 of the Amendment Local Law amend the *Community Standards for Public Land and Roads Local Law 2023* to allow for the delegation of the following powers:

- the making of the verge garden guideline under section 16; and
- the temporary closure of public access to public land under section 24.

These powers currently must be exercised by resolution of the Council and are not delegable. The amendment allows for the powers to be delegated pursuant to section 257 of the *Local Government Act 2009*.

The ability to delegate these powers is appropriate because:

- for the verge garden guideline— this regularly requires updating to remain current; and
- for the temporary closure of public access to public land— Council often needs to respond urgently to temporarily close public land (for example, because of public health and safety reasons). Permanent closure of public access to public land must still be done by Subordinate Local Law.

## **Events Local Law 2023**

Section 37 of the Amendment Local Law gives Council the power to immediately cancel an approval issued under the *Events Local Law 2023* (ELL) due to a disaster or weather event. The decision to immediately cancel the event is not subject to any show cause process. This can be contrasted to the existing process in section 26 of the ELL for Council to immediately suspend and then cancel the approval following the show cause process in section 25.

In practice, suspensions arising from disasters or weather events often occur close to the event date (i.e. the day before or same day). As such, the process under sections 25 and 26 of the ELL can be redundant once the event date has passed. The amendments allow Council to immediately cancel an event in circumstances where certain threats, risks or obstructions arise from a disaster or weather event. Because the process does not give any opportunity for an approval holder to be heard prior to Council making the decision to cancel the approval, Council is required to issue the approval holder with a Decision Notice. This gives the approval holder internal review rights, consistent with the principles of natural justice. Given the short timeframes associated with weather events, Council should endeavor to expeditiously consider any requests for review.

# Is this law compatible with Human Rights?

The Amendment Local Law is generally compatible with the *Human Rights Act 2019*.

## **Animal Management Local Law 2023**

Section 14 of the Amendment Local Law may impact the following human rights:

- right to property; and
- right to privacy.

All persons have the right to own property and a person must not be arbitrarily deprived of their property. Animals are recognised as the subject of absolute property at common law. A person also has the right to privacy and should be protected from interference with their home.

The requirement that an authorised person be reasonably satisfied that the owner of an impounded animal have a 'proper enclosure' at their property, prior to releasing the animal (**the requirement**) may:

- extend the time in which a person is separated from their animal; and
- feel like an intrusion into a person's home and their privacy.

The impact on these human rights is limited by the local law, as the requirement can only be exercised if a person's animal has been seized for wandering at large at least 3 times in a 12 month period. Further, the requirement is an additional measure to ensure the safety of the public.

The limit on the person's human rights arising from the requirement is reasonable and demonstrably justifiable, having regard to:

- the need to ensure responsible pet ownership; and
- the need to balance the rights of individuals to keep animals with the rights of other individuals and the broader community (for example, safety rights of members of the community using public spaces).

It is considered, in light of the above, that the limits on human rights imposed by this section 14 of the Amendment Local Law are reasonable and demonstrably justifiable.

