



City of
Ipswich

**IPSWICH
CITY
COUNCIL**

AGENDA

of the

GOVERNANCE COMMITTEE

**Held in the Council Chambers
2nd floor – Council Administration Building
45 Roderick Street
IPSWICH QLD 4305**

On Tuesday, 9 July 2019
At 12.30 pm or 10 minutes after the conclusion of the Environment Committee
whichever is sooner.

MEMBERS OF THE GOVERNANCE COMMITTEE

Interim Administrator
Greg Chemello (**Chairperson**)

GOVERNANCE COMMITTEE AGENDA

*12.30 pm or 10 minutes after the conclusion of the Environment
Committee whichever is sooner. on **Tuesday, 9 July 2019**
Council Chambers*

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** Item includes confidential papers

GOVERNANCE COMMITTEE NO. 7

9 JULY 2019

AGENDA

1. **COUNCIL MEETINGS - LOCAL LAW (REPEALING) LOCAL LAW NO.2 (COUNCIL MEETINGS) 2019**

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*, as attached to the report of the Strategic Policy and Systems Manager dated 27 June 2019.
- B. That it be noted that a review of the proposed *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019* has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

2. ADMINISTRATION - LOCAL LAW (AMENDING) LOCAL LAW NO.1 ADMINISTRATION 2019

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.1 (Administration) 2019*.

RECOMMENDATION

That the Interim Administration of Ipswich City Council resolve:

- A. That Council propose to make *Local Law (Amending) Local Law No.1 (Administration) 2019*, as attached to the report of the Strategic Policy and Systems Manager dated 27 June 2019.
- B. That it be noted that a review of the proposed *Local Law (Amending) Local Law No.1 (Administration) 2019* has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed *Local Law (Amending) Local Law No.1 (Administration) 2019*, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.1 (Administration) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultations and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

3. COMMERCIAL LICENSING - LOCAL LAW (AMENDING) LOCAL LAW NO.3(COMMERCIAL LICENSING) 2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.3.1 (COMMERCIAL LICENSING) 2019

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 29 June 2019.
- B. That it be noted that a review of the proposed Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019 has been undertaken and has identified potential anti-competitive provisions.
- C. That Council approve to conduct a public interest test in relation to any potential anti-competitive provisions contained within the proposed amended laws as part of the public consultation process mentioned in Clause D below.
- D. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019, as detailed in Clause A above.
- E. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- F. That, following public consultations and the State Government interest check, as detailed in Clauses 4 and 5 above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

4. PERMITS - LOCAL LAW (AMENDING) LOCAL LAW NO.4 (PERMITS) 2019

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.4 (Permits) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make *Local Law (Amending) Local Law No.4 (Permits) 2019*, as attached to the report of the Strategic Policy and Systems Manager dated 29 June 2019.
- B. That it be noted that a review of the proposed *Local Law (Amending) Local Law No.4 (Permits) 2019* has been undertaken and has identified potential anti-competitive provisions.
- C. That Council approve to conduct a public interest test in relation to any potential anti-competitive provisions contained within the proposed amended laws as part of the public consultation process mentioned in Clause D below.
- D. That Council approve to proceed to public consultation for the proposed *Local Law (Amending) Local Law No.4 (Permits) 2019*, as detailed in Clause A above.
- E. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.4 (Permits) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- F. That, following public consultations and the State Government interest check, as detailed in Clauses D and E above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

5. PARKING - LOCAL LAW (AMENDING) LOCAL LAW NO.5 (PARKING) 2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.5.1 (PARKING) 2019

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.5 (Parking) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.5 (Parking) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 29 June 2019.
- B. That it be noted that a review of the proposed *Local Law (Amending) Local Law No.5 (Parking) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019* has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.5 (Parking) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.5 (Parking) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultations and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

6. ANIMAL MANAGEMENT - LOCAL LAW (AMENDING) LOCAL LAW NO.6 (ANIMAL MANAGEMENT) 2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.6.1 (ANIMAL MANAGEMENT) 2019

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.6 (Animal Management) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.6 (Animal Management) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.
- B. That it be noted that a review of the proposed Local Law (Amending) Local Law No.6 (Animal Management) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019 has been undertaken and has identified potential anti-competitive provisions.
- C. That Council approve to conduct a public interest test in relation to any potential anti-competitive provisions contained within the proposed amended laws as part of the public consultation process mentioned in Clause D below.
- D. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.6 (Animal Management) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019, as detailed in Clause A above.
- E. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.6 (Animal Management) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- F. That, following public consultations and the State Government interest check, as detailed in Clauses C, D and E above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

7. LOCAL GOVT CONTROLLED AREAS AND ROADS - LOCAL LAW (AMENDING) LOCAL LAW NO.7 (LOCAL GOVERNMENT CONTROLLED AREAS AND ROADS) 2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.7.1 (LOCAL GOVERNMENT CONTROLLED AREAS AND ROADS) 2019

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads)*

2019 and Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019 and Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.
- B. That it be noted that a review of the proposed Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019 and Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019 has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019 and Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultations and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

-
- 8. **NUISANCES AND COMMUNITY HEALTH AND SAFETY - LOCAL LAW (AMENDING) LOCAL LAW NO.8 (NUISANCES AND COMMUNITY HEALTH AND SAFETY) 2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.8.1 (NUISANCES AND COMMUNITY HEALTH AND SAFETY) 2019**

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.
- B. That it be noted that a review of the proposed Amending Local Law No.8 (Nuisances And Community Health And Safety) 2019 and Amending Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019 has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

9. EXTRACTIVE INDUSTRIES - LOCAL LAW (REPEALING) LOCAL LAW NO. 25 (EXTRACTIVE INDUSTRIES)

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Repealing) Local Law No.25 (Extractive Industries) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019.
- B. That it be noted that a review of the proposed *Local Law (Repealing) Local Law No.25 (Extractive Industries) 2019* has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed *Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019* as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019* in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

10. VEGETATION MANAGEMENT - LOCAL LAW (AMENDING) LOCAL LAW NO.49 (VEGETATION MANAGEMENT) 2019 AND SUBORDINATE LOCAL LAW NO. 49.1 (PROTECTION OF IMPORTANT VEGETATION) 2019

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.49 (Vegetation Management) 2019* and *Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019*.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.
- B. That it be noted that a review of the proposed Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019 has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019.
- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

11. MONTHLY PERFORMANCE REPORT - MAY 2019

This is a report concerning Council performance for the period ending 31 May 2019, submitted in accordance with Section 204 of the *Local Government Regulation 2012*.

RECOMMENDATION

That the report be received and the contents noted.

12. POLICY AND PROCEDURE MANAGEMENT FRAMEWORK AND THE REVIEW OF IPSWICH CITY COUNCIL'S POLICY PORTFOLIO

This is a report by the Strategic Client Manager dated 1 July 2019 concerning development of an Ipswich City Council Policy and Procedure Management

Framework under Business Transformational Project 9 – Policies, Procedures and Local Laws (TP9) and the proposed review of council's existing suite of policies.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council (Interim Administrator of Ipswich City Council) adopt the Ipswich City Council Policy and Procedure Management Framework (Attachment 1 to this report).
- B. That Council (Interim Administrator of Ipswich City Council) note the proposed process and timeframe for the review of Ipswich City Council's suite of policies.
- C. That Council (Interim Administrator of Ipswich City Council) note the proposal to repeal existing policies which may be redundant or identified for transition to an administrative directive, procedure or supporting document.

13. PROPOSED NEW TRUSTEE LEASE OVER RESERVE FOR RECREATION PURPOSES - AUSTRALIAN CRAWL (GOODNA) PTY LTD - 19A TOONGARRA ROAD LEICHHARDT

This is a report concerning the proposed Trustee Lease between Ipswich City Council as Trustee and Australian Crawl (Goodna) Pty Ltd for the whole of the land described as Lot 39 on Crown Plan 902321.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council terminate the Swimming Pool Management Agreement with Australian Crawl (Goodna) Pty Ltd located at 19A Toongarra Road Leichhardt described as Lot 39 on Crown Plan 902321.
- B. That Council, as Trustee of the Reserve located at 19A Toongarra Road Leichhardt, enter into a Trustee Lease with Australian Crawl (Goodna) Pty Ltd pursuant to section 236(1)(c)(iii) and (2) of the *Local Government Regulation 2012 (QLD)*.
- C. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the Trustee Lease to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.

14. **ACQUISITION OF PART OF STATE LAND LOCATED AT 61 NICHOLAS STREET, IPSWICH AND THE DISPOSAL OF COUNCIL FREEHOLD LAND LOCATED AT LOT 311 CLAY STREET, IPSWICH FOR PARK PURPOSES

This is a report concerning the acquisition of part of Reserve land owned by the State of Qld (the State) and the disposal of Council freehold land to be dedicated as Park, to resolve the encroachment of a deck and a historical encroachment of part of buildings on Reserve land.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council (Interim Administrator of Ipswich City Council) having duly considered this report dated 7 June 2019, be of the opinion that the following property ('the land') be acquired:
 - a. Part of Lot 5 on Crown Plan I16205, 61 Nicholas Street, Ipswich
- B. That Council (Interim Administrator of Ipswich City Council) resolve pursuant to section 236(2) of the *Local Government Regulation 2012* (the Regulation) that the exception referred to in section 236(1)(b)(i) of the Regulation applies to Council for the disposal of the following property ('the land') to be dedicated to the State of Queensland as Park:
 - a. Lot 311 on SP304375, Lot 311 Clay Street, Ipswich
- C. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the acquisition and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the Local Government Act 2009.
- D. That a further report be presented to Council (Interim Administrator of Ipswich City Council) on the preferred option for the disposal of Part of Lot 5 on Crown Plan I16205 located at 61 Nicholas Street, Ipswich.

** Item includes confidential papers

and any other items as considered necessary.

Doc ID No: A5570299

ITEM: 1

SUBJECT: COUNCIL MEETINGS - LOCAL LAW (REPEALING) LOCAL LAW NO.2 (COUNCIL MEETINGS) 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 27 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*.

RECOMMENDATIONS

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*, as attached to the report of the Strategic Policy and Systems Manager dated 27 June 2019.
- B. That it be noted that a review of the proposed *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019* has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of

the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy "Local Law Making Process" which is available on Council's website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council's Business Transformation Program a review of Council's existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren't included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.
- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).

- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - o Advertisement in Queensland Times
 - o Ipswich First articles
 - o Dedicated web page on Council's website
 - o Ability to lodge submissions online, via email and post
 - o Social media postings promoting the review and how to make a submission
 - o Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will be published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all proposed local laws for a minimum of 21 days (see policy for requirements)	17/07/19	7/08/19	Ready to commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly	8/08/19	30/08/19	Ready to

made to the Council (see policy for criteria) + develop Council Committee report for step 6			commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No.2 (Council Meetings) 2013* and *Subordinate Local Law 2.1 (Council Meetings) 2013 (Attachment 1 and 2)* whose objective is to provide a framework for the orderly and proper conduct of meetings of the Council and its Committees.

The local law review has resulted in the preparation of *Local Law (Repealing) Local Law No.2 (Council Meetings) 2019 (Attachment 3)*. The one repealing local law contains provisions to repeal both *Local Law No.2 (Council Meetings) 2013* and the *Subordinate Local Law No.2.1 (Council Meetings) 2013*. It is noted that there have been no anti-competitive provisions identified in the amended law.

A repeal is recommended as the Model Meeting Procedures prepared by the Department of Local Government, Racing and Multicultural Affairs (the "Department") now sets out certain procedures to ensure the local government principles are reflected in the conduct of Committee and Council meetings. These procedures do not deal with all aspects of meeting conduct but those required to strengthen public confidence in the conduct of Councillors in meetings and the purpose of those meetings. It is proposed that Council will use the Model Meeting Procedure and best practice standing orders prepared by the Department as the basis for its new Meeting Procedures. It is also proposed that Council will include certain aspects from its existing local law and standing orders, that are not currently included in the model to ensure a robust set of rules exist.

The *Local Government Act 2009* provides that a local government must either:

- a. adopt the Model Meeting Procedures, or

- b. prepare and adopt other procedures that are consistent with the Model Meeting Procedures for the conduct of its meetings.

Council will develop option (b) above and present these to Council for consideration and adoption prior to the repealing law taking effect so a seamless transition to the new meeting procedures occurs. The new meeting procedures, when adopted, will be made available to the public on Council's website to enable transparency and understanding.

FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

There are no known implementation costs with repealing this law and replacing it with new Meeting Procedures.

RISK MANAGEMENT IMPLICATIONS

The Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedule requires amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)







COMMUNITY AND OTHER CONSULTATION

Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Local Law (Repealing) Local Law No.2 (Council Meetings) 2013*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.2 (Council meetings) 2013  
2.	Subordinate Local Law No.2.1 (Council meetings) 2013  
3.	Local Law (Repealing) Local Law No.2 (Council Meetings) 2019  

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

"Together, we proudly enhance the quality of life for our community"

Ipswich

City Council

Local Law No. 2 (Council Meetings) 2013

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Ipswich City Council
Local Law No.2 (Council Meetings) 2013

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Ipswich City Council
Local Law No.2 (Council Meetings) 2013

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 2 (Council Meetings) 2013*.

1A Commencement

This local law commences on 1 August 2013

2 Object

The object of this local law is to provide a framework for the orderly and proper conduct of meetings of the local government and its committees.

3 Definitions - the dictionary

- (1) The dictionary in the schedule (Dictionary) defines particular words used in this local law.
- (2) The dictionary in *Local Law No. 1 (Administration) 2013* also defines words used in this local law.

4 Relationship with other laws

This local law is—

- (a) in addition to and does not derogate from laws about local government meetings¹; and
- (b) is to be read with *Local Law No. 1 (Administration) 2013*.

Part 2 Meetings of the Local Government

5 Times of meetings

The local government may, by resolution or subordinate local law determine the days and times for its ordinary meetings.

6 Special meetings

- (1) The chief executive officer must call a special meeting of the local

¹ The holding and conduct of local government meetings and committees is also dealt with in Chapter 8, Part 2 of *Local Government Regulation 2012*

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Ipswich City Council
Local Law No.2 (Council Meetings) 2013

government if—

- (a) the special meeting is required by a resolution of the local government; or
- (b) a written request for the special meeting is given to the chief executive officer in accordance with section 6(2) (Special meetings) of this local law.

(2) A written request for a special meeting of the local government must—

- (a) be signed by the mayor or three or more councillors; and
- (b) specify the object of the special meeting; and
- (c) propose a date and time for the holding of the special meeting.

7 Notice and agenda for meetings

The local government may, by subordinate local law, determine the process for notices of and agendas for meetings.

8 Business to be included on agenda

The local government may, by subordinate local law, determine the business to be included on the agenda for meetings.

9 Notice of matter to be included on agenda by a councillor

The local government may, by subordinate local law, determine the process for a councillor wishing to give notice of a matter to be included on the agenda for a meeting.

10 Petitions

The local government may, by subordinate local law, determine the process for dealing with petitions presented to the local government.

11 Motions

The local government may, by subordinate local law:

- (a) determine the process for the moving and amendment of motions and notices of motions;
- (b) determine the process for when the mover of a motion is absent from the meeting at which the motion is being considered;

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Ipswich City Council
Local Law No.2 (Council Meetings) 2013

- (c) determine that a motion or an amendment to a motion be seconded before debate on that motion;
- (d) determine the process for councillors to speak to motions and amendments of motions;
- (e) determine the procedure for voting on motions and amendments of motions;
- (f) determine the procedural motions governing meetings;
- (g) determine the process for raising points of order;
- (h) determine the process for the conduct of local government meetings; and
- (i) determine a process for councillor questions at a local government meeting.

Part 3 Meetings of Committees

12 Attendance at committee meeting

The local government or a committee may, by resolution determine a process for attendance of persons at committee meetings.

13 Participation in committee meetings

Any person, not being a councillor of the local government or a member of the committee, must not take part in a committee debate unless the chairperson invites the person to address the committee upon the matter before it.

14 Conduct of committee meetings

- (1) The chairperson of a committee will preside at a committee meeting.
- (2) The procedure of a committee for dealing with business must be in accordance with—
 - (a) procedural directions given to the committee by resolution of the local government; or
 - (b) if there is no procedural direction governing a particular matter, the chairperson's decision.
- (3) However, a committee may, by resolution, overrule a decision on procedure of a committee made by the chairperson.

Part 4 Maintenance of Good Order

15 Disorder

The chairperson may, where disorder arises at a meeting and the meeting cannot properly continue, adjourn the meeting for not more than 1 hour.

16 Acts of disorder by members of the local government or a committee

If a member of the local government or committee fails to leave the meeting place as directed by the chairperson, an authorised person may, at the request of the chairperson, exercise reasonable force to remove the member and to keep the member away, from the meeting place.

17 Public attendance and behaviour in local government meetings

- (1) An area shall be made available at the place where any local government meeting is to take place for members of the public to attend the meeting and as many members of the public as can reasonably be accommodated may be permitted to attend the meeting.
- (2) A person who is not a member of the local government or a committee must not interrupt or obstruct the proper conduct of a meeting.

Maximum penalty – 50 penalty units.

- (3) If a person (other than a member of the local government or committee)) interrupts or obstructs the proper conduct of a meeting, the chairperson of the meeting may ask the person to leave the meeting place.
- (4) A person asked to leave a meeting place under section 17(3) (Public attendance and behaviour in local government meetings) of this local law must immediately leave the place and must not return to the meeting until the end or at such earlier time as is decided by the chairperson.

Maximum penalty – 50 penalty units.

- (5) If a person contravenes section 17(4) (Public attendance and behaviour in local government meetings) of this local law, an authorised person may, at the request of the chairperson, exercise reasonable force to remove the person from the meeting place, and keep the person away, from the meeting place.

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Ipswich City Council
Local Law No.2 (Council Meetings) 2013

18 Business of objectionable nature

The local government may, by subordinate local law, determine the process for determining business of an objectionable nature at a meeting.

19 Admission of non-members to debate etc.

- (1) The local government or a committee may allow a non-member of a local government meeting to participate in the discussion of a particular item of business before the local government, in the manner decided by the local government or committee.
- (2) The local government may, as a mark of distinction, admit a non-member to a part of the local government chamber normally reserved for councillors during the conduct of local government business.

Part 5 Record of Meetings

20 Audio and video recordings of meetings

A person must not make an audio or video recording, or take photographs, of a meeting without the consent of the chairperson, and in accordance with any direction of the chairperson.

Maximum penalty – 50 penalty units.

Part 6 Miscellaneous

21 Procedure not provided for

If an appropriate or adequate method of dealing with any matter at or about a meeting is not provided by a local law, the method of dealing with the matter may be determined by the chairperson of the meeting in consultation with members of the meeting or by resolution of the meeting upon a motion which may be put without notice, in conformity with the local law.

Part 7 Subordinate Local Laws

22 Subordinate local laws

- (1) The local government may make a subordinate local law with respect to-
 - (a) the process for notices and agendas for meetings;
 - (b) the business to be included on the agenda for meetings
 - (c) the process for a councillor wishing to give notice of a matter to be included on the agenda for a meeting;
 - (d) the process for dealing with petitions presented to local government;
 - (e) the process for the movement and amendment of motions and notices of motions;
 - (f) the process for when the mover of a motion is absent from the meeting at which the motion is being considered;
 - (g) determining that a motion or an amendment to a motion be seconded before debate on that motion;
 - (h) determining the process for councillors to speak to motions and amendments of motions;
 - (i) determining the method for voting on motions and amendments of motions;
 - (j) determining the procedural motions governing meetings at the local government;
 - (k) determining the process for the conduct of meetings of the local government;
 - (l) determining the process for councillor questions at a local government meeting;
 - (m) determining a process for attendance at committee meetings;
 - (n) determining the process for determining business of an objectionable nature;

Part 8 Transition, Savings and Repeals

23 Repeals

The following Local Laws are repealed —

- Local Law No. 5 (Meetings) 1994, gazetted 16 December 1994

Schedule 1 Dictionary

Section 3

authorised person means a person who is authorised under the Act by the local government to exercise the powers of an authorised person under a local law.

chief executive officer means the person appointed and employed by the local government as its chief executive officer pursuant to section 194 (Appointing a chief executive officer) of the Act.

chairperson of the local government or a committee means the person presiding at a meeting of the local government or committee.

committee means a committee appointed by a local government under section 264 of the *Local Government Regulation 2012*

committee meeting means a meeting of a committee.

councillor has the same meaning as given in the Schedule 4 of the Act.

local government means Ipswich City Council.

local government meeting means—

- (a) a post election meeting; and
- (b) an ordinary or a special meeting;

local law has the meaning in the Act, section 26, and includes a subordinate local law.

meeting means a local government meeting or a committee meeting.

motion is a formal proposal to be discussed and voted on in a meeting.

ordinary meeting means a meeting that the local government is required to hold pursuant to section 257 of the *Local Government Regulation 2012*.

post election meeting means the meeting required under section 175 of the Act.

procedural motion means a motion that the local government determines by subordinate local law to be a procedural motion.

special meeting has the same meaning as section 258(3) of the *Local Government Regulation 2012*.

the Act means the *Local Government Act 2009*.

Endnotes

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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

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 – no amendments

5 List of Legislation

Original Local Law
Local Law No. 2 (Council Meetings) 2013
date of gazettal 5 July 2013

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Local Law No.2 (Council Meetings) 2013

6 List of annotations

Ipswich

City Council

Subordinate Local Law No. 2.1 (Council Meetings) 2013

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law No. 2.1 (Council Meetings) 2013.

2 Object

The purpose of this subordinate local law is to supplement *Local Law 2 (Council Meetings) 2013*, which provides a framework for the orderly and proper conduct of meetings of the local government and its committees.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Council Meetings) 2013* (the authorising local law).

4 Definitions – the dictionary

The dictionary in the schedule (Dictionary) defines particular words used in this subordinate local law.

Part 2 Meetings of the Local Government

5 Times of meetings

- (1) For the purposes of section 5 (Times of meetings) of the authorising local law the local government may, by resolution, fix the days and times for its ordinary meetings¹.
- (2) If there is no resolution fixing the day and time for an ordinary meeting, the chief executive officer may fix the date and time for the meeting.
- (3) Before the chief executive officer fixes the date and time for an ordinary meeting, the chief executive officer will, if practicable, consult with the mayor about the proposed day and time for the meeting.

6 Notice and agenda for meetings

- (1) For the purposes of section 7 (Notice and agenda for meetings) of the authorising local law, a written notice of meeting will include an agenda listing the items to be discussed at the meeting.

¹ See section 257 (Frequency and place of meetings) *Local Government Regulation 2012*

- (2) Any notice of meeting or agenda may be given to a councillor either personally, by post, by facsimile machine or by electronic mail.
- (3) The agenda will include—
 - (a) any items required under the Act to be included on the agenda;
 - (b) items that are, by resolution of the local government, to be included on the agenda; and
 - (c) items whose inclusion on the agenda is requested by a councillor.

7 Business to be included on agenda

For the purposes of section 8 (Business to be included on agenda) of the authorising local law, matters not on the agenda or arising from the agenda for a local government meeting will not be considered at the meeting unless permission is given to consider the matter by agreement of the local government at the meeting.

8 Notice of matter to be included on agenda by a councillor

For the purposes of section 9 (Notice of matter to be included on agenda by a councillor) of the authorising local law, any councillor requesting a matter to be included on an agenda, must give notice in writing to the chief executive officer at least two (2) days before the notice of meeting is required to be given².

9 Petitions

- (1) For the purposes of section 10 (Petitions) of the authorising local law, where a councillor wishes to present a petition, the councillor must state the general nature of the petition and present it to the local government. No debate on the petition will be allowed and the only motion which may be moved is that the petition be received and referred to a committee or Council officer for consideration.
- (2) Every other petition received by the local government will be dealt with as though such petition was an item of correspondence.

10 Motions

- (1) For the purposes of section 11(a) (Motions) of the authorising local law, a motion or amendment to a motion, other than a procedural motion or a

² See section 258(Notice of meetings) *Local Government Regulation 2012* as to the requirements of giving a notice of meeting

motion adopting a report, brought before a meeting in accordance with the Act, must be in writing and put to the meeting by the chairperson. The chairperson may require a motion or amendment to a motion to be stated in full before permitting it to be received.

- (2) An amendment to a motion must not directly negative the motion.
- (3) No more than one motion or one proposed amendment to a motion may be put before a meeting at any one time.
- (4) Where an amendment to a motion is before a meeting, no other amendment of the motion may be considered until after the first amendment has been determined.
- (5) A councillor who proposes or seconds a motion may propose or second an amendment to that motion.
- (6) The chairperson must call the notices of motion in the order in which they appear on the agenda unless the local government resolves otherwise, and where no objection is taken to a motion being taken as a formal motion, the chairperson may put the motion to the vote without discussion.
- (7) A motion on the agenda for a meeting must not be withdrawn from the agenda if a councillor at the meeting objects to it being removed.
- (8) When a motion has been moved and seconded, it may not be withdrawn by the mover and seconder without the agreement of the local government.

11 Absence of mover of motion

For the purposes of section 11(b) (Motions) of the authorising local law, if a councillor who has given notice of a motion is absent from the meeting at which the motion is to be considered, the motion may be—

- (a) moved by another councillor at the meeting; or
- (b) deferred to the next meeting.

12 Motion to be seconded

For the purposes of section 11(c) (Motions) of the authorising local law, a motion or an amendment to a motion must not be debated at a meeting unless or until the motion or the amendment is seconded.

13 Speaking to motions and amendments

- (1) For the purposes of section 11(d) (Motions) of the authorising local law, a councillor may request the chairperson for further information before or after a motion or amendment is seconded.
- (2) Each councillor may speak no more than once to the same motion or same amendment, except as a right of reply.
- (3) The mover of a motion will have the right of reply. If a procedural motion that the motion be now put is passed, then the mover of the original motion will have the right of reply. If an amendment is moved, then the councillor who moved the amendment will have the right of reply prior to the amendment being put. If the amendment is passed, the councillor who moved the original motion will have the right of reply to the amended motion. Once the right of reply has been exercised, the debate is closed.
- (4) Each speaker will be restricted to not more than five minutes unless the chairperson rules otherwise.
- (5) If two or more councillors wish to speak at the same time, the chairperson may determine who is entitled to speak first.

14 Method of taking vote

- (1) For the purposes of section 11(e) (Motions) of the authorising local law, before any matter is put to the vote, the chairperson may direct the motion or amendment to be read again by the chief executive officer or other officer who is taking the minutes of the meeting. The chairperson must, in taking the vote on a motion or amendment, put the question, first in the affirmative and then in the negative and may do so as often as necessary to form and declare an opinion as to whether the affirmative or the negative has the majority vote.
- (2) The local government will vote by a show of hands unless otherwise directed by the chairperson. Any councillor may call for a division on a question. If a division is taken, the names of the councillors voting in the affirmative and of those voting in the negative (including abstaining) will be recorded. The chairperson must declare the result of a vote or a division as soon as it has been determined.
- (3) Councillors have the right to request that their names and how they voted (including any abstention) be recorded in the minutes if they so request, for voting other than by division.

15 Procedural motions

- (1) For the purposes of section 11(f) (Motions) of the authorising local law, the following motions are determined to be procedural motions—
 - (a) that the motion be put;
 - (b) that the debate on the motion and/or amendment now before the meeting be adjourned;
 - (c) that the meeting proceed to the next item of business;
 - (d) that the question lie on the table or that the matter be taken from the table;
 - (e) that the chairperson's ruling be dissented from;
 - (f) that the meeting be closed/open to the public (in accordance with the provisions of the *Local Government Regulation 2012*);
 - (g) that the meeting stand adjourned.
- (2) Procedural motions are required to be seconded.
- (3) A procedural motion, "that the motion be put", may be moved in order to bring on the finalisation of a motion. Where such a procedural motion is carried, the chairperson must immediately put the motion, or amendment to that motion under consideration, subject to the right of reply pursuant to section 13(3) (Speaking to motions and amendments) of this subordinate law. Where such procedural motion is lost, debate on the motion or amendment to that motion shall continue.
- (4) The procedural motion, that the debate on the motion and/or amendment now before the meeting be adjourned, may specify a time or date, to which the debate will be adjourned. A procedural motion must not adjourn debate on a matter the subject of a motion for a period more than two months after the date of that procedural motion.

Where no date or time is specified—

 - (a) a further motion may be moved to specify such a time or date; or
 - (b) the matter about which the debate is to be adjourned, will be included in the agenda for the next meeting.
- (5) Where a procedural motion, that the meeting proceed to the next item of business is carried, debate on the matter subject of the motion must cease

and may be considered again by the local government on the giving of notice in accordance with the authorising local law.

- (6) A procedural motion, that the question lie on the table, will only be moved where the chairperson or a councillor requires additional information on the matter before the meeting (or the result of some other action of the local government or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, the local government will proceed with the next matter on the agenda. A procedural motion, that the matter be taken from the table, may be moved at the meeting at which that procedural motion was carried or at any later meeting.
- (7) A councillor may move 'a motion of dissent' in relation to a ruling of the chairperson. Where such motion is moved, further consideration of any matter shall be suspended until after the motion is determined. Only the mover of the motion of dissent and the chairperson may speak to such a motion. Each may speak only once to such a motion with the mover speaking first and the chairperson second. Where a motion of dissent is carried, the matter to which the ruling of the chairperson was made will proceed as though that ruling had not been made. Where a motion of dissent is not carried, the ruling of the chairperson will stand.
- (8) Where a procedural motion, "that the Council resolve to close the meeting to the public for the purpose of" is passed, all members of the public must leave and not re-enter the room where the meeting is being held until a procedural motion "that the Council meeting be open to the public" is passed.
- (9) A procedural motion, that the meeting stand adjourned, may be moved by any councillor.
- (10) Where a procedural motion is lost, the chairperson must not accept a similar motion until the expiration of 15 minutes after the time the motion was lost.

16 Points of order

- (1) For the purposes of section 11(g) (Motions) of the authorising local law, any councillor may ask the chairperson to decide on a 'point of order' where it is believed that—
 - (a) another councillor has failed to comply with proper meeting procedures;
 - (b) a matter before the meeting is in contravention of the local laws or the Act; or
 - (c) a matter before the meeting is beyond the local government's jurisdictional power.

- (2) Where a 'point of order' is raised, consideration of the matter to which the motion was moved will be suspended. The chairperson will determine whether the point of order is upheld.
- (3) Upon a question of order arising during the process of a debate, a councillor may speak to a point of order, and thereupon the councillor against whom the point of order is raised, must immediately cease speaking when the point of order was submitted.
- (4) Notwithstanding anything contained in this subordinate local law and the authorising to the contrary, all questions of order at any time arising will, until decided, suspend the consideration and decision of every other motion or matter.

17 Conduct of meetings

- (1) The order of business will be determined by resolution of local government from time to time. The order of business may be altered for a particular meeting if the councillors, at that meeting, pass a motion to that effect. A motion to alter the order of business may be moved without notice.
- (2) The local government must proceed with its business at a meeting in the order indicated on the agenda for the meeting.
- (3) The local government may, by resolution overrule a decision on a procedural question made by the chairperson.
- (4) Unless otherwise altered, the business and order of business will be as follows—
 - (a) Opening of Meeting
 - (b) Welcome to country or acknowledgement of country
 - (c) Opening Prayer
 - (d) Apologies and Leave of Absence
 - (e) Condolences and Memorials
 - (f) Petitions and Presentations
 - (g) Confirmation of Minutes
 - (h) Reception and consideration of Committee Reports
 - (i) Consideration of Notified Motions

- (j) Reception of Notices of Motion for Future Meetings
 - (k) Questions
 - (l) Officers' Reports
 - (m) Consideration of Items Placed on the Agenda by a Councillor in accordance with section 6(3)(c) (Notice and agenda for meetings) and 8 (Notice of matter to be included on agenda by a councillor) of this subordinate local law.
-
- (5) The minutes of a preceding meeting not previously confirmed will be taken into consideration in order that such minutes may be confirmed and no discussion will be permitted with respect to such minutes except with respect to their accuracy as a record of the proceedings.
 - (6) After a meeting of local government has been formally constituted and the business commenced, a councillor must not enter or leave from such meeting without first acknowledging the chairperson.
 - (7) Councillors may stand and address the chairperson while moving any motion or amendment, seconding any motion or amendment or taking part in any discussion or replying to any question, or addressing the local government for any other purpose.
 - (8) Councillors will speak of each other during the local government meetings by their respective titles, "Mayor" or "Councillor" and in speaking of or addressing officers will designate them by their respective official or departmental title and will confine their remarks to the matter then under consideration.
 - (9) Councillors must remain seated and silent while a vote is being taken except when calling for a division. Councillors will act with due decorum during meetings in order that the meeting is conducted in an efficient and effective manner. The chairperson may specify orally, or in writing, appropriate standards of decorum which must be observed by all councillors and other persons attending a meeting.
 - (10) A councillor must not make personal reflections on or impute improper motives to any other councillor.
 - (11) A councillor who is speaking must not be interrupted except upon a point of order being raised either by the chairperson or by a councillor.
 - (12) When the chairperson speaks during the process of a debate, the councillor then speaking or offering to speak, must immediately cease speaking and each councillor present must preserve strict silence so that the chairperson

may be heard without interruption.

18 Questions

- (1) For the purposes of section 11(i) (Motions) of the authorising local law, a councillor may, at a local government meeting, ask a question for reply by another councillor or the chief executive officer regarding any matter under consideration at the meeting. The question must be reduced to writing and provided to the relevant councillor or chief executive officer.
- (2) The question must be asked categorically and without argument and no discussion will be permitted at the meeting of the local government in relation to a reply or a refusal to reply to the question. A councillor or the chief executive officer to whom a question is asked without notice may request that the question be taken on notice for or prior to the next meeting.
- (3) Any councillor wishing to ask a question relating to the general work or procedure of the local government or any matter under the jurisdiction of the officer or councillor but not related to any matter under consideration at that meeting, shall provide the question in writing to the chief executive officer at least four days prior to the meeting at which it is to be asked.
- (4) A councillor who asks a question at a meeting, whether or not upon notice, will be deemed not to have spoken to the debate of the motion to which the question relates.
- (5) The chairperson may disallow a question which the chairperson considers is inconsistent with good order, provided that a councillor may move a motion of dissent against a ruling, and if such a motion is carried, the chairperson must allow such question.

Part 3 Meetings of Local Government Committees

19 Attendance at committee meeting

- (1) For the purposes of section 12 (Attendance at committee meetings) of the authorising local law, any councillor of the local government may attend a meeting of a committee and may address the committee in accordance with any procedures established by the chairperson of the committee.
- (2) An area will be made available at a place where any committee is to take place for members of the public to attend the meeting and as many people as reasonably can be accommodated in that area may be permitted to attend the meeting

Part 4 Maintenance of Good Order

20 Business of objectionable nature

For the purposes of section 18 (Business of an objectionable nature) of the authorising local law, if at a meeting the chairperson or a councillor considers that a matter or motion before a meeting is of an objectionable nature or outside the powers of the local government, the chairperson may, on the chairperson's own volition or at the request of another councillor, declare that the matter not be considered further.

Schedule - Definitions

Section 3

chairperson of the local government or a committee means the person presiding at a meeting of the local government or committee.

committee means a committee appointed by a local government under section 264 of the *Local Government Regulation 2012*

committee meeting means a meeting of a committee.

councillor has the same meaning as given in the Schedule 4 of the Act.

local government meeting means—

- (a) a post election meeting; and
- (b) an ordinary or a special meeting;
- (c) but does not include a committee meeting.

local law has the meaning in the Act, section 26, and includes a subordinate local law.

meeting means a local government meeting or a committee meeting.

motion is a formal proposal to be discussed and voted on in a meeting.

ordinary meeting means a meeting that the local government is required to hold pursuant to section 257 of the *Local Government Regulation 2012*.

post election meeting means the meeting required under section 175 of the Act.

procedural motion means a motion that the local government determines by subordinate local law to be a procedural motion.

special meeting has the same meaning as section 258(3) of the *Local Government Regulation 2012*.

the Act means the Local Government Act 2009.

Endnotes

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- 3 Key
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2 Date to which amendments incorporated

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 – no amendments

5 List of Legislation

Original Subordinate Local Law

Subordinate Local Law No.2.1 (Council Meetings) 2013

date of gazettal 5July 2013

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Ipswich City Council

Subordinate Local Law No. 2.1 (Council Meetings) 2013

6 List of annotations

Ipswich

City Council

Local Law (Repealing) Local Law No.2 (Council Meetings) 2019

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Ipswich City Council
Local Law (Repealing) Local Law No. 2 (Council Meetings) 2019

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Draft

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Ipswich City Council
Local Law (Repealing) Local Law No. 2 (Council Meetings) 2019

1 Short title

This local law may be cited as Local Law (Repealing) Local Law No. 2 (Council Meetings) 2019.

2 Commencement

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

3 Local laws repealed

This local law repeals:

- (1) Local Law No. 2 (Council Meetings) 2013; and
- (2) Subordinate Local Law No. 2.1 (Council Meetings) 2013.

4 Expiration

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

Doc ID No: A5563945

ITEM: 2

SUBJECT: ADMINISTRATION - LOCAL LAW (AMENDING) LOCAL LAW NO.1
ADMINISTRATION 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 27 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.1 (Administration) 2019*.

RECOMMENDATION/S

That the Interim Administration of Ipswich City Council resolve:

- A. That Council propose to make *Local Law (Amending) Local Law No.1 (Administration) 2019*, as attached to the report of the Strategic Policy and Systems Manager dated 27 June 2019.
- B. That it be noted that a review of the proposed *Local Law (Amending) Local Law No.1 (Administration) 2019* has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed *Local Law (Amending) Local Law No.1 (Administration) 2019*, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.1 (Administration) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultations and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of

the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Caring for the community

Listening, leading and financial management

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy "Local Law Making Process" which is available on Council's website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council's Business Transformation Program a review of Council's existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren't included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.
- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).
- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:

- Advertisement in Queensland Times
- Ipswich First articles
- Dedicated web page on Council's website
- Ability to lodge submissions online, via email and post
- Social media postings promoting the review and how to make a submission
- Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will be published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all proposed local laws for a minimum of 21 days (see policy for requirements)	17/07/19	7/08/19	Ready to commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to	September	September	Not Started

proceed/amend/cease local law making process (see policy for further info)	Committee Mtg 10/09/19	Council Mtg 17/09/19	
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council’s register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council’s current *Local Law No.1 (Administration) 2013 (Attachment 1)* whose objective is to provide a legal framework for the administration, implementation and enforcement of the local government’s local laws and subordinate local laws. In summary it provides the processes for:

- Applications and approvals under Council’s local laws
- Legal proceedings for offences under the local laws including general defences, recovery of costs and service of legal instruments
- Appointment of authorised officers and their powers
- Investigation and enforcement including compliance notices
- Protection of Council officers in undertaking their role
- Reviewable decisions

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.1 (Administration) 2019 (Attachment 2)*. It is noted that there have been no anti-competitive provisions identified in the amended law.

A review has been conducted and drafting undertaken to:

- a. correct typographical errors and inconsistencies and provide an improved layout and formatting to the law;
- b. clearer requirements of what is required in the application and approval process;
- c. clearer clarification and definition of compliance notices for contravention of local laws or approval conditions;
- d. Inclusion of ‘stop order’ provisions to enable an authorised person to give a relevant person an order to immediately stop an activity if the authorised person believes that continuation of the activity poses: an urgent and serious threat to public health and safety; or an urgent and serious risk of property damage or loss of amenity. The order may be given orally or in writing. (See page 19 of the amending local law for

complete process). This is a standard provision in local laws for Council's in Queensland and the same wording appears in the State Government's Administration Model Local Law.

FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation and enforcement costs will be minimal for these amendments as they are administrative in nature.

RISK MANAGEMENT IMPLICATIONS

The Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedule requires amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)

COMMUNITY AND OTHER CONSULTATION



Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local

Law making process which includes public consultation and State Government Interest checks related to *Local Law (Amending) Local Law No.1 (Administration) 2019*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.1 (Administration) 2013 ↓ 
2.	Local Law (Amending) Local Law No.1 (Administration) 2019 ↓ 

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

Ipswich

City Council

Local Law No. 1 (Administration) 2013

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Ipswich City Council
Local law No. 1 (Administration) 2013

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No.1 (Administration) 2013*.

1A Commencement

This local law commences on 1 August 2013

2 Object

The object of this local law is to provide a legal framework for the administration, implementation and enforcement of the local government's local laws and subordinate local laws.

3 Definitions—the dictionary

The dictionary in the Schedule (Dictionary) defines particular words used in this local law.

4 Application of local law

(1) This local law applies to—

- (a) *Local Law No. 2 (Meetings) 2013*, and its subordinate local laws; and
- (b) *Local Law No. 3 (Commercial Licensing) 2013*, and its subordinate local laws; and
- (c) *Local Law No. 4 (Permits) 2013*, and its subordinate local laws; and
- (d) *Local Law No. 5 (Parking) 2013*, and its subordinate local laws; and
- (e) *Local Law No. 6 (Animals) 2013*, and its subordinate local laws; and
- (f) *Local Law No.7 (Local Government Controlled Areas and Roads) 2013*, and its subordinate local laws; and
- (g) *Local Law No 8 (Nuisances and Community Health and Safety) 2013*, and its subordinate local laws.

(2) The powers of the local government contained in, or obligations imposed by, any other local law are in addition to the powers and obligations contained in this local law.

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Ipswich City Council
Local law No. 1 (Administration) 2013

Part 2 Applications and approvals

5 Requirements of an application

- (1) An application for approval of a proposal must be made in the prescribed form.
- (2) The application must be accompanied by—
 - (a) the prescribed fee; and
 - (b) information, documents and materials required under the relevant local law; and
 - (c) such further information, documents or materials specified in a subordinate local law.
- (3) The local government may waive the requirements of section 5(2) (Requirements of an application) of this local law—
 - (a) in an emergency; or
 - (b) if there are special reasons for dispensing with the requirement; or
 - (c) in the circumstances specified in a subordinate local law.

6 Determination of an approval

- (1) If the local government has power under a local law to approve an application, the local government may—
 - (a) approve the application unconditionally; or
 - (b) approve the application subject to conditions; or
 - (c) refuse to approve the application.

Example –

If a proposal 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 bank guarantee or an insurance bond) to ensure that damage is made good.

- (2) However the local government's powers are subject to the provisions of the local law and any relevant subordinate local law.

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- (3) The local government must, in deciding how to exercise its power, have regard to any criteria stated in the relevant local law or subordinate local law.

7 Proposals requiring multiple approvals

- (1) If a proposal involves multiple approvals the local government must, if practicable, deal with the subjects on which its approval is required together.
- (2) If the local government decides that an application should be refused on a particular aspect of a proposal for which multiple approvals are required, it may refuse other applications required for the proposal even though other aspects of the proposal for which approval is required may be acceptable to the local government.

8 Certification of specified matters

- (1) A local law may provide that a specified matter is subject to certification by a person specified by the local government.
- (2) If a local law provides that a matter is subject to certification by a person specified by the local government, the local government may accept the certificate from a person with recognised qualifications in the relevant field as evidence that—
- (a) a proposal complies with the requirements of the local law; or
- (b) a proposal for which approval has been given by the local law has been carried out in accordance with the requirements of the local law.

9 Power to change the conditions of an approval or cancel or suspend approval

- (1) The local government may amend a condition on which its approval has been given under a local law if the amendment is necessary to—¹
- (a) prevent harm to human health or safety or personal injury; or
- (b) prevent property damage or a loss of amenity; or
- (c) prevent environmental harm or environmental nuisance; or

¹ A change to the conditions of an approval includes a change by omission, substitution or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).

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- (d) prevent a nuisance; or
 - (e) ensure that the proposal complies with the Local Government Act and local laws that regulate the proposal
- (2) Section 9(1) (Power to change the conditions of an approval or cancel or suspend approval) of this local law does not limit the power a local government may have apart from this section to amend a condition of an approval.
- (3) A local government may cancel or suspend an approval—
- (a) in the circumstances specified in section 9(1) (Power to change the conditions of an approval or cancel or suspend approval) of this local law; or
 - (b) for contravention of a condition of the approval.
- (4) A power given under a local law to cancel an approval includes a power to suspend the approval for a period determined by the local government.

10 Procedure to change the conditions of an approval or cancel or suspend approval

- (1) If the local government is satisfied it is necessary to change a condition of an approval or cancel or suspend an approval under 9(1) (Power to change the conditions of an approval or cancel or suspend approval) of this local law the local government must—
- (a) give the holder of the approval a written notice stating—
 - (i) the proposed change and the reasons for the change; and
 - (ii) that the holder of the approval may make written representations to the local government about the proposed change; and
 - (iii) the time (at least 10 business days after the notice is given to the holder of the approval) within which the written representations may be made; and

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- (b) consider any written representation made by the holder of the approval within the time stated in the notice.
- (3) After considering any written representation made by the holder of the approval, the local government must give to the holder of the approval—
 - (a) if the local government is not satisfied the change is necessary – a written notice stating that it has decided not to change the condition; or
 - (b) if the local government is satisfied that the change is necessary – a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the written notice was given to the holder of the approval.

11 Records of approvals

The local government must maintain a record of each approval given under a local law.

12 Fraud and unlawful possession of an approval

- (1) A person shall 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; or
 - (b) by a false or misleading statement or representation obtain or attempt to obtain an approval; or
 - (c) furnish any information that to the person's knowledge is false or misleading with respect to particulars required to be furnished in connection with an application for an approval; or
 - (d) forge (within the meaning of the *Criminal Code*) an approval.
- Maximum penalty for subsection (1) – 200 penalty units.
- (2) A person shall not have in the person's possession (without reasonable cause for so doing) any article resembling a current approval and calculated to deceive.

Maximum penalty for subsection (2) – 200 penalty units.

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- (3) A person shall not –
- (a) use an approval unless it is an approval duly issued to the person; or
 - (b) lend an approval duly issued to the person to another person for use by that other person; or
 - (c) permit or suffer to be used by another person an approval duly issued to that person.

Maximum penalty for subsection (3) – 200 penalty units.

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

Maximum penalty for subsection (4) – 200 penalty units.

- (5) An approval in respect to which any act or attempted act referred to in this section has been done shall be null and void.

Part 3 Legal proceedings

Division 1 Evidentiary Aids

13 Evidentiary provisions

- (1) The appointment of an authorised person or the authority of an authorised person to do an act under a local law must be presumed unless a party, by reasonable notice to the local government, requires proof of these matters.
- (2) A signature purporting to be the signature of the chief executive officer or an authorised person is evidence of the signature it purports to be.
- (3) A certificate purporting to be signed by the chief executive officer stating that a stated person is or was an authorised person at a time, or during a stated period, is evidence of the matter stated in the certificate.
- (4) A certificate purporting to be signed by the chief executive officer stating any of the following matters is evidence of the matter—
 - (a) a stated document is an appointment or a copy of an appointment; or

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- (b) a stated document is a copy of a notice, direction, decision, order, approval or other instrument issued or given under a local law; or
 - (c) on a stated day, or during a stated period, a stated person was or was not the holder of an approval or other instrument issued or given under a local law; or
 - (d) an approval or other instrument –
 - (i) was or was not issued or given for a stated term; or
 - (ii) was or was not in force on a stated day or during a stated period; or
 - (iii) was or was not subject to a stated condition; and
 - (e) on a stated day, an approval was suspended for a stated period or cancelled; or
 - (f) on a stated day, the conditions of an approval were changed; or
 - (g) on a stated day, a stated person was given a stated notice, direction or order under a local law; or
 - (h) a stated document is a copy of a part of a register kept under a local law; or
 - (i) a stated amount is payable under a local law by a stated person and has not been paid; or
 - (j) that a stated method of storage, preservation, handling or transportation of a sample taken under a local law has not materially affected the attributes of the sample; or
 - (k) another matter specified in a subordinate local law.
- (5) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.
- (6) A certificate purporting to be signed by an analyst stating any of the following matters is evidence of the matter—

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- (a) the analyst received from a stated person the sample mentioned in the certificate; and
 - (b) the analyst analysed the sample on a stated day and at a stated place; and
 - (c) the results of the analysis and the interpretation of the analysis results.
- (7) Any instrument, equipment or installation that is used by an authorised person or an analyst is taken to be accurate and precise in the absence of evidence to the contrary.
- (8) In a proceeding in which the local government applies to recover the costs and expenses incurred by it, a certificate by the chief executive officer stating that stated costs and expenses were incurred and the way and purpose for which they were incurred is evidence of the matters stated.
- (9) In a proceeding for an offence against a local law, proof of any exemption from any provision of a local law shall be upon the person who seeks to rely on the exemption.
- (10) In a proceeding for an offence against a local law, where the age of any person is material, the court may decide upon its own view and judgment, whether any person charged or present before it has or has not attained any prescribed age, but nothing herein shall be construed to prevent the age of that person being proven.

14 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 enough to show—
- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (2) An act done 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 done 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.

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15 Joint and several liability

- (1) If a local law imposes a liability on an owner of property, or a person engaged in a particular activity, and 2 or more persons are the owners 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*.

Division 2 Defences

16 Defence

It is a defence to any breach or non-compliance of any provision contained in a local law if a person has a lawful excuse or defence.

Example—

It is a defence to any breach or non-compliance of any provision contained in a local law if a person was not criminally responsible in accordance with Chapter 5 (Criminal Responsibility) of the Criminal Code.

17 General defence of owners

If a local law makes the owner of property guilty of an offence if a particular act or omission happens with respect to the property, it is a defence for the owner of the property to prove that—

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

Division 3 Rewards

18 Rewards

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of, or finding of guilt in relation to, 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 the local government.

Division 4 Costs

19 Recovery of costs of investigation

- (1) The court may order a person to pay to the local government the reasonable costs and expenses incurred by the local government in conducting an investigation of an offence under a local law, if—
 - (a) the person is convicted or found to have committed an offence against a local law; and
 - (b) the court convicting the person finds the local government has reasonably incurred costs and expenses in taking a sample or conducting an inspection, test, measurement or analysis during the investigation of the offence; and
 - (c) the local government applies for an order against the person for the payment of the costs and expenses; and
 - (d) the court is satisfied it would be just to make the order in the circumstances of the particular case.
- (2) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Division 5 Service of legal instruments

20 Service of legal instruments

- (1) The local government may give or serve a legal instrument to or upon—
 - (a) a person by—
 - (i) delivering the legal instrument to the person; or
 - (ii) leaving the legal instrument at the person's address for service; or
 - (iii) forwarding the legal instrument by post in a prepaid letter addressed to the person at the person's address for service; or
 - (iv) forwarding the legal instrument by post in a registered letter addressed to such person at the person's address for service; or
 - (b) a person in that person's capacity as the owner or occupier of premises by —
 - (i) delivering the legal instrument to the person; or
 - (ii) delivering a copy of the legal instrument to a person who is in control of the property; or
 - (iii) if there is no person in control of the property to whom the legal instrument can be given or served, fixing a copy of the legal instrument on some conspicuous part of the property.
 - (c) a person who last used a vehicle that is abandoned on a premises or road by —
 - (i) forwarding the legal instrument by post in a prepaid letter addressed to the person who is the registered owner of the vehicle; or
 - (ii) if the vehicle is unregistered, attaching the legal instrument to the vehicle.
- (2) If the local government has given or served a legal instrument on a person pursuant to section 20(1) (Service of legal instruments) of this local law, it shall be sufficient proof that the legal instrument has been given or served to or upon the person, for an officer of the local government to—

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- (a) in the case of a legal instrument given or served to or upon a person pursuant to section 20(1)(a)(iii) (Service of legal instruments) of this local law—
 - (i) produce a copy of the legal instrument; and
 - (ii) give sworn testimony that the legal instrument was properly stamped and addressed and put into the post; and
 - (b) in the case of a legal instrument given or served to or upon a person pursuant to section 20(1)(a)(iv) (Service of legal instruments) of this local law—
 - (i) produce a receipt purporting to be the registered receipt of the registered letter; and
 - (ii) give sworn testimony as to the contents of the registered letter; and
 - (c) in all other cases—
 - (i) produce a copy of the legal instrument; and
 - (ii) give sworn testimony as to the manner in which the legal instrument was given or served to or upon the person.
- (3) If a legal instrument must be given or served to or upon the owner or occupier of a property and the name of the owner or occupier is not known, then the legal instrument shall be deemed to have been properly given or served if—
- (a) the legal instrument is addressed to the owner or occupier of the property by the description of the —owner or —occupier of the property in question (naming them) and without further name or description; and
 - (b) the legal instrument is given or served to or upon the person in accordance with section 20(1) (Service of legal instruments) of this local law.
- (4) A legal instrument forwarded by post in a prepaid letter shall be deemed to have been given or served to or upon the person at the last moment of the day of which the same ought to be delivered at its destination in the ordinary course of the post.

Part 4 Powers of council officers

Division 1 Appointment of council officers under local law

21 Appointment

- (1) The chief executive officer may appoint a person to be an authorised person and to exercise the powers of an authorised person².
- (2) An appointment made by the chief executive officer may be general or subject to limitations stated in the appointment.

Example—

A person may be authorised to exercise the powers of an authorised person under a particular local law but only in relation to a particular public place.

22 Identity cards

- (1) The local government must issue an identity card to each person appointed to a position provided for under a local law.
- (2) A person must return any identity card and any instrument of appointment to the local government as soon as practicable, but in any event no later than 10 business days, after the termination of their appointment

Maximum penalty for subsection (2) – 50 penalty units

23 Production of identity cards

- (1) A person exercising a power under section 32 of this local law may exercise the power only if the person—
 - (a) first produces their identity card for the person to inspect; or
 - (b) has their identity card displayed so it is clearly visible.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the person exercising the power must produce the identity card for inspection at the first reasonable opportunity.

² The appointment and powers of authorised persons are provided for in the Act

Division 2 Assessment of applications

24 Assessment of proposals

Before the local government decides an application, an authorised person may—

- (a) inspect any premises, vehicle, equipment, animal, plant or thing to be involved in the proposal; and
- (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected.

Division 3 Investigation and enforcement

25 False, misleading or incomplete documents

- (1) A person must not give to the local government or a council officer a document containing information that the person knows is false, misleading or incomplete in a material particular.

Maximum penalty for subsection (1) – 50 penalty units.

- (2) Section 25(1) (False, misleading or incomplete documents) of this local law does not apply to a person who, when giving the document—
 - (a) informs the local government or a council officer of the extent to which the document is false, misleading or incomplete; and
 - (b) gives the correct information to the local government or a council officer at the time the person gives the document or as soon as the person becomes aware of the correct information.
- (3) A complaint against a person for an offence against section 25(1) (False, misleading or incomplete documents) of this local law is sufficient if it states that the document was false, misleading or incomplete to the person's knowledge.

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26 False, misleading or incomplete information

- (1) A person must not—
- (a) state anything to a local government or a council officer that the person knows is false, misleading or incomplete in a material particular; or
 - (b) omit from a statement made to a local government or a council officer anything without which the statement is, to the person's knowledge, false, misleading or incomplete in a material particular.

Maximum penalty for subsection (1) – 50 penalty units.

- (2) A complaint against a person for an offence against section 26(1)(a) or (b) (False, misleading or incomplete information) of this local law is sufficient if it states that the statement made was false, misleading or incomplete to the person's knowledge.

27 Production of documents

A person who is required under a local law to produce a document must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty – 50 penalty units.

28 Production of approval

- (1) A council officer may ask a person apparently acting under an approval to produce the approval immediately for inspection.
- (2) The person must produce the approval, unless the person has a reasonable excuse for not producing it.

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

29 Analysis of samples

- (1) The local government may have a sample taken by a council officer under a local law analysed.
- (2) A person must not, with intent to adversely affect the analysis of a thing—
- (a) tamper with the thing before a council officer takes a sample of the thing for analysis; or

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- (b) tamper with a sample of a thing after it is taken by a council officer 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 of the analysis and the interpretation of the analysis results.

30 General compliance notice

- (1) The local government may give a written notice (a **general compliance notice**) to a person who contravenes a local law.
- (2) A general compliance notice may require the person to whom it is given to—
 - (a) stop the contravention, if the contravention is of a continuing or recurrent nature; and
 - (b) perform work or otherwise take specified action to remedy the contravention (including the making of an application for a permit or licence) for or within a reasonable time specified in the compliance notice, whether or not the contravention is of a continuing or recurrent nature.
- (3) A person to whom the general compliance notice is given must comply with the general compliance notice.

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

31 Performance of work and recovery of costs

- (1) A person who commits an offence under a local law must make good any damage caused directly or indirectly by the commission of the offence.
- (2) The local government may perform work where a person has failed to perform work required to be performed by³—
 - (a) section 31(1) (Performance of work) of this local law; or

³ The exercise of this power is subject to Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.

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- (b) a compliance notice issued under a local law; or
 - (c) any other provision of a local law.
- (3) The local government may in the course of performing work remove any structure, vehicle, equipment, animal, plant or thing involved in the commission of the offence where⁴the local government is satisfied that there is a risk of—
 - (a) harm to human health or safety or personal injury; or
 - (b) property damage or a loss of amenity; or
 - (c) environmental harm or environmental nuisance.
- (4) The local government must dispose of any material of any nature removed by it pursuant to section 31 (Performance of work) of this local law in accordance with section 41 (Confiscated goods).
- (5) An authorised person may perform the work that the local government is empowered to undertake pursuant to section 31 (Performance of work) of this local law.
- (6) If work to be carried out by the local government under section 31 (Performance of work) is on land of which the local government is not the owner or occupier, the local government may enter the land to perform the work⁵—
 - (a) if the person who has failed to perform the work is the owner or occupier of the land; or
 - (b) if the entry is necessary for the exercise of the local government's jurisdiction.
- (7) If the person who failed to perform the work is the owner of the land, the amount properly and reasonably incurred by the local government to perform the work is recoverable (together with any interest) under Chapter 5, Part 2, Division 2 of the Act.

⁴ The exercise of this power is subject to Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.

⁵ See the powers contained in Chapter 5, Part 2, Division 2 of the Act

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- (8) If the person who failed to perform the work is not the owner of the land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the person in default together with interest on the same basis as applies to an owner of the land under Chapter 5, Part 2, Division 2 of the Act.
- (9) The Court may order a person found guilty of an offence under a local law to—
 - (a) perform work required to be performed by—
 - (i) section 31(1) (Performance of work) of this local law; or
 - (ii) a compliance notice issued under this local law; or
 - (iv) a provision of this local law.
 - (b) pay to the local government all costs incurred by the local government in performing the work pursuant to section 31 (Performance of work) of this local law.

Division 4 Directions

32 Directions generally

- (1) A council officer may direct a person committing a breach of a local law to—
 - (a) cease any conduct or activity which constitutes a breach of the local law; and
 - (b) take such action determined by a council officer to ensure that the person does not commit a breach of this local law.
- (2) A person must comply with a direction of a council officer made pursuant to this local law.

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

Division 5 Protection of council officers

33 Protection from liability

- (1) A council officer does not incur civil liability for an act or omission done honestly and without negligence under a local law.
- (2) A liability that would, apart from this section, attach to a council officer attaches instead to the local government.

34 Deception of a council officer

A person must not intentionally mislead or deceive a council officer in the exercise of their authority under a Local Government Act.

Maximum penalty – 50 penalty units.

35 Attacking a council officer

A person must not physically attack a council officer in the exercise of their authority under a Local Government Act.

Maximum penalty – 850 penalty units.

36 Use of offensive or offensive language or behaviour

A person must not in relation to an authorised person who is exercising the powers of an authorised person under a Local Government Act—

- (a) use language that is insulting, offensive or threatening; or
- (b) behave in an insulting, offensive or threatening manner.

Maximum penalty – 50 penalty units.

37 Impersonation of a council officer

A person must not impersonate a council officer.

Maximum penalty – 50 penalty units.

Part 5 Miscellaneous

38 Notices

If a local law empowers a local government to issue a notice to a person requiring the person to do, or to refrain from doing, a particular act, the notice must set out—

- (a) the provisions of the local law under which the requirement is made;
 and
- (b) the time within which compliance is required; and
- (c) the consequences of contravention of the notice.

39 Charges

- (1) If a local law provides for the payment of a charge, and does not itself fix the amount of the charge, the charge may be fixed by a resolution of the local government.
- (2) A resolution fixing a charge may provide for the reimbursement of the charge in appropriate circumstances.

Example—

If a person pays a licence fee appropriate to a licence of 1 year's duration but, because of unforeseen circumstances, surrenders the licence within 3 months after it is granted. A resolution might provide that, in such a case, the former licensee is to receive a partial reimbursement of the licence fee.

- (3) Unless specific provision to the contrary is made in a local law or a resolution fixing a charge, the local government may, in an appropriate case, waive or partially remit a charge.

40 Unclaimed goods

- (1) The local government may, in accordance with this section, dispose of goods, other than a vehicle, that are left on a local government controlled area or road irrespective of whether the owner of the goods intended to relinquish ownership of the goods.
- (2) The local government may dispose of the goods—
 - (a) as the local government sees fit (including by private sale, destruction, restoring or giving away) if—
 - (i) the goods are perishable; or

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- (ii) the goods have no commercial value; or
 - (iii) the value of the goods is so slight that it would not cover the cost of sale; or
 - (iv) the goods cannot be sold at a public auction pursuant to section 40(2)(b) (Unclaimed goods) of this local law; or
- (b) by public auction after a period of 1 month in the case of goods not specified in section 40(2)(a) (Unclaimed goods) of this local law.
- (3) If goods are to be sold at public auction, the local government must give public notice of the public auction at least 10 business days before the date of the proposed public auction.
- (4) A person to whom goods are sold under this section (whether by public auction or otherwise) gains a clear title to the goods freed and discharged from the interests of others.
- (5) The local government must apply the proceeds of sale (by public auction or otherwise) in the following manner —
 - (a) first, towards the costs of the storage and sale of the goods; and
 - (b) second, in the payment of any prescribed fee for seizing and holding the property
 - (c) third, if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cwlth) — in payment of the amount owing under the security interest;
 - (d) fourthly, in payment of the balance of the proceeds to the owner of the goods, or if after reasonable inquiry, the owner cannot be ascertained, into the general fund of the local government.
- (6) If, within 6 months after the date of the sale, the former owner of the goods claims the proceeds of the sale of the goods, the net proceeds of the sale must be paid to the former owner but if no valid claim is made to the proceeds within that period, the local government may pay the proceeds of the sale into its general funds.

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- (7) This section does not apply to the disposal of goods to the extent that there is an inconsistent provision in legislation⁶ (including a provision in a local law) dealing specifically with the disposal of goods of a particular class or type.
- (8) A person may make a successful claim for the return of the goods left in a local government controlled area or road, before disposal of the goods, if the claimant—
 - (a) is the owner, a person acting on the owner's behalf or a person claiming a right to possession of the goods; and
 - (b) has applied in writing to the local government for the release from detention of the goods; and
 - (c) has furnished proof to the satisfaction of an authorised person of the claimant's—
 - (i) ownership of the goods; or
 - (ii) right to possession of the goods; or
 - (iii) authority to act on behalf of the owner; and
 - (d) has paid all expenses incurred by the local government in connection with—
 - (i) the removal of the goods from the public place; and
 - (ii) the storage of the goods; and
 - (iii) the costs of sale which have been incurred.
 - (e) has signed a receipt for the delivery of the goods to the claimant.

41 Confiscated goods

- (1) If the local government or an authorised person exercises a power under a local law to remove, confiscate or impound goods, other than a vehicle—
 - (a) the property in the goods vests in the local government; and
 - (b) the local government may dispose of the goods under this section.
- (2) The local government may dispose of the goods—

⁶ See section 38A (Local law about seizing and disposing of personal property) ,*Local Government Act 2009*

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- (a) as the local government sees fit (including by private sale, destruction, rehousing or giving away) if—
 - (i) the goods are perishable; or
 - (ii) the goods have no commercial value; or
 - (iii) the value of the goods is so slight that it would not cover the cost of sale; or
 - (iv) the goods cannot be sold at a public auction pursuant to section 41(2)(b) (Confiscated goods) of this local law; or
 - (v) the keeping of the goods is causing or is likely to cause a nuisance or a hazard; or
 - (vi) the goods are of a type specified in a subordinate local law; or
 - (b) by public auction after a period of 1 month in the case of goods not specified in section 41(2)(a) (Confiscated goods) of this local law.
- (3) If goods are to be sold at public auction, the local government must give public notice of the public auction at least 10 business days before the date of the proposed public auction.
 - (4) The local government must apply the proceeds of sale (by public auction or otherwise) in the manner prescribed in section 40(5) and 40(6) (Unclaimed goods) of this local law.
 - (5) A person to whom goods are sold under this section (whether by public auction or otherwise) gains a clear title to the goods freed and discharged from the interests of others.

42 Interpretation of terms

- (1) Where a term used in a local law is not defined in the local law, the term shall unless the context otherwise indicates or requires have the meaning given to it by—
 - (a) *Local Law No. 1 (Administration) 2013* where a term is not defined in a subordinate local law; or
 - (b) the *Local Government Act 2009* where the term is not defined in a subordinate local law or *Local Law No. 1 (Administration) 2010*; or

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- (c) the Macquarie Dictionary where the term is not defined in a subordinate local law, *Local Law No. 1 (Administration) 2013* or the *Local Government Act 2009*.
- (2) Where a term used in a subordinate local law is not defined in the subordinate local law, the term shall unless the context otherwise indicates or requires have the meaning given to it by—
 - (a) the local law pursuant to which the subordinate local law is made; or
 - (b) *Local Law No. 1 (Administration) 2013* where a term is not defined in the local law pursuant to which the subordinate local law is made; or
 - (c) the *Local Government Act 2009* where the term is not defined in the local law pursuant to which the subordinate local law is made or *Local Law No. 1 (Administration) 2013*; or
 - (d) the Macquarie Dictionary where the term is not defined in the local law pursuant to which the subordinate local law is made, *Local Law No. 1 (Administration) 2013* or the *Local Government Act 2009*.

43 Local laws do not apply to prescribed officer

Unless otherwise specified in a local law, an offence provision of a local law does not apply to a prescribed officer where the prescribed officer is—

- (a) a council officer who is—
 - (i) an authorised person, acting in the course of their appointment; or
 - (ii) an employee of the local government, acting in the course of their employment; or
 - (iii) a person appointed to a position provided for in a local law, acting in the course of their appointment; or
 - (iv) a person assisting a person referred to in paragraphs (a)(i), (ii) or (iii), acting in the course of assisting the other person; or
- (b) a person appointed as an agent or a contractor of the local government, acting in accordance with the terms of the agency or contract; or
- (c) a police officer acting in the execution of their duty.

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44 False representation concerning the local government

A person must not falsely—

- (a) make any representation that the person is the local government; or
- (b) make any representation that the person has the sponsorship or approval of, or an affiliation with, the local government.

Maximum penalty—50 penalty units.

Part 6 Review

45 Reviewable decisions

- (1) This part applies to a decision of the local government or an authorised person regarding an approval, or an application for an approval, made under a local law that makes no provision for the review of decisions made under the local law.
- (2) A decision of the local government or an authorised person under the local law is reviewable unless it is—
 - (a) a decision made by a resolution of the local government; or
 - (b) a decision to dispose of goods that has been implemented; or
 - (c) a decision made on an earlier application under section 46 (Application for review) of this local law.

46 Application for review

- (1) A person who is aggrieved by a reviewable decision⁷ may apply to the local government for a review of the decision.
- (2) An application for review of a decision must—
 - (a) be in writing; and
 - (b) state the reasons that the applicant considers the decision should be reviewed; and

⁷ For what constitutes a reviewable decision see section 45 (Reviewable decisions) of this local law.

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- (c) be lodged at the public office of the local government within 10 business days after the day on which notice of the decision was given to the applicant or within a further period allowed by the local government (before or after the end of that period).

47 Carrying out review

- (1) The local government must either—
 - (a) carry out a review at a meeting of the local government; or
 - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under section 47(1)(b) (Carrying out review) of this local law must not be the original decision maker and must be a person who is no less senior than the original decision maker.

48 Decision on review

- (1) On completing a review, the local government or authorised person may confirm, vary or reverse the decision under review.
- (2) The local government or authorised person must give the applicant written notice of the result of the review.
- (3) If the local government or authorised person does not decide an application for review within 40 business days after receiving the application, the local government is taken to have confirmed the decision under review.

Part 7 Subordinate local laws

49 Subordinate local laws

- (1) The local government may make a subordinate local law with respect to—
 - (a) a thing as a structure pursuant to the Schedule (Dictionary) of this local law; and
 - (b) a thing as a vehicle pursuant to the Schedule (Dictionary) of this local law; and
 - (c) the qualifications of a person certifying a matter pursuant to the Schedule (Dictionary) of this local law; and

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- (d) the information which is to accompany an application pursuant to section 5(2)(c) (Requirements of an application) of this local law; and
- (e) the circumstances in which the local government may waive the requirements of section 5 (Requirements of an application) of this local law pursuant to section 5(3)(c) (Requirements of an application) of this local law; and
- (f) a matter which may be the subject of a certificate signed by the chief executive officer pursuant to section 13(4)(k) (Evidentiary provisions) of this local law; and
- (g) the types of goods that may be disposed of by the local government pursuant to section 41(2)(a)(vi) (Confiscated goods) of this local law.

Part 8 Transition, Savings and Repeals

50 Repeals

The following Local Laws are repealed —

- Local Law No. 1 (Administration) 1999 , gazetted 9 April 1999

Schedule Dictionary

section 3

address for service means in relation to any person—

- (a) that person's usual or last known place of abode or business; or
- (b) the address for service last notified in writing by that person to the local government; or
- (c) the registered office under or for the purposes of any Act which requires the person to have a registered office.

analyst means an appropriately qualified person to undertake the analysis of a sample taken under a local law.

application includes a request to the local government under a local law.

approval means a consent, permit, licence, authorisation, registration, membership or approval under a Local Government Act or a local law and includes all conditions of a consent, permit, licence, authorisation, registration, membership or approval.

authorised person means a person who is authorised under the Act by the local government to exercise the powers of an authorised person under a local law

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

charge means a cost-recovery fee fixed by the local government pursuant to section 97 (Cost-recovery fees) of the Act and a charge for a service or facility, other than a service or facility for which a cost-recovery fee may be fixed, able to be imposed by the local government pursuant to section 262 (Powers in support of responsibilities) of the Act and includes the prescribed fee as specified in a local law.

chief executive officer means the person appointed and employed by the local government as its chief executive officer pursuant to section 194 (Appointing a chief executive officer) of the Act

corporation means a corporation as defined in the *Corporations Act 2001 (Cth)* and includes an association as defined in the *Associations Incorporation Act 1981*.

council officer means—

- (a) an authorised person; and
- (b) an employee of the local government; and
- (c) a person appointed by the local government to a position provided for in a local law; and

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- (d) a person assisting a person referred to in paragraphs (a), (b) or (c).

Court means the court of law which has jurisdiction to deal with offences under this local law.

costs of sale includes—

- (a) all costs incurred or to be incurred associated with the sale, collection and transport of the goods; and
- (b) the costs of any work needed to prepare the goods for sale.

direction means a written or oral direction given by a council officer pursuant to section 36 (Directions generally) of this local law.

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

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

executive officer of a corporation means a person who is concerned with, or takes part in, the corporation's management whether or not the person is a director or the person's position is given the name of executive officer.

goods includes an animal, a plant, a vehicle, an advertisement and an article.

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

identity card means—

- (a) if the person is an authorised person the identity card referred to in section 204 (Identity card for authorised persons) of the Act.
- (b) if the person is not an authorised person the identity card issued by the local government.

knowledge includes actual or constructive knowledge.

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

legal instrument means an approval, notice, order, process, summons or other document required or authorised to be given or served to or upon a person under a local law other than legal instruments to which the *Justices Act 1886* applies.

local government means Ipswich City Council.

Local Government Act has the meaning given in the Act and includes all approvals granted pursuant to Local Government Acts.

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local government area has the meaning given in the Act.

local law has the meaning in the Act, section 26, and includes a subordinate local law.

multiple approvals means the local government's approval of a proposal is required under 2 or more local laws or 2 or more provisions of the same local law.

nuisance has the meaning given in *Local Law No. 8 (Nuisances and Community Health and Safety) 2013*.

occupier of premises means the person who has the control or management of the premises.

owner means in the case of—

- (a) premises – the person for the time being entitled to receive the rent for the premises or would be entitled to receive the rent for it if it were let to a tenant at a rent; and
- (b) property other than premises – the person who has a legal or beneficial interest in the property.

perform work includes take action to comply with a Local Government Act and includes work required to be performed pursuant to a legal instrument or an approval.

plant means 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.

police officer has the same meaning as in the *Police Service Administration Act 1990*.

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

prescribed fee means the fee prescribed by the local government.

prescribed form means the form prescribed by the local government.

prescribed officer means—

- (a) a council officer; and
 - (b) a person appointed as an agent or a contractor of the local government; and
 - (c) a police officer.
- property** means premises, a good or other thing.

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proposal means an act, matter or thing for which the approval of the local government is sought.

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

public office has the meaning given in the Act

recognised qualifications in a particular field means qualifications specified by a subordinate local law or approved by the local government as appropriate to a person or body that certifies the matter required by a local law.

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.

reserve means land which is placed under the control of the local government pursuant to legislation.

Example—

This would include a stock route placed under the control of the local government as well as protected areas placed under the control of the local government pursuant to the *Nature Conservation Act 1992*.

state of mind of a person includes—

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

structure includes a structure as defined under the *Building Act 1975* and any other thing specified in a subordinate local law.

the Act means the *Local Government Act 2009*

trust land means land dedicated as a reserve or granted in trust under the *Land Act 1994* and for which the local government is the trustee under the *Land Act 1994*.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes anything specified as a vehicle in a subordinate local law.

Endnotes

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2 Date to which amendments incorporated

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 – no amendments

5 List of Legislation

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Original Local Law

Local Law No. 1 (Administration) 2013

date of gazettal 5 July 2013

6 List of annotations

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Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 1 (Administration) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 1 (Administration) 2013.

Part 2 Amendment of Local Law No. 1 (Administration) 2013

4 Amendment of s 4 (Application of local law)

Section 4(1) –

omit, insert –

(1) This local law is –

- (a) in addition to and does not derogate from, laws regulating land use planning and development assessment; and
- (b) applies to each of the local government's local laws subject to any specific provision in a local law that expresses a contrary intention.

5 Amendment of s 5 (Requirements of an application)

(1) Section 5(2), subsection (b), after 'local law' –

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insert –

or subordinate local law

(2) Section 5(2), subsection (c) –

omit, insert –

(c) in respect of any separate approval relating to the proposal that is required under another law:

- (i) proof that the applicant holds any separate approval relating to the proposal; or
- (ii) proof that an application has been made for any separate approval relating to the proposal and advice on the status of that application; or
- (iii) advice on when an application for any separate approval relating to the proposal will be made.

6 Insertion of new s 5A

After section 5 –

insert –

5A Request for further information

- (1) The local government may, by written notice, request the applicant to provide further information or clarification of information, documents or materials included in the application.
- (2) The notice under subsection (1) must state—

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- (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.
- (3) If the applicant does not 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.
- (4) However, the local government may extend the period for the applicant to provide the further information.

7 Insertion of new s 5B

Before section 6 –

insert –

5B Assessment of proposals

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- (1) Before the local government decides an application, an authorised person may –
 - (a) inspect any premises, vehicle, equipment, animal, plant or thing to be involved in the proposal; and
 - (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected.
- (2) An authorised person's powers under subsection (1) must be exercised in accordance with section 132 of the Act to the extent the authorised person needs to enter property.

8 Amendment of s 6 (Determination of an approval)

Section 6(1), after 'may' –

insert –

by written notice to the applicant

9 Insertion of new s 6A

After section 6 –

insert –

6A Conditions of approval

- (1) An approval may be granted on conditions the local government considers appropriate.
- (2) However, the conditions must—

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- (a) be reasonably necessary to ensure that the operation and management of the proposal will be adequate to protect public health, safety and amenity; and
 - (b) be consistent with the purpose of any relevant local law or subordinate local law; and
 - (c) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the proposal 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.

10 Amendment of s 8 (Certification of specified matters)

Section 8(2), subsection (b), 'given by the local law' –

omit, insert –

given by the local government

11 Amendment of s 9 (Power to change the conditions of an approval or cancel or suspend approval)

(1) Section 9(1), subsection (c) –

omit.

(2) Section 9(1), subsection (e), after 'regulate the proposal' –

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insert –

; or

- (3) Section 9(1), after subsection (e) –

insert –

- (e) to allow for works on roads or local government controlled areas; or
- (f) to improve access to a road; or
- (g) to improve the efficiency of vehicle or pedestrian traffic.

- (4) Section 9(1), subsection (d) to (e) –

renumber as subsection (c) to (d), respectively.

- (5) Section 9(2), subsection (b), ‘.’ –

omit, insert –

; or

- (6) Section 9(2), after subsection (b) –

insert –

- (c) another approval required for the prescribed activity under an Act has been suspended or cancelled;
- (d) in undertaking the prescribed activity, the approval holder has failed to comply with a local law or an Act;
- (e) the approval holder has failed to comply with a notice under section 30 or has failed to comply with a stop order under section 30A;

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- (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.

12 Insertion of new s 9A

After section 9 –

insert –

9A Amending conditions at request of approval holder

- (1) An approval holder may apply to the local government to amend the conditions of an 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 written notice of its decision and reasons for the refusal.

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- (6) The local government may amend the conditions of the approval under this section without following the procedure in section 10.

13 Amendment of s 10 (Procedure to change the conditions of an approval or cancel or suspend approval)

- (1) Section 10(1), subsection (a), before, 'give the holder' –

insert –

before taking the proposed action,

- (2) Section 10(1)(a), subsection (i), from 'proposed change' –

omit, insert –

proposed action and the reasons for the action; and

- (3) Section 10(1)(a), subsection (ii), 'proposed change' –

omit, insert –

proposed action

- (4) Section 10(3), subsection (a), 'the change' –

omit, insert –

the action

- (5) Section 10(3), subsection (a), 'change the condition' –

omit, insert –

take any further action

- (6) Section 10(3), subsection (b), 'the change' –

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omit, insert –

the action

- (7) Section 10(3), subsection (b) from 'change the condition' –

omit, insert –

change, cancel or suspend the approval, including details of the change,
suspension or cancellation.

- (8) Section 10(4), 'change condition' –

omit, insert –

change, suspension or cancellation of the approval

- (9) Section 10(4), after 'the approval' –

insert –

or a later day stated in the notice.

14 Insertion of new s 10A

After section 10 –

insert –

10A Procedure for immediate suspension of approval

- (1) Despite section 10, the local government may immediately
suspend an approval if the local government believes that
continuation of the activity by the approval holder poses—
- (a) an urgent and serious threat to public health or safety; or

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- (b) an urgent and serious risk of 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 notice about proposed action under section 10(a); 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 10(3) of its decision after it has considered all submissions made within the stated time;
 - (iii) 14 days have passed since the expiry of the stated time for the making of written submissions;
 - (iv) 14 days have passed since the approval holder notifies the local government that it has made its final written submissions.

15 Amendment of s 12 (Fraud and unlawful possession of an approval)

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- (1) Section 12(1), subsection (c), 'furnish' –

omit, insert –

provide

- (2) Section 12(1), subsection (c), 'furnished' –

omit, insert –

provided

16 Amendment of s 13 (Evidentiary provisions)

Section 13(4)(d), subsection (e) –

renumber as subsection (iv)

17 Amendment of s 14 (Responsibility for acts or omissions of representatives)

Section 14(2), 'also' –

omit.

18 Amendment of s 15 (Joint and several liability)

- (1) Section 15(1), after 'on an owner' –

insert –

or occupier

- (2) Section 15(1), after 'are the owners' –

insert –

or occupiers

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19 Replacement of pt 4, div 1 (Appointment of council officers under local law)

Part 4, Division 1 –

omit, insert –

Division 1 Authorised persons

21 Appointment

An authorised person's instrument of appointment¹ must state the local laws, or the provisions of local laws, for which the person is appointed as an authorised person.

20 Omission of pt 4, div 2 (Assessment of applications)

Part 4, Division 2 –

omit.

21 Amendment of pt 4, div 3 (Investigation and enforcement)

(1) Part 4, Division 3 –

renumber as Division 2

22 Amendment of s 29 (Analysis of samples)

(1) Section 29(1), after 'council officer' –

insert –

or an authorised person

(2) Section 29(2), subsection (a), after 'council officer' –

¹ See the Act, chapter 6, part 6, for the power to appoint authorised persons.

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insert –

or an authorised person

(3) Section 29(2), subsection (b), after 'council officer' –

insert –

or an authorised person

23 Replacement of s 30 (General compliance notice)

Section 30 –

omit, insert –

30 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

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- (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 give a written notice (a **compliance notice**) to the person (the **recipient**) requiring the person to remedy the contravention.²

- (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

² 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).

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- (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 and the risk of damage to property or loss of amenity 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 notice.

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

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Local Law (Amending) Local Law No. 1 (Administration) 2019

24 Insertion of new s 30A

After section 30 –

insert –

30A Stop orders

- (1) An authorised person may give a relevant person an order to immediately stop an 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 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 the activity under section 10A.

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Local Law (Amending) Local Law No. 1 (Administration) 2019

- (3) An authorised person must confirm an oral order in writing by the next business day following the giving of the order.
- (4) A person who receives an order under this section must comply with the 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 activity or an employee or agent of the approval holder currently conducting the activity.

25 Amendment of s 31 (Performance of work and recovery of costs)

- (1) Section 31(1), after 'the offence' –

insert –

, including by repairing the damage or restoring any damaged structure, object or thing to its original standard
- (2) Section 31(3), subsection (b), ' ; or ' –

omit, insert –

.
- (3) Section 31(3), subsection (c) –

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Local Law (Amending) Local Law No. 1 (Administration) 2019

omit.

- (4) Section 31, subsection (7) and (8) –

omit, insert –

- (7) The local government may recover the cost of action taken under this section as a debt from the person responsible for the activity.

- (5) Section 31, subsection (9) –

renumber as subsection (8)

26 Omission of pt 4, div 4 (Directions)

Part 4, Division 4 –

omit.

27 Amendment of pt 4, div 5 (Protection of council officers)

Part 4, Division 5 –

renumber as Division 4

28 Amendment of s 40 (Unclaimed goods)

- (1) Section 40(5), subsection (b), after 'the property' –

insert –

; and

- (2) Section 40(5), subsection (c) –

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Ipswich City Council
Local Law (Amending) Local Law No. 1 (Administration) 2019

omit.

- (3) Section 40(5), subsection (d) –

omit, insert –

- (c) third, to the former owner of the goods.

- (4) Section 40, subsection (6) –

omit, insert –

- (6) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (5)(c) within 6 months of the date of the sale or disposal, the amount becomes the property of the local government.

- (5) Section 40(8), subsection (c), 'furnished' –

omit, insert –

provided

- (6) Section 40(8)(d), subsection (iii) –

omit.

29 Amendment of s 45 (Reviewable decisions)

Section 45, subsection (1), 'regarding an approval, or an application for an approval' –

omit.

30 Amendment of s 48 (Decision on review)

- (1) Section 48, subsection (1), after 'may' –

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Local Law (Amending) Local Law No. 1 (Administration) 2019

omit, insert –

:

- (a) confirm the original decision; or
- (b) amend the original decisions; or
- (c) substitute another decision for the original decision.

(2) Section 48, after subsection (2) –

insert –

- (3) if the local government's decision is not the decision sought by the applicant, the written notice must also state the reasons for the local government's decision.

31 Insertion of new s 45A

After section 45 –

insert –

45A Stay of operation of original decision

- (1) An application for review under this part does not stay the original decision that is the subject of the application.
- (2) However, the applicant may, immediately after being given notice 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.

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Local Law (Amending) Local Law No. 1 (Administration) 2019

- (4) A stay may be granted on conditions the court considers appropriate.

32 Amendment of s 46 (Application for review)

Section 46, subsection (1), 'A person aggrieved by a reviewable decision' –

omit, insert –

A person who is given, or is entitled to be given, notice of a decision under a local law

33 Amendment of sch (Dictionary)

- (1) Schedule –

insert –

compliance notice means a compliance notice given under –

- (a) section 30; or
- (b) another local law that authorises the giving of a compliance notice.

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

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person to whom the notice is given may apply for a review of the decision within 14 days after the notice is given; and
- (d) how to apply for a review.

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Ipswich City Council
Local Law (Amending) Local Law No. 1 (Administration) 2019

local government controlled area—

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

Examples of local government controlled areas—

- ☐ parks, reserves and recreational areas
 - ☐ conservation parks
 - ☐ cemeteries
 - ☐ local government operated library, including mobile libraries
 - ☐ local government Chambers and local government offices
 - ☐ jetties
 - ☐ a mall
- (b) includes part of a local government controlled area; and
- (c) includes any other road or area approved under chapter 6 of the Transport Infrastructure Act 1994.

road means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road in respect of which the chief executive has given written agreement under the Transport Operations (Road Use Management) Act 1995, section 66(5)(b) where that act requires such agreement.
- (2) Schedule, definition perform work, after 'Local Government Act' –

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Local Law (Amending) Local Law No. 1 (Administration) 2019

insert –

, local law or compliance notice

(3) Schedule, definition premises –

omit, insert –

premises see the Planning Act 2016, schedule 2

Draft

Doc ID No: A5630582

ITEM: 3

SUBJECT: COMMERCIAL LICENSING - LOCAL LAW (AMENDING) LOCAL LAW
NO.3(COMMERCIAL LICENSING) 2019 AND SUBORDINATE LOCAL LAW
(AMENDING) SUBORDINATE LOCAL LAW NO.3.1 (COMMERCIAL LICENSING)
2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 29 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 29 June 2019.
- B. That it be noted that a review of the proposed Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019 has been undertaken and has identified potential anti-competitive provisions.
- C. That Council approve to conduct a public interest test in relation to any potential anti-competitive provisions contained within the proposed amended laws as part of the public consultation process mentioned in Clause D below.
- D. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019 and Subordinate

Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019, as detailed in Clause A above.

- E. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019*, in accordance with section 29A of the *Local Government Act 2009*.**
- F. That, following public consultations and the State Government interest check, as detailed in Clauses 4 and 5 above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.**

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy “Local Law Making Process” which is available on Council’s website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council’s Business Transformation Program a review of Council’s existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren’t included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.

- Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
- Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.
- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).
- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - Advertisement in Queensland Times
 - Ipswich First articles
 - Dedicated web page on Council's website
 - Ability to lodge submissions online, via email and post
 - Social media postings promoting the review and how to make a submission
 - Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will be published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed	July Committee	July Council	Commenced

local laws; commencement date for new laws to be considered in this step.	Meeting 09/07/19	Meeting 16/07/19	
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all proposed local laws for a minimum of 21 days (see policy for requirements)	17/07/19	7/08/19	Ready to commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No.3 (Commercial Licensing) 2013* and *Subordinate Local Law No.3.1 (Commercial Licensing) 2013 (Attachments 1 and 2)* whose objective is to ensure that a licensed regulated activity doesn't result in harm to health, safety or the environment; property damage; or a loss of amenity. It also ensures the operation of a licence regulated activity complies with the Local Government Acts that regulate the licence regulated activity by subjecting the licence regulated activity to an inspection, monitoring and enforcement regime.

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019 (Attachments 3 and 4)*. It is noted that there have been anti-competitive provisions identified in the amended laws and as such a public interest test will be conducted as part of the public consultation process.

A review has been conducted and drafting undertaken to:

- a. correct typographical errors and inconsistencies; and an improved layout and formatting to the law to assist with greater readability;
- b. clearer requirements of what is required in the application and approval process;
- c. inclusion of clearer and more detailed standard conditions on licences to assist applicants understand requirements of the activity.
- d. Clearer minimum standards provided for temporary advertising devices including the ability to now have illuminated signage for some types of signs, plus the inclusion of a new sign type 'Street Pole Banners' to promote key strategic messages/events of the City;
- e. Other key amendments/inclusions listed in the tables below.

Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019

Related Section	What is changing	Why is it changing	Enforcement expectations
New Section 5A – minimum standards for licence regulated activity.	Council may, in a subordinate local law, prescribe minimum standards for a licensed regulated activity (in addition to conditions on a licence itself); or if the activity is exempt from requiring a licence then minimum standards will apply regardless.	This addition allows Council to determine that there may be certain activities that don't require a licence (or approval) from Council to undertake but that there be a minimum standard be complied with to ensure protection of health, safety, environment etc. Local Law 3 didn't have these powers previously but they have existed in other laws eg there are minimum standards for keeping animals in certain circumstances that don't require a permit. The amended Subordinate Local Law 3.1 will detail those activities that need to meet the minimum standards.	Activities that will be bound by minimum standards only (that is, no additional licences are required) will be enforced on complaint only or if witnessed by an authorised officer. Minimum standards allow for activities to be self-regulated.
Insertion of a new 6A – request for further information.	More prescriptive terms for Council and the applicant when applications are being made and requests for further information are made by Council (notice requirements for Council to undertake) and that if requested information is not provided on time that the	The changes provide more clarity on the expectations of what Council is to do for the application when applications are made and additional information is needed. Previously if additional information was	This change is administrative in nature and Council business processes and systems will need to be updated to ensure notices are issued at the appropriate junctures for the

	application lapses.	requested and wasn't provided the Council could refuse the application. The changes mean that the application actually lapses (as it hasn't been properly made in the first place) and that Council must provide a notice stating this. This change should provide greater clarity and transparency on the application process for licences.	customer/applicant.
Insertion of new Section 12A – Procedure for immediate suspension of a licence	Gives Council the ability to immediately suspend a licence if the Council believes that continuation of the activity by the licence holder poses an urgent and serious threat to public health or safety; or urgent and serious risk of property damage or loss of amenity	This provision was inadvertently omitted from previous drafting of Council's laws in 2013. Similar provisions exist in other Council's laws.	Council will always aim to work with Licensees to ensure health, safety, amenity and property are protected. This provision would only be used in extreme and required circumstances.
Addition of a new licensed regulated activity in Schedule 2 (Licenced Regulated Activities) – Pet Daycare	Pet day care means a service undertaken on a commercial basis, involving the temporary minding of pet animals at a premises, of no more than 10 animals at a time, but does not include overnight care, a veterinary clinic use or a service that solely relates to animal grooming.	The growth of pet ownership and the value that owners place on their beloved pets means that new markets have emerged to cater for 'pet minding' while people are at work etc. Council's current licence types didn't cater for this specific type of activity. This new licence type doesn't negate the fact that other approvals may be required depending on the location of the commercial activity (eg planning approval).	The creation of this licence type will require associated administrative and promotional work (new forms, updated website etc). Enforcement will be on complaint only.

Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019

Related Section	What is changing	Why is it changing	Enforcement expectations
Replacement of Section 7 – Election Signs and changes in Schedule 2 (minimum standards for temporary advertising and election signs)	Elections Signs as an activity is moving from requiring Council approval and payment of a bond by the candidate to only having minimum standards (criteria) that the candidate must abide by when placing signs in an election.	A review of other SEQ Councils revealed that most provide minimum standards for the display of election signs on Council controlled areas and roads during an election, there is no approval/application process or requirement to pay a bond or fee. The review also found that the minimum standards applied by the State Government for their controlled areas and roads were robust. Council has adopted the same conditions in the amended law as this will be beneficial for candidates in having a consistent approach across Local and State Government areas within the Ipswich local government area. Placement of signs needs to be regulated, particularly by the candidates, to ensure public health, safety, amenity and property are protected. Minimum standards provide an appropriate mechanism for this to occur without the increased administration of approvals or fees. Online guidelines will be developed for candidates to refer to.	On complaint or if witnessed by an authorised officer. (Note: that if the minimum standards are not complied with an Authorised Person may seize the sign)

FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;

- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation and enforcement costs will be minimal for these amendments as they are administrative in nature and will require business process changes.

RISK MANAGEMENT IMPLICATIONS

Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedules require amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)









COMMUNITY AND OTHER CONSULTATION

Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Amending Local Law No.3 (Commercial Licensing) 2019* and *Amending Subordinate Local Law No.3.1 (Commercial Licensing) 2019*

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.3 (Commercial Licensing) 2013  
2.	Subordinate Local Law No.3.1 (Commercial Licensing) 2013  
3.	Local Law (Amending) Local Law No.3 (Commercial Licensing) 2019  
4.	Subordinate Local Law (Amending) Subordinate Local Law No.3.1 (Commercial Licensing) 2019  

Barbara Dart
STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan
GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

Ipswich

City Council

*Local Law No. 3
(Commercial Licensing) 2013*

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Ipswich City Council
Local Law No. 3 (Commercial Licensing) 2013

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Local Law No. 3 (Commercial Licensing) 2013

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Ipswich City Council
Local Law No. 3 (Commercial Licensing) 2013

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No.3 (Commercial Licensing) 2013*.

1A Commencement

This local law commences on 1 August 2013

2 Objects

The objects of this local law are to ensure that—

- (a) a licence regulated activity¹ does not result in—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; and
- (b) the operation of a licence regulated activity complies with the Local Government Acts that regulate the licence regulated activity by subjecting the licence regulated activity to an inspection, monitoring and enforcement regime.

3 Definitions—the Dictionary

- (1) The dictionary in the Schedule (Dictionary) of this local law defines particular words used in this local law.
- (2) The dictionary in *Local Law No. 1 (Administration) 2013* also defines words used in this local law

4 Relationship to other laws

- (1) This local law does not apply to—
 - (a) the operation of a licence regulated activity on a State-controlled road if licensing of the activity is prohibited by Chapter 6 (Road Transport Infrastructure) of the *Transport Infrastructure Act 1994*; or

¹ licence regulated activities are set out in schedule 2.

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Ipswich City Council
Local Law No. 3 (Commercial Licensing) 2013

- (b) the operation of a licence regulated activity which is —
- (i) authorised; or
 - (ii) required to be operated in the performance of an express duty or power,

under legislation (including subordinate legislation); or

Example —

If incineration was a licence regulated activity this section would exempt officers of the Queensland Fire and Rescue Service and other authorised persons from being licensed as they have the power to light fires under the *Fire and Rescue Service Act 1990*.

- (c) a person operating a licence regulated activity where that person is required to be licensed, registered or approved in respect of the operation of that licence regulated activity pursuant to—
- (i) the *Environmental Protection Act 1994*; or
 - (ii) the *Residential Services (Accreditation) Act 2002*; or
 - (iii) the *Public Health (Infection Control for Personal Appearance Services) Act 2003*; or
 - (iv) the *Child Protection Act 1999*; or
 - (v) the *Disability Services Act 2006*.

Example of paragraph (c)—

This would exempt the operation of a licence regulated activity that is registered by the State government under the *Environmental Protection Act 1994*.

- (2) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
- (a) the *Environmental Protection Act 1994*; and
 - (b) the *Fire and Rescue Service Act 1990*; and
 - (c) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
 - (d) the *Transport Operations (Roads Use Management) Act 1995*; and
 - (e) the *Land Act 1994*; and

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Ipswich City Council
Local Law No. 3 (Commercial Licensing) 2013

- (f) the *Plumbing and Drainage Act 2002*; and
- (g) the *Building Act 1975*; and
- (h) the *Sustainable Planning Act 2009*; and
- (i) the *Residential Services (Accreditation) Act 2002*; and
- (j) the *Food Act 2006*; and
- (k) the *Work Health and Safety Act 2011*; and
- (l) the *Coroners Act 2003*; and
- (m) the *Transport Infrastructure Act 1994*; and
- (n) the *Food Production (Safety) Act 2000*; and
- (o) the *Retirement Villages Act 1999*; and
- (p) the *Public Health Act 2005*; and
- (q) the *Public Health (Infection Control for Personal Appearance Services) Act 2003*.

Part 2 Licensing

5 Requirement for a licence

- (1) A person must not—
 - (a) operate a licence regulated activity² on premises within the local government area unless authorised by a licence granted under section 7(2) (Deciding application for a licence) of this local law; or
 - (b) change the manner of operation of a licence regulated activity on premises within the local government area unless authorised by a licence granted under section 7(2) (Deciding application for a licence) of this local law.

Maximum penalty for subsection (1)—50 penalty units.

- (2) A person must not—

² For definitions of *licence regulated activity* and *operating a licensed regulated activity* see Schedule 1 (Dictionary) and for specific licence regulated activities see Schedule 2, (Licence regulated activities).

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- (a) exhibit a sign which indicates that a licence regulated activity which does not comply with this local law does comply with this local law; or
- (b) in any manner or by any means indicate that a licence regulated activity which does not comply with this local law does comply with this local law.

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

- (3) Despite section 5(1) (Requirement for a licence) of this local law, a subordinate local law may specify that a licence is not required under this local law in respect of the operation of the licence regulated activity (an ***exempt licence regulated activity***).
- (4) The local government may, by subordinate local law, prescribe minimum standards that must be complied with in carrying out a licence regulated activity.
- (5) The local government may, by subordinate local law, require that a licence regulated activity or an exempt licence regulated activity cannot be carried out unless—
 - (a) minimum standards for the regulated activity prescribed in a subordinate local law are complied with; or
 - (b) if minimum standards cannot be complied with, the written approval of the local government has been obtained.
- (6) If the local government prescribes minimum standards for the conduct of a licence regulated activity or exempt licence regulated activity, a person must not—
 - (a) operate the licence regulated activity or exempt licence regulated activity (as the case may be) on premises within the local government area unless—
 - (i) the relevant minimum standards are complied with; or
 - (ii) the person has obtained the written approval of the local government under section 5(5)(b) (Requirement for a licence), or

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- (b) change the manner of operation of a licence regulated activity on premises within the local government area unless—
 - (i) minimum standards are complied with; or
 - (ii) the person has obtained the written approval of the local government under section 5(5)(b) (Requirement for a licence).

Maximum penalty for subsection (6)—50 penalty units.

6 Application for a licence

- (1) An application for a licence must be—
 - (a) made by the person who will be operating the licence regulated activity; and
 - (b) made in the prescribed form; and
 - (c) accompanied by—
 - (i) the name, contact telephone number and postal address of the applicant; and
 - (ii) the prescribed fee; and
 - (iii) evidence or confirmation that all approvals under a Local Government Act required for the operation of the licence regulated activity have been obtained; and
 - (iv) full details of the licence regulated activity; and
 - (v) such other information and materials specified in a subordinate local law.
- (2) If an applicant for a licence is not the owner of the premises on which the licence regulated activity is to be operated, the application must be accompanied by the written consent of the owner. This requirement does not apply if the premises is under local government control.
- (3) The local government is not required to consider an application which is—
 - (a) not made in the prescribed form; or
 - (b) not accompanied by the documents, materials or fee required in section 6(1) (Application for licence).

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- (4) The local government may, by written notice, request that the applicant provide further information or clarify any information reasonably required for the local government to assess the application.
- (5) If the applicant does not, without reasonable excuse, provide the further information within 10 business days of the request in section 6(4) (Application for licence), then the local government may refuse the application.
- (6) The local government may waive the requirements of section 6 (Application for a licence) of this local law—
 - (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.

7 Deciding application for a licence

- (1) The local government must—
 - (a) consider an application for a licence; and
 - (b) subject to section 7(2) (Deciding application for a licence) of this local law, decide whether to grant or refuse the application.
- (2) In deciding an application the local government may have regard to—
 - (a) the likelihood of the activity causing nuisance, inconvenience or annoyance to the occupiers of adjoining premises or the community;
 - (b) the likely effect of the activity on the amenity of the surrounding area;
 - (c) the likely effect of the activity on the local environment or any environmental harm or nuisance caused or contributed to by the activity;
 - (d) the likely effect of the activity on public health, safety and amenity;
 - (e) the physical suitability of the land for the proposed use;
 - (f) whether any improvements or structures associated with the activity and proposed to be constructed on land, are structurally sound and consistent with surrounding buildings and the environment;

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- (g) whether the applicant holds any other current approvals or licences required to conduct the activity under another law; and
 - (h) whether the applicant complies with the provisions of a Local Government Act that regulate the operation of the licence regulated activity; and
 - (i) whether the activity complies with the assessment criteria³; and
 - (j) whether the activity complies with the minimum standards; and
 - (k) any other matters which the local government considers relevant to deciding the application.
- (3) Before the local government decides an application for a licence, an authorised person may—
- (a) inspect any premises⁴, vehicle, equipment, animal, plant or thing to be involved in the operation of the licence regulated activity; and
 - (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected.
- (4) For the purposes of determining whether the matters specified in section 7(2) (Deciding application for a licence) of this local law have been satisfied the local government may have regard to the results of any periodic inspection, testing or monitoring program undertaken in respect of the operation of the licence regulated activity.

8 Term of a licence

- (1) A licence granted by the local government is for a term extending from the date of issue until the thirtieth day of the following June unless otherwise specified in the licence or a subordinate local law.
- (2) A licence expires at the end of the day specified in section 8(1) (Term of a licence) of this local law.

9 Conditions of a licence

- (1) A licence may be granted by the local government on conditions the local government considers appropriate.

³ See definition of *assessment criteria*, the Schedule (Dictionary)

⁴ Entry to property for the purpose of assessing an application is subject to section 132 of the *Local Government Act 2009*.

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- (2) The conditions of a licence may—
- (a) require the holder of the licence to take specified measures to—
 - (i) prevent harm to human health or safety or personal injury; and
 - (ii) prevent property damage or a loss of amenity; and
 - (iii) prevent environmental harm or environmental nuisance; and
 - (iv) prevent a nuisance; and
 - (v) ensure that there is compliance with the provisions of a Local Government Act that regulate the undertaking of the licence regulated activity; and
 - (vi) ensure that the licence regulated activity complies with the minimum standards; and
 - (b) require compliance with specified safety requirements; and
 - (c) require the holder of the licence to carry out specified work; and
 - (d) regulate the time within which the licence regulated activity must be carried out; and
 - (e) specify standards with which the licence regulated activity must comply; and
 - (f) require the holder of the licence to give the local government specified indemnities and to take out specified insurance; and
 - (g) require the holder of the licence to take out specified insurance indemnifying persons who may suffer personal injury, or loss or damage, as a result of the licence regulated activity; and
 - (h) require the holder of the licence to exhibit specified warning notices and to take other specified precautions; and
 - (i) require the holder of the licence to notify the local government within a period specified in the licence that the holder of the licence is (as the case may be) —
 - (i) no longer undertaking the licence regulated activity; or

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- (ii) undertaking the licence regulated activity other than in accordance with the licence; and
 - (j) require the certification by a person specified by the local government of a vehicle, equipment or thing involved in the licence regulated activity; and
 - (k) require the giving of a security to secure compliance with the licence and the provisions of this local law; and
 - (l) require records to be kept at a place and for a time specified in the licence or a subordinate local law; and
 - (m) require the holder of the licence to prepare, provide, undertake or comply with a periodic inspection, monitoring or management program in respect of the licence regulated activity.
- (3) The local government may specify in a subordinate local law, the conditions that must be imposed in a licence or that will ordinarily be imposed in a licence for a licence regulated activity.

10 Power to change the conditions of a licence

- (1) The local government may change a condition of a licence where⁵—
 - (a) the holder of the licence agrees to the proposed change; or
 - (b) the change is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (c) the change is necessary to ensure that the operation of the licence regulated activity complies with the minimum standards.
- (2) If the local government is satisfied it is necessary to change a condition of a licence under section 10(1)(b) or 10(1)(c), the local government must—

⁵ A change to the conditions of a licence includes a change by omission, substitution or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).

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- (a) give the holder of the licence a written notice stating—
 - (i) the proposed change and the reasons for the change; and
 - (ii) that the holder of the licence may make written representations to the local government about the proposed change; and
 - (iii) the time (at least 15 business days after the notice is given to the holder of the licence) within which the written representations may be made; and
 - (b) consider any written representation made by the holder of the licence within the time stated in the notice.
- (3) After considering any written representation made by the holder of the licence, the local government must give to the holder of the licence—
- (a) if the local government is not satisfied the change is necessary – a written notice stating that it has decided not to change the condition; or
 - (b) if the local government is satisfied that the change is necessary – a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the written notice was given to the holder of the licence.

11 Amendment, renewal or transfer of a licence

- (1) The holder of a licence may make application to the local government to—
- (a) amend the licence; or
 - (b) renew the licence; or
 - (c) transfer the licence to another person.
- (2) An application to amend, renew or transfer a licence must be—
- (a) made by the holder of the licence; and
 - (b) made in the prescribed form; and

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- (c) accompanied by the prescribed fee and such other information as is requested by the local government; and
 - (d) accompanied by, in the case of a transfer of the licence—
 - (i) the written consent of the person to whom the licence will be transferred; and
 - (ii) the written consent of the owner of the premises on which the licence regulated activity is or is to be operated.
- (3) The local government may renew or transfer a licence—
 - (a) where the operation of the licence regulated activity complies with the conditions of the licence and the provisions of this local law; and
 - (b) subject to such conditions the local government considers appropriate.
- (4) The local government may amend a licence subject to such conditions the local government considers appropriate having regard to the matters specified in section 7(2) (Deciding application for a licence) of this local law.
- (5) Subject to section 11(6) (Amendment, renewal or transfer of a licence) of this local law, if an application to renew a licence is made pursuant to section 11(1)(b) (Amendment, renewal or transfer of a licence) of this local law, the licence is taken to continue in force from the day that it would, apart from this section, have expired until the day the application is decided pursuant to section 11(3) (Amendment, renewal or transfer of a licence) of this local law.
- (6) Section 11(5) (Amendment, renewal or transfer of a licence) of this local law does not apply where a licence has been cancelled pursuant to section 12 (Cancellation of a licence) of this local law.

12 Cancellation or suspension of a licence

- (1) The local government may cancel or suspend a licence where—
 - (a) the holder of the licence agrees to the cancellation or suspension; or
 - (b) the cancellation or suspension is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or

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- (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (c) the holder of the licence contravenes—
 - (i) this local law; or
 - (ii) a condition of a licence; or
 - (iii) a requirement of a compliance notice; or
 - (d) the operation of the licence regulated activity does not comply with—
 - (i) the provisions of a Local Government Act that regulate the operation of the licence regulated activity; or
 - (ii) the minimum standards; or
 - (e) the licence was granted on the basis of false, misleading or incomplete information; or
 - (f) changes in circumstances, as specified by a subordinate local law, since the licence was granted make the continued operation of the licence inappropriate.
- (2) If the local government is satisfied it is necessary to cancel or suspend a licence, other than with the agreement of the holder of the licence under section 12(1)(a), the local government must—
 - (a) give the holder of the licence a written notice (a show cause notice) stating—
 - (i) the reasons for the proposed cancellation or suspension; and
 - (ii) that the holder of the licence may make written representations to the local government about the proposed cancellation or suspension; and
 - (iii) the time (at least 10 business days after the notice is given to the holder of the licence) within which written representations may be made; and
 - (b) consider any written representations made by the holder of the licence within the time stated in the notice.

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- (3) After considering any written representation made by the holder of the licence the local government must give to the holder of the licence—
 - (a) if the local government is not satisfied that the cancellation or suspension is necessary – a written notice stating it has decided not to cancel the licence; or
 - (b) if the local government is satisfied that the cancellation or suspension is necessary – a written notice stating it has decided to cancel the licence.
- (4) Before the local government cancels or suspends a licence under section 12(3) (Cancellation or suspension of a licence) of this local law, the local government must consider the impact of the cancellation or suspension of the licence on those persons who would be effected by the licence regulated activity ceasing to be operated.
- (5) The cancellation or suspension of the licence takes effect from the day the written notice was given to the holder of the licence.
- (6) Where the local government has cancelled or suspended a licence, the holder of the licence must cease to operate the licence regulated activity.

Maximum penalty for subsection (6)—50 penalty units.

13 General compliance provision

- (1) The holder of a licence must ensure that the conditions of the licence are complied with.

Maximum penalty for subsection (1) –

 - (a) for first offence – 20 penalty units.
 - (b) for second offence in a 2 year period – 30 penalty units.
 - (c) for third or further offences in a 2 year period – 50 penalty units.
- (2) The holder of a licence and any person acting under the licence, must ensure that the operation of the licence regulated activity—
 - (a) does not result in harm to human health or safety or personal injury; and
 - (b) does not result in property damage or a loss of amenity; and

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- (c) does not result in environmental harm or environmental nuisance; and
- (d) does not result in a nuisance; and
- (e) complies with the minimum standards.

Maximum penalty for subsection (2)—

- (f) for first offence – 20 penalty units.
- (g) for second offence in a 2 year period – 30 penalty units.
- (h) for third or further offences in a 2 year period – 50 penalty units.

- (3) A person must not operate or change the manner of operation of an exempt licence regulated activity within the local government area unless the activity complies with the relevant minimum standards.

Maximum penalty for subsection (3) –

- (a) for first offence— 20 penalty units.
- (b) for second offence in a 2 year period – 30 penalty units.
- (c) for third or further offences in a 2 year period – 50 penalty units.

Part 3 Enforcement

14 Compliance notice

- (1) The local government may give a compliance notice to—
 - (a) a person who contravenes this local law; and
 - (b) any person involved in the contravention of this local law pursuant to section 21 (Liability of third parties) of this local law; and
 - (c) the owner or occupier of the premises on which the licence regulated activity is operated.
- (2) A compliance notice may require the person to whom it is given to—

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- (a) stop the contravention, if the contravention is of a continuing or recurrent nature; and
 - (b) perform work or otherwise take specified action to remedy the contravention (including the making of an application for a licence) for or within a time specified in the compliance notice, whether or not the contravention is of a continuing or recurrent nature; and
 - (c) perform work or otherwise take specified action for or within a time specified in the compliance notice to ensure compliance with the criteria specified in section 13 (General compliance provision) of this local law.
- (3) A person to whom the compliance notice is given must comply with the compliance notice.

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

15 Procedure for immediate suspension of licence

- (1) Despite section 12 (Cancellation or suspension of licence), the local government may immediately suspend a licence if the local government believes that continuation of the licensed activity by the licenced holder poses—
- (a) an urgent and serious threat to public health or safety;
 - (b) or 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 licence holder about the decision to immediately suspend the approval, together with a show cause notice about proposed action under section 12(2) (Cancellation or suspension of licence); 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;

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- (ii) the local government gives the licence holder notice under section 12(3) (Cancellation or suspension of licence) of its decision about the show cause notice;
- (iii) 10 business days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice;
- (iv) 10 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.

16 Inspection of a licence regulated activity

- (1) An authorised person may inspect⁶ the operation of a licence regulated activity and any premises, vehicle, equipment, animal, plant or thing involved in the operation of the licence regulated activity to establish whether there is compliance with—
 - (a) the requirements of this local law; and
 - (b) the minimum standards; and
 - (c) the conditions of the licence; and
 - (d) the requirements of a compliance notice; and
- (2) An authorised person may direct⁷ the person operating the licence regulated activity to produce for inspection—
 - (a) the licence granted by the local government; and
 - (b) any records that are required to be kept as a condition of the licence, or as a requirement of the minimum standards or as specified in a subordinate local law, and may take copies of or extracts from those records; and
 - (c) any vehicle, equipment, animal, plant or thing involved in the operation of the licence regulated activity; and
 - (d) any inspection, monitoring or management programs required to be kept as a condition of the licence or as a requirement of the minimum standards or as specified in a subordinate local law.

⁶ See the powers contained in Chapter 5, Part 2, Division 1 of the Act

⁷ See the powers contained in Chapter 5, Part 2, Division 1 of the Act

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- (3) An authorised person may measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected pursuant to section 16 (Inspection of a licence regulated activity) of this local law.⁸
- (4) The person operating the licence regulated activity must comply with—
 - (a) a direction of an authorised person pursuant to section 16(2) (Inspection of a licence regulated activity) of this local law; and
 - (b) the terms of a periodic inspection, monitoring or management program in respect of the operation of the licence regulated activity specified in a subordinate local law.

Maximum penalty for subsection (4)—50 penalty units.

17 Performance of work

- (1) A person who commits an offence under this local law must make good any damage caused directly or indirectly by the commission of the offence.
- (2) The local government may perform the work where a person has failed to perform the work required to be performed by a compliance notice issued under this local law.
- (3) The local government must dispose of any material of any nature removed by it pursuant to section 17(2) (Performance of work) of this local law in accordance with section 40 (Confiscated goods), *Local Law No. 1 (Administration) 2013*.
- (4) An authorised person may perform the work that the local government is empowered to undertake pursuant to section 17 (Performance of work) of this local law.
- (5) The Court may order a person found guilty of an offence under this local law to—
 - (a) perform work required to be performed by—
 - (i) section 17(1) (Performance of work) of this local law; or
 - (ii) a compliance notice issued under this local law; or
 - (iii) a condition of a licence; or
 - (iv) a provision of this local law; or

⁸ See the powers contained in Chapter 5, Part 2, Division 1 of the Act

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- (b) pay to the local government all costs incurred by the local government in performing the work pursuant to section 17 (Performance of work) of this local law.

18 Power of entry and cost recovery

- (1) If work to be carried out by the local government under section 17 (Performance of work) is on land of which the local government is not the owner or occupier, the local government may enter the land to perform the work⁹—
 - (a) if the person who has failed to perform the work is the owner or occupier of the land; or
 - (b) if the entry is necessary for the exercise of the local government's jurisdiction.
- (2) If the person who failed to perform the work is the owner of the land, the amount properly and reasonably incurred by the local government to perform the work is recoverable (together with any interest) under Chapter 5, Part 2, Division 2 of the Act.
- (3) If the person who failed to perform the work is not the owner of the land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the person in default together with interest on the same basis as applies to an owner of the land under Chapter 5, Part 2, Division 2 of the Act.

Part 4 Administrative provisions

19 Executive officers must ensure the corporation complies with the local law

- (1) The executive officers of a corporation must ensure the corporation complies with this local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the corporation's executive officers also commit an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the relevant provision by an individual.

⁹ See the powers contained in Chapter 5, Part 2, Division 2 of the Act

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- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law or has paid a penalty infringement notice is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence – the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) This section applies so as not to limit or affect in any way the liability of a corporation to be proceeded against and punished for an offence committed by the corporation in contravention of this local law.

20 Owners and occupiers must ensure compliance with the local law

- (1) The owner and occupier of premises must ensure that a person who is operating a licence regulated activity on the premises complies with this local law.
- (2) If a person who is operating a licence regulated activity on the premises commits an offence against a provision of this local law, the owner and the occupier of the premises also commit an offence, namely, the offence of failing to ensure that the person who is operating the licence regulated activity on the premises complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision.
- (3) Evidence that the person who is operating the licence regulated activity on the premises has been convicted of an offence against a provision of this local law or has paid a penalty infringement notice is evidence that the owner and the occupier of the premises committed the offence of failing to ensure that the person who is operating the licence regulated activity on the premises complied with the provision.
- (4) However it is a defence for an owner or occupier to prove that—
 - (a) the owner or occupier exercised reasonable diligence to ensure that the person operating the licence regulated activity on the premises complied with the provision; or

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- (b) the non compliance with a provision of this local law occurred without that person's knowledge or consent.

21 Liability of third parties

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

Maximum penalty for subsection (1)—the penalty for which any person who committed the contravention would be liable.

- (2) For the purposes of section 21(1) (Liability of third parties) of this local law, 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 threats or promises 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 others to effect the contravention; or
- (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

22 Attempts to commit offences

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

Maximum penalty for subsection (1)—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.

23 Defence

It is a defence to any breach of or non-compliance with a provision contained in this local law if a person has a lawful excuse or defence.

Example—

It is a defence to any breach or non-compliance of any provision contained in a local law if a person was not criminally responsible in accordance with Chapter 5 (Criminal Responsibility) of the *Criminal Code*.

Part 5 Subordinate local laws

24 Subordinate local laws

The local government may make a subordinate local law with respect to -

- (a) the assessment criteria for deciding an application for a licence for the operation of a licence regulated activity pursuant to the Schedule (Dictionary) of this local law; and
- (b) an activity as a licence regulated activity pursuant to the Schedule (Dictionary) of this local law; and
- (c) the minimum standards with which the operation of a licence regulated activity must comply pursuant to the Schedule (Dictionary) of this local law; and
- (d) any minimum standards for the purposes of section 5(4) (Requirement for a licence) of this local law; and
- (e) a thing as a vehicle pursuant to the Schedule (Dictionary) of this local law; and
- (f) a thing as a structure pursuant to the Schedule (Dictionary) of this local law; and
- (g) a licence regulated activity in respect of the operation of which a person is not required to hold a licence pursuant to section 5(3) (Requirement for a licence) of this local law; and
- (h) the information that must accompany an application for a licence pursuant to section 6(1)(c)(v) (Application for a licence) of this local law; and
- (i) the circumstances in which the local government may waive the requirements of section 6 (Application for a licence) of this local law pursuant to section 6(6)(c) (Application for a licence) of this local law; and
- (j) the term of the licence pursuant to section 8(1) (Term of a licence) of this local law; and
- (k) the records that must be kept, the place at which those records must be kept and the period for which those records must be kept pursuant to section 9(2)(l) (Conditions of a licence) of this local law; and

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- (l) the conditions that must be imposed in a licence or that will ordinarily be imposed in a licence pursuant to section 9(3) (Conditions of a licence) of this local law; and
- (m) the changes in circumstances since a licence was granted that make the continued operation of the licence inappropriate pursuant to section 12(1)(f) (Cancellation or suspension of a licence) of this local law; and
- (n) the records that are required to be kept pursuant to section 16(2)(b) (Inspection of a licence regulated activity) of this local law; and
- (o) the terms of a periodic inspection, monitoring or management program in respect of the operation of a licence regulated activity pursuant to section 16(4)(b) (Inspection of a licence regulated activity) of this local law; and

Part 6 Transition, Savings and Repeals

25 Repeals

The following Local Laws are repealed —

- Local Law no.13 (Cemeteries) 2005, gazetted 18 February 2005
- Local Law No. 19 (Swimming Pools) 1999, gazetted 13 August 1999
- Local Law No. 20 (Commercial Use of Roads) 1999, gazetted 30 April 1999
- Local Law No. 30 (Camping Grounds) 1999, gazetted 14 January 2000
- Local Law No. 31 (Caravan Parks) 1999, gazette 14 January 2000
- Local Law No. 50 (Control of Advertisements), gazetted 12 April 1996

26 Existing Permits

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a licence regulated activity is taken to be a holder of a licence under this local law to operate that activity.

Schedule 1 Dictionary

section 3

approval has the meaning given in *Local Law No. 1 (Administration) 2013*.

assessment criteria means the criteria, if any, specified in a subordinate local law for deciding an application for a licence for the operation of a licence regulated activity.

authorised person means a person authorised by the local government pursuant to *Local Law No. 1 (Administration) 2013*.

compliance notice means the written notice given pursuant to section 14 (Compliance notice) of this local law.

corporation means a corporation as defined in the *Corporations Act 2001 (Cth)* and includes an association as defined in the *Associations Incorporation Act 1981*.

Court means the court of law which has jurisdiction to deal with offences under this local law.

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) an election of a member of the local government; or
- (b) an election of a member of the Legislative Assembly; or
- (c) an election of a member of the House of Representatives or the Senate; or
- (d) an election of a person to a position in accordance with the provisions of an Act.

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

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

executive officer of a corporation means a person who is concerned with, or takes part in, the corporation's management whether or not the person is a director or the person's position is given the name of executive officer.

exempt licence regulated activity see section 5(3).

food and food business have the meaning given in the *Food Act 2006*

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footpath means the land between the property alignment and the kerb of the carriageway of a road that is designated for, or has one of its main uses, use by pedestrians.

footpath dining means the use of the footpath or an area which has as one of its main uses, use by pedestrians, as an area for patrons of a food business operating in premises on a road to consume food and drink

Example

An area which has as one of its main uses, use by pedestrians is a mall.

knowledge includes actual or constructive knowledge.

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

licence means a licence which has been granted pursuant to section 7 (Deciding application for a licence) of this local law or amended, renewed or transferred pursuant to section 11 (Amendment, renewal or transfer of a licence) of this local law which—

- (a) has not expired pursuant to section 8(2) (Term of a licence) of this local law; and
- (b) has not been cancelled pursuant to section 12 (Cancellation of a licence) of this local law.

licence regulated activity means—

- (a) an activity which is prescribed as a licence regulated activity in in schedule 2 of this local law; or
- (b) an activity which would ordinarily be prohibited by a local law local law unless authorised by a licence, but for which a local law or subordinate local law prescribes that a licence is not required.

the local government means Ipswich City Council.

local government controlled area—

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

Examples of local government controlled areas—

- *parks, reserves and recreational areas*
- *conservation parks*
- *cemeteries*
- *local government operated library, including mobile libraries*
- *local government Chambers and local government offices*
- *jetties.*

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- *a mall*

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

Local Government Act has the meaning given to the term in the Act and includes approvals granted pursuant to a Local Government Act.

local law includes any subordinate local laws and all approvals granted pursuant to this local law.

mall means a mall established in accordance with the Act.

minimum standards means the standards, if any, specified in a subordinate local law with which the operation of a licence regulated activity or an exempt licence regulated activity must comply.

nuisance has the meaning given in *Local Law No. 8 (Nuisances and Community Health and Safety) 2013*.

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

operation of an activity, including a licence regulated activity, includes carrying out, providing, performing, erecting, maintaining, undertaking or otherwise engaging in any activity or, in any activity, in respect of the licence regulated activity.

owner of premises means the person for the time being entitled to receive the rent for the premises or would be entitled to receive the rent for it if it were let to a tenant at a rent.

penalty infringement notice means an infringement notice under section 15 of *the State Penalties Enforcement Act 1999*.

perform work includes take action to comply with a Local Government Act and includes work required to be performed pursuant to a compliance notice or a condition of a licence.

planning scheme means the planning scheme for Ipswich City Council made pursuant to the superseded *Integrated Planning Act 1997*, as amended pursuant to the *Planning Act* from time to time.

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

prescribed fee means the fee prescribed by the local government.

prescribed form means the form prescribed by the local government.

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road means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road in respect of which the chief executive has given written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b) where that act requires such agreement.

State-controlled road means a State-controlled road under the *Transport Infrastructure Act 1994*.

Schedule 2 Licence regulated activities

section 3

Part 1 Licence regulated activities

camping ground
caravan park
cattery
commercial activity on a local government controlled area or road
election sign
entertainment venue
kennel
pet shop
public swimming pool
cemetery
stables
temporary advertising device
temporary entertainment event

Part 2 Definitions of licence regulated activities

camping ground has the same meaning as in the *Planning Scheme*

caravan park has the same meaning as in the *Planning Scheme*

cattery means the use of premises for the keeping, boarding or breeding of cats on a commercial basis

commercial activity on a local government controlled area or road means the use of a local government controlled area or road for commercial or business purposes and includes —

- (a) soliciting for or carrying on the supply of goods and services (including food or drink) for profit,
- (b) activities promoting the supply of goods and services,
- (c) busking,
- (d) footpath dining,
- (e) such other activity of a commercial nature as is specified in a subordinate local law

but does not include the following—

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- (f) the provision of a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*;
- (g) a business on part of a road if the person carrying on the business is authorised by a permit under the *Land Act* to occupy the relevant part of the local government controlled road or area for carrying on the business;
- (h) a business that a person is authorised to carry on under the *Transport Infrastructure Act 1994*;
- (i) using a local government controlled area or road for a particular purpose if the use constitutes development under the *Sustainable Planning Act 2009*.
- (j) undertaking an activity that is authorised by a permit, licence or approval from the local government or management authority appointed under the provisions of *Local Law No. 7 (Local Government Controlled Roads and Areas) 2013* or *Local Law No. 3 (Commercial Licensing)*.
- (k) undertaking an activity that is authorised by a lease or approval under the *Land Act 1994*.

election sign means

- (a) a device advertising a political candidate or candidates, or a purported political candidate or candidates, a registered political party, or a campaign for a Commonwealth, State or Local Government election; or
- (b) a device advertising a case for or against a question or bill that is to be submitted to electors at a referendum or other poll that is administered by the State or Commonwealth electoral commission.

entertainment venue means a place 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 reserves a right to refuse admission but does not include a shop.

Examples:

- a cinema;
- a theatre;
- a concert hall;
- a billiard saloon;
- an electronic games centre;
- an indoor sports centre (including a bowling alley);
- an art gallery;
- a museum;
- a bazaar or flea market (of a non-permanent nature);
- a fair ground.

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kennel means a place used for keeping, boarding or breeding of dogs on a commercial basis

pet shop means a premises at which animals are offered for sale.

cemetery means premises for which approval has been granted by the local government under the planning scheme or otherwise for the burial or disposal of human remains other than premises owned, operated or held in trust by the local government.

public swimming pool means a swimming pool that is made available for use to -

- (a) members of the public or a section of the public on payment of an entrance fee or other charge; or
- (b) participants in organised swimming or diving competitions or in training for organised swimming or diving competitions; or
- (c) persons who have a commercial relationship with the owner of the pool.

Examples -

A swimming pool available for use by paying guests in a hotel or motel.

A swimming pool available for use by customers or employees of the owner.

stables means a premises used for the keeping boarding or breeding of horses on a commercial basis

temporary advertising device means

- (a) device for the purposes of advertising (other than an election sign) that is visible from a road or other public place and that is constructed in a manner which would allow the device to be readily removed or relocated and includes devices which can be attached to a stationary anchor point or a building, structure or the ground; or
- (b) or a device for the purposes of advertising that is attached to a street sign, bus shelter or the like in accordance with an agreement for a fixed period with the local government.

temporary entertainment event means the use of premises for 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 and for which the opening to the public does not constitute development under the *Sustainable Planning Act 2009*.

Examples of temporary entertainment events:

- *A bazaar, flea market or farmers market.*
- *A music festival.*

Endnotes

1 Index to Endnotes

- 2 Date to which amendments incorporated
- 3 Key
- 4 Table of reprints
- 5 List of legislation
- 6 List of annotations

2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

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 – no amendments

5 List of Legislation

Original Local Law

Local Law No. 3 (Commercial Licensing) 2013

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date of gazettal 5 July 2013

6 List of annotations

Ipswich

City Council

Subordinate Local Law No. 3.1 (Commercial Licensing) 2013

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Chapter 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 3. (Commercial Licensing) 2013*.

2 Authorising local law

This subordinate local law is made pursuant to *Local Law No. 3 (Commercial Licensing) 2013*.

3 Object

The object of this subordinate local law is to assist in the implementation of *Local Law No. 3 (Commercial Licensing) 2013* by specifying those matters necessary for the implementation of a commercial licensing system in the local government area.

4 Definitions—Dictionary

The dictionary in Schedule 1 (Dictionary) of this subordinate local law defines particular words used in this subordinate local law.

Chapter 2 Licensing

Part 1 Temporary advertising devices including election signs

5 Operation of part 1

- (1) This part only applies to a temporary advertising device or an election sign.
- (2) This subordinate local law does not apply to—
 - (a) an advertisement hoarding and an on-premises sign, as defined in the Planning Scheme; or
 - (b) an advertising device that is assessable development under the Planning Scheme; or

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- (c) an advertising device that involves building work; or
- (d) an advertising device that requires development approval.

6 Temporary advertising device

- (1) For the purposes of section 5(3) (Requirement for a licence) of the authorising law, a licence is not required for the exhibition of a temporary advertising device of the category in column 1 of schedule 2.
- (2) For the purposes of section 5(4) (Requirement for a licence) of the authorising law—
 - (a) a temporary advertising device must comply with the particular minimum standards specified in column 2 of part 1 of schedule 2 relevant to the category of temporary advertising device specified in column 1 of part 1 of schedule 2; and
 - (a) a temporary advertising device must comply with the general minimum standards specified in part 2 of schedule 2.

7 Election signs

- (1) For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising law, an application for a licence for the operation of an election sign (unless otherwise required by the local government) must be accompanied by the information, material and documents set out in column 2 of schedule 3.
- (2) For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to election signs will apply to any licence granted by the local government.

Part 2 Camping grounds

8 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising law, an application for a licence for the operation of a camping ground (unless otherwise required by the local government) must be accompanied by the information, material and documents set out in column 2 of schedule 3.

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9 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to camping grounds will apply to any licence granted by the local government unless specified otherwise in the licence document.

Part 3 Caravan parks

10 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising law, an application for a licence for the operation of a caravan park (unless otherwise required by the local government) must be accompanied by the information, material and documents set out in column 2 of schedule 3.

11 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to caravan parks will apply to any licence granted by the local government unless specified otherwise in the licence document.

Part 4 Public swimming pools

12 Requirement for a licence

For the purposes of section 5(3) (Requirement for a licence) of the authorising law, a licence is not required for a public swimming pool made available by the Body Corporate or a group division scheme for use by the owners or occupiers of lots in the scheme or their invitees.

13 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising law, an application for a licence for the operation of a public swimming pool (unless otherwise required by the local government) must be accompanied by the information, material and documents set out in column 2 of schedule 3.

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14 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to public swimming pools will apply to any licence granted by the local government unless specified otherwise in the licence document.

Part 5 Catteries

15 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising law, an application for a licence for the operation of a cattery (unless otherwise required by the local government) must be accompanied by the information, material and documents set out in column 2 of schedule 3.

16 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to catteries will apply to any licence granted by the local government unless, specifies otherwise in the licence document.

Part 6 Kennels

17 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) the authorising law, an application for a licence for the operation of a kennel (unless otherwise required by the local government) be accompanied by the information, material and documents set out in column 2 of schedule 3.

18 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to kennels will apply to any licence granted by the local government unless, specified otherwise in the licence document.

Part 7 Pet shops

19 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) the authorising

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law, an application for a licence for the operation of a pet shop (unless otherwise required by the local government must be accompanied by the information, material and documents set out in column 2 of schedule 3.

20 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to pet shops will apply to any licence granted by the local government unless, specified otherwise in the licence document.

Part 8 Cemeteries

21 Exempt licence regulated activity

For the purposes of section 5(3) (Requirement for a licence) of the authorising law, the operation of a cemetery is declared an exempt licence regulated activity for which a licence is not required.

22 Minimum standards

For the purposes of section 5(4) (Requirements for a licence) of the authorising law, all persons operating a cemetery must comply with the minimum standards set out schedule 5.

Part 9 Commercial activities on local government controlled roads and areas

Division 1 Exceptions

23 Requirements for a licence

For the purposes of section 5(3) (Requirements for a licence) of the authorising law a licence is not required for the commercial activities specified in column 1 of schedule 5 in the circumstances specified in column 2 of schedule 4.

Division 2 Footpath dining

24 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising

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law, an application for a licence for the operation of footpath dining (unless otherwise required by the local government) be accompanied by the information, material and documents set out in column 2 of schedule 3.

25 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to the operation of footpath dining will apply to any licence granted by the local government unless, specified otherwise in the licence document.

Division 3 Other commercial activities

26 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising law, an application for a licence for the operation of commercial activity on local government controlled areas and roads other than footpath dining (unless otherwise required by the local government) be accompanied by the information, material and documents set out in column 2 of schedule 3.

27 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) the authorising law, the conditions set out in column 3 of schedule 3 which relate to the operation of commercial activity on local government controlled areas and roads other than footpath dining will apply to any licence granted by the local government unless, specified otherwise in the licence document.

Part 10 Stables

28 Application for a licence

For the purposes of section 6(1)(c)(v) (Application for a licence) of the authorising law, an application for a licence for the operation of stables (unless otherwise required by the local government) be accompanied by the information, material and documents set out in column 2 of schedule 3.

29 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to the operation of stables will apply to any licence granted by the local government unless, specified otherwise in the licence document.

Part 11 Temporary entertainment events

30 Application for a licence

For the purposes of section 6(1)(c)(iv) (Application for a licence) of the authorising law, an application for a licence for the operation of a temporary entertainment event (unless otherwise required by the local government) be accompanied by the information, material and documents set out in column 2 of schedule 3.

31 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to the operation of a temporary entertainment event will apply to any licence granted by the local government unless, specified otherwise in the licence document.

Part 12 Entertainment venues

32 Application for a licence

For the purposes of section 6(1)(c)(iv) (Application for a licence) of the authorising law, an application for a licence for the operation of an entertainment venue (unless otherwise required by the local government) must be accompanied by the information, material and documents set out in column 2 of schedule 3.

33 Conditions of a licence

For the purposes of section 9(3) (Conditions of a licence) of the authorising law, the conditions set out in column 3 of schedule 3 which relate to the operation of an entertainment venue will apply to any licence granted by the local government unless, specified otherwise in the licence document.

Schedule 1 Dictionary

section 4

"A" Framed Sign means a portable, freestanding advertising device, normally supported by an "A" or inverted "T" frame and typically displayed on a footpath

approved advertising device means an advertising device that is—

- (a) approved by a development permit; or
- (b) deemed self assessable in accordance with the respective planning scheme; or

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

business includes —

- (a) the supply of good and services; and
- (b) the sale of a good or a service; and
- (c) engaging in any trade or business; and
- (d) distributing a business advertising publication; and
- (e) touting; and
- (f) advertising a good or service; and
- (g) a fete, market or stall; and
- (h) the exhibition of an advertisement; and
- (g) the exhibition of a sign; and
- (h) film production.

caravan has the meaning given in the *Planning Scheme*.

commercial basis or **commercial activity** includes operation of an business .

complimentary accommodation means —

- (a) accommodation in an on-site caravan, cabin or tent or other structure that can be readily assembled and disassembled; or
- (b) other accommodation prescribed under a subordinate law.

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community event (fete) sign means a temporary non-illuminated advertising device advertising non-profit, short-term events such as a fete, fair, or festival for charitable, religious, education, child care, sporting organisations or the like.

construction sign means a temporary advertising device that directs attention to the construction and activities happening on the site.

entertainment includes recreation and amusement

exhibit includes in relation to a sign the painting, writing, drawing, depiction, making, erection, affixing, putting up, operation or transport of a sign.

facilities includes 1 or more of the following—

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

film production means audio and visual recording and associated activities for the purposes of cinema, television, the internet or another purpose specified in a subordinate local law but does not include—

- (a) still photography, unless the photography is carried out—
 - (i) for a commercial benefit; and
 - (ii) is part of a fashion or sportswear shoot for a newspaper or other document, as defined in the *Printing and Newspapers Act 1981*; or
- (b) audio and visual recording of a wedding or other private celebration or event; or
- (c) audio and visual recording for the purposes of a television program in respect of news, current affairs or sports; or
- (d) any other film production specified in a subordinate local law.
residential

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horizontal banner event sign means a temporary horizontal banner advertising an auction, retail sale, business promotion or the like.

inflatable event sign means any fixed or captive envelope, balloon, blimp or kite, whether cold air inflatable or lighter than air aerial device.

local government controlled area—

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

Examples of local government controlled areas—

- *parks, reserves and recreational areas*
- *conservation parks*
- *cemeteries*
- *local government operated library, including mobile libraries*
- *local government Chambers and local government offices*
- *jetties.*
- *a mall*

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

local utilities has the meaning given in the planning scheme.

newspaper has the meaning given in the *Printing and Newspapers Act 1981*.

mobile sign means a device that may be transported around on the land and includes a sign on wheels.

planning scheme means the planning scheme for Ipswich City Council made pursuant to the superseded *Integrated Planning Act 1997*, as amended pursuant to the *Planning Act* from time to time.

public place see the Act section 125 (5).

publication means any printed matter or written matter and includes a book, pamphlet, leaflet, circular, handbill, notice, ticket, voucher, pass, advertisement, poster, magazine or other periodical publication but does not include a newspaper.

publicise means to draw to the attention of, make known, advertise or promote and **publicises** has the corresponding meaning.

real estate sign means a device to facilitate the sale, auction or rental of a property or properties.

residential area includes areas comprising predominantly residential development and land (other than *roads*), that is situated in one or more of the following zones or other similar designation under a *Structure Plan* under the Planning Scheme—

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- (a) within the Urban Areas Locality—
 - (i) Large Lot Residential Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Character Areas - Housing Zone;
 - (v) Future Urban Zone;
 - (vi) Character Areas - Mixed Use Zone;
 - (vii) Business Incubator Zone;
 - (viii) Bundamba Racecourse Stables Area Zone;
 - (ix) Special Uses Zone;
 - (x) Special Opportunity Zone;
- (b) within the Rosewood Locality—
 - (i) Character Areas - Housing Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Urban Investigation Zone;
 - (iv) Special Uses Zone;
- (c) within the City Centre Locality—
 - (i) Residential High Density Zone;
- (d) within the Township Locality—
 - (i) Township Residential Zone;
 - (ii) Township Character Housing Zone;
 - (iii) Township Character Mixed Use Zone;
 - (iv) Stables Residential Zone;

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- (v) Special Uses Zone.
- (e) within the Springfield Structure Plan—
 - (i) Community Residential Designation.
- (f) within the Rural Locality—
 - (i) Rural Living Zone.

and includes land approved for residential development pursuant to a development approval, including a development which is recorded on the Planning Scheme pursuant to section 3.5.27 *Integrated Planning Act* 1997 or section 391 of the *Sustainable Planning Act* 2009.

shop means premises for the wholesale or retail sale of goods and includes a warehouse.

sign means a device that publicises a matter.

structure has the meaning given in the Local Government Act 2009 and includes a structure as defined in the *Building Act* 1975 and any other thing specified in a subordinate local law.

swimming pool means a swimming pool under the *Building Act* 1975;

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act* 1995 and includes anything specified as a vehicle in a subordinate local law.

Schedule 2 Minimum standards for temporary advertising devices and election signs

section 6

Part 1 Particular minimum standards

Column 1 Temporary Advertising Device	Column 2 Standards
"A" Framed Signs	<p>Must-</p> <ul style="list-style-type: none"> (a) be limited to two (2) signs per business premises per road frontage; (b) have a minimum width of 0.6m, a maximum width of 1.2m, a minimum height of 0.6m and a maximum height of 1.2m; (c) be removed from the road reserve when the business is not open; and (d) be located: <ul style="list-style-type: none"> (i) adjacent to the façade of the building; or (ii) between the building and the road frontage property boundary where the building is set back from the road frontage property boundary; or (iii) wholly within an area between 0.8m and 1.5m from the kerb; and (iv) there must be a minimum 1.8m wide section of the footpath free of signage for the movement of pedestrians; (e) not be located on the concrete or paved section of a footpath where the footpath has one or more grass verges; or (f) otherwise located in a position approved in writing by an authorised person.
Community Event (Fete) Signs	<p>Must -</p> <ul style="list-style-type: none"> (a) be a temporary advertisement located on the premises to which the advertisement relates; and (b) be displayed no earlier than two weeks before the event and be removed the day following the event.
Construction Signs	<p>Must -</p> <ul style="list-style-type: none"> (a) be erected on the site; and (b) have a maximum of one sign per construction company, consultant or sub-contractor per street frontage; and (c) have a maximum area of 8m²; and (d) be removed at the end of the construction or refurbishment period.

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Column 1 Temporary Advertising Device	Column 2 Standards
Horizontal Banner Event Signs	<p>Must -</p> <ul style="list-style-type: none"> (a) be erected on the site; and (b) be limited to one temporary advertisement displayed on the premises to which the advertisement relates; and (c) be displayed for not more than 14 days in any 90 day period; and (d) not cover or hide any architectural features of a building; and (e) have a maximum area of 8m².
Inflatable Event Signs	<p>Must -</p> <ul style="list-style-type: none"> (a) be displayed on the site to which the advertisement relates; and (b) if of a balloon, blimp or kite structure, be fixed no higher than 15m from the ground to the top of the device; and (c) not be erected for more than 14 days in any 90 day period; and (d) be able to withstand all weather conditions; and (e) where displayed for longer than seven days, be checked weekly to ensure the inflation and attachments are properly maintained; and (f) conform to the height provisions contained in the Defence Area Control Regulations (refer Part 11.4.9 Development Constraints Overlays – Defence Facilities) of the Planning Scheme.
Mobile Signs	<p>Must -</p> <ul style="list-style-type: none"> (a) be limited to one advertisement displayed on the premises or land to which the advertisement relates; and (b) have a maximum height of 2.0m and a maximum width of 1.2m; and (c) be secured to prevent danger to pedestrians and traffic in high wind situations; and (d) not be located on a footpath or in a park or a local government controlled area unless - <ul style="list-style-type: none"> (i) the site is subject to a lease and the sign is displayed in accordance with the provisions of the lease; or (ii) the sign relates to an approved use in a park.
Real Estate Signs	<p>Must -</p> <ul style="list-style-type: none"> (a) be displayed on the site to which the advertisement relates; and

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Column 1 Temporary Advertising Device	Column 2 Standards
	<ul style="list-style-type: none"> (b) be limited to one (1) sign per selling agent per road frontage; and (c) have a maximum area of 1.5m² for premises in residential areas and 3.0 m² for commercial, industrial, rural or open space and special use / other areas.
Vertical Banner Event Signs	<p>Must -</p> <ul style="list-style-type: none"> (a) be erected on the site; and (b) be limited to one temporary advertisement displayed on the premises to which the advertisement relates; and (c) be displayed for not more than 14 days in any 90 day period; and (d) have a maximum width of 0.6m and a maximum area of 2m²; and (e) have a height which does not project above the gutter line of the building.
For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed	<p>The proposed advertising device must—</p> <ul style="list-style-type: none"> (a) be structurally sound; (b) not obstruct or distract traffic in an unsafe manner; (c) not unreasonably obstruct views; (d) not have a detrimental effect on amenity; (e) be consistent with— <ul style="list-style-type: none"> (i) surrounding buildings; (ii) relevant submissions made by interested person; (iii) public interest; and (iv) relevant Commonwealth, State, or local government places, proposals or agreements effecting the part of the area in which the advertisement is to be situated. (f) not cause significant obstruction of or distraction to vehicular or pedestrian traffic; (g) be consistent with applicable environmental protection policies; (h) be of a dimension that there is a reasonable relationship to the dimensions of surrounding buildings and allotments so that— <ul style="list-style-type: none"> (i) its presence is not unduly dominating or oppressive; (ii) it does not unreasonably obstruct existing views; (i) be consistent, in colour and appearance, with buildings and natural features of the environment in which it is to be situated; (j) in all other respects be consistent with the character and values of the environment in which it is to be

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Column 1 Temporary Advertising Device	Column 2 Standards
	<p>situated;</p> <p>(k) relate directly to the site where it is displayed;</p> <p>(l) not result in alteration to the silhouette of a building by extending vertically beyond or above walls, parapets or roofs;</p> <p>(m) not cover or obscure architectural features of a building;</p> <p>(n) where possible, reduce visual clutter of the streetscape by providing fewer, more effective signs and where appropriate maintain a balance by removing other existing advertisements.;</p> <p>(o) be designed and situated so as not to expose an unsightly rear view or the sign;</p> <p>(p) not detract from the streetscape of the locality where it is erected;</p> <p>(q) be designed to provide a clear message to those in close proximity;</p> <p>(r) not flash, revolve or involve the production of sound or smell;</p> <p>(s) not distract motorist's or pedestrian's view of traffic;</p> <p>(t) not protrude in a manner that could interfere with the access of pedestrians or that could damage vehicles;</p> <p>and</p> <p>(u) be constructed of quality materials which are able to be maintained in a neat, clean and tidy manner at all times.</p>

Part 2 **General minimum standards**

- (a) the temporary advertising device must be kept in good order and repair;
- (b) the temporary advertising device must not have flashing lights, revolve or contain any apparatus that produces sound;
- (c) the temporary advertising device must be positioned on the premises so as not to resulting a loss of amenity in the neighbourhood;
- (d) the temporary advertising device sign must be positioned on the premises so as not to constitute a risk to road safety.

Schedule 3 Matters affecting certain licences

Chapter 2

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
Election signs	<p>(a) the purpose for which the signs are proposed to be used; and</p> <p>(b) the location at which it is proposed to erect each sign.</p>	<p>(a) the sign must—</p> <p>(i) be structurally sound;</p> <p>(ii) not obstruct or distract traffic in an unsafe manner;</p> <p>(iii) not unreasonably obstruct views;</p> <p>(iv) not have a detrimental effect on amenity;</p> <p>(v) not be erected on any road, park or reserve or land under the control of the local government except on an approved advertising device;</p> <p>(vi) not detract from the streetscape of the locality where it is erected;</p> <p>(vii) not flash, revolve or involve the production of sound or smell;</p> <p>(viii) not distract motorist's or pedestrian's view of traffic;</p> <p>(ix) not protrude in a manner that could interfere with the access of pedestrians or that could damage vehicles;</p> <p>(x) be constructed of quality materials which are able to be maintained in a</p>

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		<p>neat, clean and tidy manner at all times.</p> <p>(xii) in the case of an election, not be erected until an election has been called and the writ has been issued (in the case of State or Commonwealth elections), or a notice of election has been published (in the case of local government elections).</p> <p>(xiii) in the case of a referendum or poll, not be erected before the writ for the referendum is issued or, in the case of a poll, before a date determined by the local government.</p> <p>(b) that all signs must be removed within 14 days after the day of the election.</p> <p>(c) that a prescribed bond in a form acceptable to the local government be lodged.</p> <p>(d) that in the event that obligation to remove the signs imposed by condition (b) is not complied with the local government may remove the signs and deduct from the bond a fee for each sign removed.</p> <p>(e) that upon the receipt of a statutory declaration from the licence holder that all signs have been removed and the</p>

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		<p>conclusion of any inspections the local government may elect to make, the bond, less any deductions of the fee, will be refunded to the licence holder.</p> <p>In these conditions—</p> <p>prescribed bond means a bond in an amount determined by the local government.</p> <p>fee means the fee applicable to the removal of an election sign fixed by the local government.</p>
Camping grounds	<p>(a) Address of where the camping ground is situated.</p> <p>(b) A layout plan showing the boundaries of the camping ground, any building situated or proposed to be situated within the camping ground and the division of the camping ground into camping sites.</p> <p>(c) If the applicant is not the owner of the land on which the camping ground is situated the written consent of the owner to the application.</p> <p>(d) Details of water quality, reticulation and drainage.</p> <p>(e) Details of the facilities for sanitation, washing, laundry, cooking and recreation to be provided for</p>	<p>1. The licensee must ensure that—</p> <p>(a) all buildings, structures and facilities on the camping ground are kept and maintained in good and serviceable condition;</p> <p>(b) adequate water supply, toilets, showers and waste facilities are provided;</p> <p>(c) any supplied bedding is kept in a clean and sanitary condition and changed whenever the occupier changes;</p> <p>(d) a register is kept containing-</p> <p>(i) the name and address of each person</p>

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	<p>campers.</p> <p>(f) If permits or approvals under another law are required to construct install or operate the buildings, structures or facilities necessary for the establishment or operation of the camping ground, a copy of the permits or approvals.</p>	<p>who hires a camping site; and</p> <p>(ii) an identifying number for the site; and</p> <p>(iii) if a vehicle is brought onto the site, the registration number of the vehicle; and</p> <p>(iv) the dates when the hiring of the site begins and ends.</p> <p>(e) a copy of the register referred in minimum standard (d) is provided to an authorised person upon request;</p> <p>(f) occupation of a camping site by more persons than the limit fixed for the relevant site under the conditions of the licence is not permitted;</p> <p>(g) a person is not permitted to bring onto a camping site a tent or other type of accommodation that is not fit for human habitation;</p> <p>(h) the position of the building structures and fixtures allowed within the camping ground in the position specified in the licence or if not as specified, as specified in the application for the licence is not changed;</p> <p>(i) there is no change to the camping sites in the camping ground by:-</p>

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
		<p>(i) adding to the existing sites;</p> <p>(ii) changing the position or boundaries of a site; unless the local government approves a change to the conditions of the licence.</p> <p>(j) there is no change to the structures or facilities in the camping ground by:-</p> <p>(i) adding new building structures or facilities; or</p> <p>(ii) removing building structures or facilities; or</p> <p>(iii) changing the position of building structures or facilities, unless the local government approves a change to the conditions of the licence.</p> <p>(k) standard condition (j) does not apply if the proposed change constitutes development under the Planning Scheme or Planning Act.</p>
Caravan parks	<p>(a) The address of the proposed caravan park.</p> <p>(b) If the applicant is not the owner of the land on which the caravan park is situated the written consent of the owner to the application.</p> <p>(c) A layout plan of the proposed caravan park showing the boundaries of the caravan park, any existing or</p>	<p>1. The licensee must ensure that—</p> <p>(a) no part of the caravan park is hired out or leased for separate occupation;</p> <p>(b) all buildings, structures and facilities provided for the operation of the caravan park are kept and maintained in good and</p>

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	<p>proposed buildings and each caravan or camping site.</p> <p>(d) The name and address of the proposed resident manager of the caravan park and the proposed resident manager's written agreement accepting the responsibilities of resident manager of the caravan park.</p> <p>(f) If permits or approvals under another law are required to construct install or operate the buildings, structures or facilities necessary for the establishment or operation of the caravan park, a copy of the permits or approvals.</p>	<p>serviceable condition;</p> <p>(c) the caravan park (including all sites) are kept clean and tidy;</p> <p>(d) adequate water supply, toilets, showers and waste facilities are provided;</p> <p>(e) any supplied bedding is kept in a clean and sanitary conditions and changed whenever the occupier changes;</p> <p>(f) the sites or structures or facilities in the caravan park are not changed without agreement of the local government;</p> <p>(g) a person is not permitted to bring onto a site a caravan or other type of accommodation that is not fit for human habitation;</p> <p>(h) the caravan park is managed and supervised by an individual (the "resident manager") who is resident on or near the caravan park;</p> <p>(i) the resident manager, or a representative of the resident manager, is present or available at all reasonable times to ensure the proper operation of the caravan park;</p> <p>(j) a register is kept containing:-</p> <p>(i) the name and address of each person who hires complementary</p>

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		<p>accommodation or a site on the caravan park;</p> <p>(ii) an identifying number for the accommodation or site;</p> <p>(iii) if a caravan is brought onto the site the registered number of the caravan and (if applicable) the vehicle towing it; and</p> <p>(iv) the dates when the hiring of the accommodation or site begins and ends;</p> <p>(k) if an authorised person requests it, the register is provided for inspection;</p> <p>(l) no part of the caravan park is hired out for separate occupation unless it is a site approved in the licence for separate occupation by the local government;</p> <p>(m) unless the licence holder requests a change in the conditions of the permit and the local government grants the request, there is no change to the sites in a caravan park by:-</p> <p>(i) adding to the existing sites; or</p> <p>(ii) changing the position or boundaries of a site.</p> <p>(n) unless the licence holder requests a change in conditions of the permit and the local</p>

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		<p>government grants the request, there is no change to the structures or facilities in a caravan park by:-</p> <ul style="list-style-type: none"> (i) adding new structures or facilities; or (ii) removing existing structures or facilities; or (iii) changing the position of structures or facilities in the caravan park; <p>(o) the standard condition in (m) and (n) do not apply if the proposed change constitutes development under the Planning Scheme or Planning Act.</p> <p>2. If the licence holder is an individual the licence holder may be the manager of the caravan park.</p> <p>3. If the local government is not satisfied that a person nominated to be resident manager of a caravan park is a suitable person to be the resident manager:</p> <ul style="list-style-type: none"> (a) the local government may, by notice given to the licence holder, require the licence holder to nominate a resident manager acceptable to the local government within a time stated in the notice, and;

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		(b) the licence holder must comply with the notice given under standard 3(a) within the time specified in the notice.
Public swimming pool	<ul style="list-style-type: none"> (a) The address of the proposed public swimming pool. (b) A layout plan of the proposed swimming pool complex showing boundaries of the property, existing or proposed buildings, fencing and the location of the pool or pools. (c) Proposed hours that the pool will be open to the public. (d) Details of the nature and extent of the public use that is proposed by the applicant, including any training programs intended to be conducted. (e) Details of the proposed management and supervision of the swimming pool (including the qualifications and experience of proposed managers and supervisors). (f) If the applicant is not the owner of the land on which the swimming pool is situated - <ul style="list-style-type: none"> (i) the name, address and contact details of the owner; and (ii) the owner's written consent to the application; and (g) Details of the disinfection, filtration and recirculation 	<ul style="list-style-type: none"> (a) The fence must be a permanent structure and maintained in a good condition. (b) Any gate or door giving access to the swimming pool is to be kept securely closed at all times when the gate or door is not in use. (c) Public pool water chemical parameters, bacterial standards and frequency of water testing and method of recording must comply with the Queensland Health Swimming & Spa Pool Water Quality and Operational Guidelines. (d) The records of results required by condition (c) plus any backwashing, chemical adjustments or dose settings are to be kept for a minimum period of 12 months at the premises and be available for inspection by an authorised person at all times. (e) An authorised person may require the testing of public pool water for compliance with bacteriological criteria as detailed in the Queensland Health Swimming & Pool

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	<p>system to be used in the public pool.</p> <p>(h) Details of fencing to be provided to the public pool.</p> <p>(i) Details of facilities provided at the public pool such as number of change rooms and toilets.</p>	<p>Water Quality and Operational Guidelines. If testing is required it is to be carried out by a National Association of Testing Authorities or equivalent registered analyst.</p> <p>(f) All facilities provided at a public pool, such as toilets and change rooms, are to be maintained in a clean and sanitary condition at all times.</p> <p>(g) The surrounds of the public pool are to be maintained in good repair at all times.</p> <p>(h) A notice explaining mouth to mouth resuscitation shall be prominently displayed.</p> <p>(i) The licence holder must not operate a public pool that is classified as a high usage pool as defined in the Queensland Health Swimming & Spa Pool Water Quality and Operational Guidelines unless there is a person in attendance at the public pool who has obtained and kept current the qualification of pool lifeguard (Royal Life Saving Society Australia) or other qualification to the satisfaction of an authorised person.</p> <p>(j) The licence holder must ensure that equipment, to the satisfaction of an authorised person, for the purpose of rescue</p>

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		<p>and/or resuscitation and/or first aid treatment is readily available for use.</p> <p>(k) The licence holder must not allow a person who appears to be suffering from any type of infectious or contagious disease or skin complaint to enter the water.</p> <p>(l) If applicable, a notice advising of the dangers of immersion in hot spas is to be prominently displayed near the spa pool.</p> <p>(m) An authorised person may inspect a swimming pool and associated equipment at any reasonable time.</p> <p>(n) The licence holder must manage and supervise the swimming pool to protect public safety and prevent nuisance.</p>
Catteries	<p>a) the address of where the cats will be kept;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> o the name, postal address and contact phone number of the owner; and o the written consent of the owner or their authorised agent to the application; 	<p>The licensee must ensure that—</p> <p>(a) all necessary approvals must be obtained from Council;</p> <p>(b) all pet food to be stored in vermin proof containers;</p> <p>(c) full details must be kept of methods of disposal of cats including sale and “give aways”. This information will include a copy</p>

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	<ul style="list-style-type: none"> (c) the maximum number of cats proposed to be kept; (d) the type and location of proposed cat accommodation giving consideration to the type and number of cats it is to accommodate; (e) confirmation in writing that the property where the cats are to be kept has appropriate fencing sufficient to keep the cats contained; and (f) a sketch plan to scale showing the design of the accommodation for the adequate housing of the cats and it's location in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties 	<ul style="list-style-type: none"> of the vaccination certificate and new owners name and address; (d) records must be kept of all cats kept at the premises or sold or given away from the premises; such records must include will a copy of the vaccination certificate, microchipping information (all animals must be microchipped at point of sale or "give away") and new owners name and address (e) any cat that is found to be suffering from a transmissible or communicable disease must be placed in isolation. The holder of the licence must have facilities to effectively isolate diseased cats when necessary; (f) no cat is to be kept at the premises, sold, or given away from the premises unless vaccinated appropriate to the age of the animal; (g) all waste and refuse generated from the keeping of cats under this licence must be disposed of in a manner so as not to cause a nuisance; (h) all cages or enclosures to be thoroughly cleansed and disinfected on a daily basis to avoid the spread of disease;

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		<p>(i) the provision of adequate enclosures to prevent the egress of housed cats and the ingress of other cats;</p> <p>(j) all cats must be kept in a manner so as not to cause a nuisance;</p> <p>(k) all cats to be confined to the premises at all times.</p> <p>(l) the maximum number of cats to be kept on the premises shall be determined by Council giving regard to all relevant circumstances.</p>
Kennels	<p>(a) the address of where the dogs will be kept; and</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> o the name, postal address and contact phone number of the owner; and o the written consent of the owner or their authorised agent to the application; <p>(c) the maximum number of dogs proposed to be kept;</p> <p>(d) the type and location of proposed kennel accommodation giving consideration to the number and breed of dogs that it is to accommodate;</p> <p>(e) confirmation in writing that the property where the dogs are to be kept has appropriate fencing</p>	<p>The licensee must ensure that—</p> <p>(a) all necessary approvals must be obtained from Council;</p> <p>(b) all pet food to be stored in vermin proof containers;</p> <p>(c) full details must be kept of methods of disposal of dogs including sale and “give aways”. This information will include a copy of the vaccination certificate and new owners name and address;</p> <p>(d) records must be kept of all dogs kept at the premises or sold or given away from the premises; such records must include will a copy of the vaccination certificate, microchipping information (all animals must</p>

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	<p>sufficient to keep the dogs contained;</p> <p>(f) a sketch plan to scale showing the design of the accommodation for the adequate housing of the dogs, and its location in relation to other buildings on the land, the property boundaries and all building on adjoining properties.</p>	<p>be microchipped at point of sale or “give away”) and new owners name and address</p> <p>(e) any dog that is found to be suffering from a transmissible or communicable disease must be placed in isolation. The holder of the licence must have facilities to effectively isolate diseased cats when necessary;</p> <p>(f) no dog is to be kept at the premises, sold, or given away from the premises unless vaccinated appropriate to the age of the animal;</p> <p>(g) all waste and refuse generated from the keeping of dogs under this licence must be disposed of in a manner so as not to cause a nuisance;</p> <p>(h) all cages or enclosures to be thoroughly cleansed and disinfected on a daily basis to avoid the spread of disease;</p> <p>(i) the provision of adequate enclosures to prevent the egress of housed dogs and the ingress of other dogs;</p> <p>(j) all dogs must be kept in a manner so as not to cause a nuisance;</p> <p>(k) all dogs to be confined to the premises at all times.</p>

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		(l) the maximum number of dogs to be kept on the premises shall be determined by Council giving regard to all relevant circumstances.
Pet shops	<ul style="list-style-type: none"> a) the address of the pet shop; (b) if the applicant is not the owner of the land on which the activity is to occur- <ul style="list-style-type: none"> o the name, postal address and contact phone number of the owner; and o the written consent of the owner or their authorised agent to the application; (c) the number and type of animals proposed to be kept and sold; (d) the type of proposed animal housing giving consideration to the type, breed and number of animals it is to contain and if not yet constructed proof of all relevant approvals for construction; and (e) confirmation in writing that the premises where the animals are to be kept has appropriate fencing or structures to keep the animals contained, taking into account their breed and nature. 	<p>The licensee must ensure that—</p> <ul style="list-style-type: none"> (a) operation of the pet shop is carried out so as not to cause a nuisance or disturbance to adjoining properties or properties in the vicinity. (b) all animals are provided with appropriate accommodation and equipment suitable for the physical and behavioural requirements of the animals having regard to their species and breed; (c) all animals are protected from the adverse impacts of natural and artificial origin, environmental conditions, other animals and interference from humans; (d) sufficient space is provided for the animals to prevent overcrowding and to allow them to stand and move around freely; (e) sufficient quantities of appropriate food and water are provided to maintain the animals in good health;

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		<ul style="list-style-type: none"> (f) the animals are protected from disease, distress, injury and excess heat; (g) the animals are provided with prompt veterinary or other appropriate treatment in the event of disease, distress or injury; (h) the premises are kept clean and hygienic, including vermin and pest control of the premises; (i) the keeping of the animals on the premises does not cause a public health nuisance; (j) the animals are adequately fed, watered and inspected daily to ensure their wellbeing; (k) all structures and enclosures for the animals are maintained so as to: <ul style="list-style-type: none"> (i) prevent the escape of any animal from the premises; (ii) allow for regular cleaning of all internal and external surfaces and regular checking of animals; (iii) be impervious and able to be easily and readily cleaned and effectively disinfected; (iv) ensure the comfort of the animals and prevent the spread of disease; and (v) maintain the health of the animals and limit

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		<p>the spread of disease;</p> <p>(l) all structures and enclosures are treated, sprayed or dusted with insecticide or disinfectant, to the manufacturer's instructions, for the purpose of fly, insect and disease control;</p> <p>(m) all animals are removed from any structure or enclosure before the structure or enclosure, as the case may be, is treated sprayed or dusted in accordance with Minimum Standards;</p> <p>(n) all cages or enclosures for animals are thoroughly cleaned and disinfected on a daily basis;</p> <p>(o) all waste waters from the washing down of floors, surfaces and enclosures and drain waste waters are disposed of in an industrial type grease trap or into adequate subsurface disposal trenches or such other method for the disposal of waste waters as is approved by an authorised person;</p> <p>(p) all manure and offensive matter is cleaned up at least daily, wrapped in newspaper and then placed into a fly proof covered</p>

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Subordinate Local Law 3.1 (Commercial Licensing) 2013

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
		<p>receptacle is collected from the premises daily and the contents disposed of so as not to adversely affect public health or safety;</p> <p>(q) the premises are kept free of flies and vermin at all times; and</p> <p>(r) all feed is stored in fly and vermin proof receptacles</p> <p>(s) all animals offered for sale must be vaccinated as appropriate to the age of the animal prior to the completion of any sale.</p> <p>(t) all provisions contained on any other local law concerning the keeping or sale of animals are complied with.</p>
Cemeteries	<p>(a) The address of the proposed cemetery.</p> <p>(b) A layout plan of the proposed cemetery showing all proposed buildings, roads and burial and cremation sites.</p> <p>(c) Details of the proposed administration and management of the cemetery; and</p> <p>(d) If the Applicant is not the owner of the land on which the cemetery is situated, the owner's</p> <p>(i) name address and contact details; and</p> <p>(ii) written consent to the application.</p>	<p>The licensee must ensure that -</p> <p>(a) records are kept of -</p> <p>(i) the names of all persons whose remains have been buried, cremated or placed in the cemetery; and</p> <p>(ii) the date of the disposal, and the form of the disposal of the remains; and</p> <p>(iii) the place where the remains of each person have been buried or placed including any cremated remains that may</p>

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Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
		<p>be scattered in the cemetery; and</p> <p>(iv) any dealing with the remains after they have been buried or placed in the cemetery.</p> <p>(b) The records are kept at an office on the grounds of the cemetery or another place approved by the local government;</p> <p>(c) The records may available for inspection by members of the public at reasonable times;</p> <p>(d) The records are provided on request of an authorised person.</p>
Stables	<p>(a) the address where the stables will be located;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> o the name, postal address and contact phone number of the owner; o the written consent of the owner or their authorised agent to the application; <p>(c) the maximum number of horses proposed to be stabled;</p> <p>(d) the type of proposed accommodation for the horses and if it is not yet constructed proof of all required approvals for construction;</p>	

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
	<p>(e) confirmation in writing that the property where the horses are to be kept has appropriate fencing sufficient to keep the horses contained; and</p> <p>(f) a sketch plan to scale showing the design of the stables for the adequate housing of horses, the location of the stables in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	
Commercial activity on local government controlled area or road other than footpath dining		<p>The Licensee must</p> <p>(a) limit licensed activities to a location, locations or area specified on the licence;</p> <p>(b) produce the licence for inspection by an authorised person or police officer on demand;</p> <p>(c) take all necessary precautions to protect the public from injury or loss, and requiring that all directions by an authorised person in that regard are to be carried out;</p> <p>(d) indemnify the Council and take out public liability insurance for the sum of \$10,000,000.00 or such other sum as the Council may deem appropriate, against personal injury or property damage whilst</p>

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Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
		<p>acting under the authority of this licence;</p> <p>(e) provide proof of public liability insurance prior to the exercise of the licence;</p> <p>(f) limit the goods or services to be sold, displayed, offered or solicited to those generally described in the application for the licence;</p> <p>(g) prevent the exercise of the licence from causing nuisance to motorists, pedestrians or residents;</p> <p>(h) provide for adequate rubbish receptacles and that the area be kept clean at all times,</p> <p>(i) ensure all goods are displayed and stored within a vehicle or stall,</p> <p>(j) limiting the permit to daylight hours only or others times as specified,</p> <p>(k) provide for the free flow of pedestrians on footways such that tables, chairs, goods or other items or structures must be kept clear of any exits or doorways to buildings, and must leave a minimum unobstructed envelope 1.5 m wide and 2.1 m high, or other appropriate</p>

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
		<p>distances depending on location or circumstances,</p> <p>(l) ensure that that no tables, chairs, structures or goods be placed on the footway within 1m of the kerb</p>
<p>Commercial activity on a local government controlled area or road - Footpath dining</p>		<p>The licence holder must ensure that—</p> <p>(a) the activity does not cause, in the opinion of an authorised person or the local government, an obstruction, nuisance or danger to pedestrians, motorists, residents or businesses;</p> <p>(b) the activity does not result in the obstruction of pedestrian access on the footpath to less than a minimum unobstructed envelope of 1.8 metres wide and 2.1 metres high or such other distance, depending on the location or circumstances, as is determined by the local government;</p> <p>(c) public liability insurance for an amount not less than \$10 million against personal injury or property damage is obtained;</p> <p>(d) a copy of each insurance policy referred to in minimum standard (c) is provided to an</p>

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Subordinate Local Law 3.1 (Commercial Licensing) 2013

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
		<p>authorised person upon request;</p> <p>(e) if the activity is not associated with the adjoining premises that the agreement of the owner or operator of the adjoining premises has been obtained; and</p> <p>(f) the activity and any goods placed in performance of the activity occurs no closer than one metre of the kerb of the road.</p>
Temporary entertainment events	<p>(a) A layout plan of the temporary entertainment event's venue showing boundaries and all buildings and facilities.</p> <p>(b) Details of the type and number of ablution facilities to be provided.</p> <p>(c) Details of all structures and facilities to be erected.</p> <p>(d) A detailed statement of the nature of the entertainment to be provided at the temporary entertainment event, when the event is to be open to the public and the expected maximum number of attendees.</p> <p>(e) If the applicant is not the owner of the temporary entertainment event's venue the written consent of the owner to the application.</p>	<p>(a) The operation of the temporary event must not detrimentally affect the amenity of neighbouring premises.</p> <p>(b) The hours of operation of the temporary event must not detrimentally affect the amenity of neighbouring premises.</p> <p>(c) The operation of the temporary event must, unless otherwise varied by an authorised person, be limited to the hours stated on the permit.</p> <p>(d) The operation of the temporary event must not:</p> <p>(i) create a traffic problem or risk; or</p> <p>(ii) increase an existing traffic problem or</p>

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Subordinate Local Law 3.1 (Commercial Licensing) 2013

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
		<p>risk; or</p> <p>(iii) detrimentally affect the efficiency of the existing road network..</p> <p>(f) The operation of the temporary event must comply with any relevant local or State legislation requirements and approvals.</p>
Entertainment venues	<p>(a) a plan of the entertainment venue; and</p> <p>(b) details and drawings of buildings and other structural elements of the entertainment venue; and</p> <p>(c) a detailed statement of the nature of the entertainment to be provided at the entertainment venue and when the entertainment venue is to be open to the public; and</p> <p>(d) if the applicant is not the owner of the entertainment venue-the written consent of the owner; and</p> <p>(e) if approval of anything to be done under the licence is required under another law-a certified copy or other appropriate evidence of the approval;</p>	

Schedule 4 Exceptions

section 23

Commercial activity	Circumstances where licence not required
Commercial activity other than footpath dining	Where the activity consists of tables and displays provided for the convenience of customers at newsagents and other premises for the purpose of completing or inspecting entry forms or coupons or other forms where the tables and displays do not extend more 600mm from the property alignment.
Footpath dining	Where the footpath dining consists of a maximum of 2 tables with associated chairs, or chairs or benches without a table, outside convenience, take-away and general stores

Provided that any activity shall not be exempt from requiring a licence if:

- (a) the activity or goods displayed, in the opinion of an authorised is likely to cause, obstruction, nuisance or danger to pedestrians, motorists, residents or businesses; or
- (b) the activity would result in pedestrian access on the road of less than a minimum unobstructed envelope 1.8m wide and 2.1m high or other appropriate distance depending on the location or circumstances as determined by the authorised officer; or
- (c) public liability insurance to the sum of \$5 000 000 against personal injury or property damage is not obtained; or
- (d) where the activity is stationary, that activity is not associated with the adjoining premises or does not have the agreement of the owner or operator of the adjoining premises; or
- (e) goods are placed or the activity is conducted within 1 metre of the kerb.

Schedule 5 Minimum standards

section 22

The operator of the cemetery must ensure that—

- (a) records are kept of –
 - (i) the names of all persons whose remains have been buried, cremated or placed in the cemetery; and
 - (ii) the date of the disposal, and the form of the disposal of the remains; and
 - (iii) the place where the remains of each person have been buried or placed including any cremated remains that may be scattered in the cemetery; and
 - (iv) any dealing with the remains after they have been buried or placed in the cemetery.
- (b) The records are kept at an office on the grounds of the cemetery or another place approved by the local government;
- (c) The records may available for inspection by members of the public at reasonable times;
- (d) The records are provided on request of an authorised person.

Endnotes

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- 3 Key
- 4 Table of reprints
- 5 List of legislation
- 6 List of annotations

2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

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 – no amendments

5 List of legislation

Original Local Law

Subordinate Local Law No.3.1 (Commercial Licensing) 2013

date of gazettal 5 July 2013

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6 List of annotations

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Local Law (Amending) Local Law No. 3 (Commercial
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Local Law (Amending) Local Law No. 3 (Commercial Licensing) 2019

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Local Law (Amending) Local Law No. 3 (Commercial Licensing) 2019

Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 3 (Commercial Licensing) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 3 (Commercial Licensing) 2013.

Part 2 Amendment of Local Law No. 3 (Commercial Licensing) 2013

4 Amendment of s 2 (Objects)

(1) Section 2(a), subsection (ii), 'or' –

omit, insert –

; and

(2) Section 2(a), subsection (iii) –

omit.

5 Amendment of s 3 (Definitions – the Dictionary)

(1) Section 3(1), 'the Schedule' –

omit, insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 3 (Commercial Licensing) 2019

Schedule 1

- (2) Section 3(2), after 'this local law' –

insert –

.

6 Amendment of s 4 (Relationship to other laws)

- (1) Section 4, before subsection (1) –

insert –

(1) This local law is to be read with Local Law No. 1 (Administration) 2013.

- (2) Section 4(2), 'with all Acts' –

omit, insert –

with any Acts

- (3) Section 4(2), subsection (b), 'Fire and Rescue Service Act 1990' –

omit, insert –

Fire and Emergency Services Act 1990

- (4) Section 4(2), subsection (c), 'Land Protection (Pest and Stock Route Management) Act 2002' –

omit, insert –

Stock Route Management Act 2002

- (5) Section 4(2), subsection (h), 'Sustainable Planning Act 2009' –

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Ipswich City Council
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omit, insert –

Planning Act 2016

(6) Section 4, subsections (1) and (2) –

renumber as subsections (2) and (3), respectively

7 Insertion of new s 4A

After Part 2, heading –

insert –

4A What is a licence regulated activity

(1) A **licence regulated activity** means –

- (a) an activity which is prescribed as a licence regulated activity in schedule 2 of this local law; or
- (b) an activity which would ordinarily be prohibited by a local law unless authorised by a licence, but for which a local law or subordinate local law prescribes that a licence is not required.

8 Amendment of s 5 (Requirement for a licence)

(1) Section 5, heading –

omit, insert –

5 Offence to operate licence regulated activity without a licence

(2) Section 5(2), from ‘–’ to ‘(b)’ –

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omit.

- (3) Section 5, subsection (3), '(Requirement for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

- (4) Section 5, subsection (4) to (6) –

omit.

9 Insertion of new s 5A

After section 5 –

insert –

5A Minimum standards for licence regulated activity

- (1) The local government may, by subordinate local law, prescribe minimum standards that must be complied with in carrying out a licence regulated activity.
- (2) The local government may, by subordinate local law, require that a licence regulated activity or an exempt licence regulated activity cannot be carried out unless—
- (a) minimum standards for the regulated activity prescribed in a subordinate local law are complied with; or
 - (b) if minimum standards cannot be complied with, the written approval of the local government has been obtained.

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- (3) If the local government prescribes minimum standards for the conduct of a licence regulated activity or exempt licence regulated activity, a person must not—
- (a) operate the licence regulated activity or exempt licence regulated activity (as the case may be) on premises within the local government area unless—
- (i) the relevant minimum standards are complied with; or
- (ii) the person has obtained the written approval of the local government under section 5A(2)(b), or
- (b) change the manner of operation of a licence regulated activity on premises within the local government area unless –
- (i) the relevant minimum standards are complied with; or
- (ii) the person has obtained the written approval of the local government under section 5A(2)(b).

Maximum penalty for subsection (3)—50 penalty units

10 Amendment of s 6 (Application for a licence)

- (1) Section 6(1)(c), subsection (iii) –

omit, insert –

- (iii) in respect of any separate approval relating to the proposal that is required under another law –

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- (A) proof that the applicant holds any separate approval relating to the proposal; or
 - (B) proof that an application has been made for any separate approval relating to the proposal and advice on the status of that application; or
 - (C) advice on when an application for any separate approval relating to the proposal will be made; and
- (2) Section 6(3), subsection (b), before 'licence' –
- insert –
- a
- (3) Section 6, subsections (4) and (5) –
- omit.
- (4) Section 6, subsection (6) –
- renumber as subsection (4)

11 Insertion of new s 6A

After section 6 –

insert –

6A Request for further information

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Ipswich City Council
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- (1) The local government may, by written notice, request the applicant to provide further information or clarification of information, documents or materials included in the application.
- (2) The notice under subsection (1) 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 10 business days after the applicant receives the notice, by which the applicant must provide the information.
- (3) If the applicant does not 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.
- (4) However, the local government may extend the period for the applicant to provide the further information.

12 Amendment of s 7 (Deciding application for a licence)

- (1) Section 7(1), subsection (a), before 'consider' –

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Local Law (Amending) Local Law No. 3 (Commercial Licensing) 2019

insert –

subject to section 6(3) of this local law,

(2) Section 7(1), subsection (b) –

omit, insert –

(b) after carrying out assessment of the application:

- (i) approve the application;
- (ii) approve the application subject to conditions; or
- (iii) refuse the application.

(3) Section 7(2), subsection (c), 'environmental harm or' –

omit.

(4) Section 7(2), subsection (i), footnote 3, 'the Schedule' –

omit, insert –

Schedule 1

13 Amendment of s 8 (Term of a licence)

Section 8, subsection (1) –

omit, insert –

- (1) Unless sooner cancelled or suspended, a licence remains in force from the date of issue until the thirtieth day of the following June unless otherwise specified in the licence or a subordinate local law.

14 Amendment of s 9 (Conditions of a licence)

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Section 9, subsection (2) –

omit, insert –

(2) However, the conditions must—

- (a) be reasonably necessary to ensure that the operation and management of the proposal will be adequate to protect public health, safety and amenity; and
- (b) be consistent with the purpose of any relevant local law or subordinate local law; and
- (c) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the proposal under an Act within 3 days of the relevant approval being suspended or cancelled.

15 Amendment of s 10 (Power to change the conditions of a licence)

(1) Section 10(1), subsection (b), 'urgently' –

omit.

(2) Section 10(1)(b), subsection (iii) –

omit.

(3) Section 10(1)(b), subsection (iv) –

renumber as subsection (iii)

(4) Section 10, after subsection (1) –

insert –

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(1A) Section 10(1) (Power to change the conditions of a licence) of this local law does not limit the power a local government may have apart from this section to amend a condition of a licence.¹

(5) Section 10, subsection (4), after 'licence' –

insert –

or a later day stated in the notice

16 Amendment of s 11 (Amendment, renewal or transfer of a licence)

(1) Section 11, subsection (1), after 'make' –

insert –

an

(2) Section 11(1), subsection (a), after 'licence' –

insert –

including the conditions of the licence

(3) Section 11(2)(d), subsection (ii), before 'the written consent' –

insert –

if the applicant for the transfer or the transferee is not the owner,

(4) Section 11, subsection (5) –

omit, insert –

¹ See section 9 of Local Law No. 1 (Administration) 2013.

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- (5) If an application to renew a licence is made to the local government, the licence remains in force until –
- (a) the application is granted;
 - (b) if the application is refused and the applicant applies for a review under Part 6 of Local Law No. 1 (Administration) 2013 – 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 of Local Law No. 1 (Administration) 2013 – 14 days after the applicant is given an information notice.

17 Amendment of s 12 (Cancellation or suspension of a licence)

- (1) Section 12(1), subsection (b), 'urgently' –
omit.

- (2) Section 12(1)(b), subsection (iii) –
omit.

- (3) Section 12(1)(b), subsection (iv) –
renumber as subsection (iii)

- (4) Section 12(1), subsection (f), '.' –
omit, insert –

; or

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- (5) Section 12(1), after subsection (f) –

insert –

- (g) another approval or licence required to operate the activity under
another law has been suspended or cancelled.

- (6) Section 12(2), subsection (a), before 'give the holder' –

insert –

before taking the proposed action,

- (7) Section 12(2)(a), subsection (i) –

omit, insert –

- (i) the proposed action and the reasons for the proposed action; and

- (8) Section 12(2)(a), after subsection (i) –

insert –

- (ii) if the local government proposes to suspend the licence – the proposed
period of suspension;

- (9) Section 12(2)(a), subsection (ii) and (iii) –

renumber as subsections (iii) and (iv), respectively.

- (10) Section 12(3), subsection (b), after 'cancel' –

insert –

or suspend

- (11) Section 12, subsection (4), 'effected' –

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omit, insert –

affected

(12) Section 12, subsection (6), after 'licence regulated activity' –

insert –

from the date the cancellation or suspension takes effect under subsection (5)

18 Insertion of new s 12A

After section 12 –

insert –

10A Procedure for immediate suspension of a licence

(1) Despite section 12 (Cancellation or suspension of a licence), the local government may immediately suspend a licence if the local government believes that continuation of the activity by the licence holder poses—

- (a) an urgent and serious threat to public health or safety; or
- (b) an urgent and serious risk of property damage or loss of amenity.

(2) The suspension—

- (a) can be effected only by the local government giving a notice to the licence holder about the decision to immediately suspend the licence, together with a notice about proposed action under section 12(2); and

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- (b) operates immediately the notices are given to the licence 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 licence holder notice under section 12(3) of its decision after it has considered all submissions made within the stated time;
 - (iii) 10 business days have passed since the expiry of the stated time for the making of written submissions;
 - (iv) 10 business days have passed since the licence holder notifies the local government that it has made its final written submissions.

19 Amendment of s 13 (General compliance provision)

- (1) Section 13(2), subsection (c) –

omit.
- (2) Section 13(2), subsections (d) and (e) –

renumber as subsections (c) and (d), respectively

20 Amendment of s 14 (Compliance notice)

- (1) Section 14, subsection (1) –

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Local Law (Amending) Local Law No. 3 (Commercial Licensing) 2019

omit, insert –

- (1) The local government may give a compliance notice to a person in relation to a contravention of this local law.²

- (2) Section 14, subsection (2) –

omit.

- (3) Section 14, subsection (3) –

renumber as subsection (2)

- (4) Section 14, subsection (3), 'subsection (3)' –

omit, insert –

subsection (2)

21 Omission of s 15 (Procedure for immediate suspension of licence)

Section 15 –

omit.

22 Amendment of s 16 (Inspection of a licence regulated activity)

- (1) Section 16, heading –

omit, insert –

16 Inspection of activities

- (2) Section 16, subsection (1), after 'operation of a licence regulated activity' –

² See section 30 of Local Law No. 1 (Administration) 2013.

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insert –

or an exempt licence regulated activity

- (3) Section 16, subsection (3), '(Inspection of a licence regulated activity)' –

omit, insert –

(Inspection of activities)

- (4) Section 16(4), subsection (a), '(Inspection of a licence regulated activity)' –

omit, insert –

(Inspection of activities)

23 Amendment of s 17 (Performance of work)

- (1) Section 17, subsection (1), after 'the offence' –

insert –

, including by repairing the damage or restoring any damaged structure, object
or thing to its original standard

- (2) Section 17, subsection (2), after 'may perform the work' –

insert footnote –

See section 31 of Local Law No. 1 (Administration) 2013.

- (3) Section 17, subsection (2), after 'performed by' –

omit, insert –

:

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- (a) section 17(1) (Performance of work) of this local law; or
- (b) a compliance notice issued under this local law.

- (4) Section 17, subsections (3) and (4) –

omit.

- (5) Section 17, subsection 5) –

renumber as subsection (3)

24 Amendment of s 18 (Power of entry and cost recovery)

Section 18, subsection (2) and (3) –

omit, insert –

- (2) The local government may recover the cost of action taken under this section as a debt from the person responsible for the activity.

25 Amendment of s 24 (Subordinate local laws)

- (1) Section 24, subsection (a), 'the Schedule' –

omit, insert –

Schedule 1

- (2) Section 24, subsection (b), 'the Schedule' –

omit, insert –

Schedule 1

- (3) Section 24, subsection (c), 'the Schedule' –

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omit, insert –

Schedule 1

- (4) Section 24, subsection (d), '5(4) (Requirement for a licence)' –

omit, insert –

5A (Minimum standards for licence regulated activity)

- (5) Section 24, subsection (e), 'the Schedule' –

omit, insert –

Schedule 1

- (6) Section 24, subsection (f), 'the Schedule' –

omit, insert –

Schedule 1

- (7) Section 24, subsection (g), '(Requirement for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

- (8) Section 24, subsection (i), '6(6)(c)' –

omit, insert –

6(4)(c)

- (9) Section 24, subsection (k) –

omit.

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- (10) Section 24, subsection (n), '(Inspection of a licence regulated activity)' –

omit, insert –

(Inspection of activities)

- (11) Section 24, subsection (o), '; and' –

omit, insert –

.

- (12) Section 24, subsections (l) to (o) –

renumber as subsections (k) to (n), respectively

26 Amendment of sch 1 (Dictionary)

- (1) Schedule 1 –

insert –

Planning Act means the Planning Act 2016 (Qld) and includes the predecessor legislation to that Act.

- (2) Schedule 1, definition environmental harm –

omit.

- (3) Schedule 1, definition environmental nuisance –

omit.

- (4) Schedule 1, definition footpath, after 'or has' –

insert –

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as

- (5) Schedule 1, definition land, 'Sustainable Planning Act 2009' –

omit, insert –

Planning Act 2016

- (6) Schedule 1, definition licence, subsection (b), after 'Cancellation' –

insert –

or suspension

- (7) Schedule 1, definition licence regulated activity, subsection (b) –

omit, insert –

licence regulated activity see section 4A.

- (8) Schedule 1, definition operation, 'or, in any activity'

omit.

- (9) Schedule 1, definition planning scheme –

omit, insert –

planning scheme means the planning scheme made or amended from time-to-time under the Planning Act

- (10) Schedule 1, definition premises –

omit, insert –

premises see the Planning Act 2016, schedule 2

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27 Amendment of sch 2 (Licence regulated activities)

- (1) Schedule 2, Part 1, after 'pet shop' –

insert –

pet daycare

- (2) Schedule 2, Part 2 –

insert –

pet daycare means a service undertaken on a commercial basis, involving the temporary minding of pet animals at a premises, of no more than 10 animals at a time, but does not include overnight care, a veterinary clinic use or a service that solely relates to animal grooming.

- (3) Schedule 2, Part 2, definition cattery, after 'basis' –

insert –

but does not include pet daycare.

- (4) Schedule 2, Part 2, definition commercial activity on a local government controlled area or road, subsection (f), '1994' –

omit, insert –

1994

- (5) Schedule 2, Part 2, definition commercial activity on a local government controlled area or road, subsection (g), after 'Land Act' –

insert –

1994

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- (6) Schedule 2, Part 2, definition commercial activity on a local government controlled area or road, subsection (g), 'road or area' –
- omit, insert –
- area or road
- (7) Schedule 2, Part 2, definition commercial activity on a local government controlled area or road, subsection (h), '1994' –
- omit, insert –
- 1994
- (8) Schedule 2, Part 2, definition commercial activity on a local government controlled area or road, subsection (i), 'Sustainable Planning Act 2009' –
- omit, insert –
- Planning Act 2016
- (9) Schedule 2, Part 2, definition commercial activity on a local government controlled area or road, subsection (j), from 'Local Law No. 7' –
- omit, insert –
- this local law, Local Law No. 4 (Permits) 2013 or Local Law No. 7 (Local government Controlled Areas or Roads) 2013.
- (10) Schedule 2, Part 2, definition commercial activity on a local government controlled area or road, after subsection (k) –
- insert –

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- (l) the hiring of bicycles, scooters or other personal mobility devices or rideables whether electric or not

- (11) Schedule 2, Part 2, definition entertainment venue –

omit, insert –

entertainment venue means those venues identified in a subordinate local law.

- (12) Schedule 2, Part 2, definition kennel, after 'basis' –

insert –

but does not include pet daycare.

- (13) Schedule 2, Part 2, definition temporary advertising device, 'or a device' –

omit, insert –

a device

- (14) Schedule 2, Part 2, definition temporary entertainment event, 'Sustainable Planning Act 2009' –

omit, insert –

Planning Act 2016

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Draft

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Local Law No. 3.1 (Commercial Licensing) 2019

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Subordinate Local Law (Amending) Subordinate Local Law No. 3.1 (Commercial Licensing) 2019

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Subordinate Local Law (Amending) Subordinate Local Law No. 3.1 (Commercial Licensing) 2019

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law (Amending) Subordinate Local Law No. 3.1 (Commercial Licensing) 2019.

2 Commencement

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

3 Subordinate local laws amended

This subordinate local law amends Subordinate Local Law No. 3.1 (Commercial Licensing) 2013.

Part 2 Amendment of Subordinate Local Law No. 3.1 (Commercial Licensing) 2013

4 Amendment of s 4 (Definitions - dictionary)

Section 4 –

omit, insert –

Particular words used in this subordinate local law are defined in –

- (1) Schedule 1 (Dictionary) of this subordinate local law;
- (2) Local Law No. 3 (Commercial Licensing) 2013; and
- (3) Local Law No. 1 (Administration) 2013.

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5 Amendment of ch 2, pt 1, hdg (Temporary advertising devices including election signs)

Chapter 2, Part 1, heading, 'including election signs' –

omit.

6 Amendment of s 5 (Operation of part 1)

(1) Section 5, subsection (1), 'or an election sign' –

omit.

(2) Section 5(2), subsection (d), 'requires development approval'

omit, insert –

is assessable development under the Planning Act

7 Amendment of s 6 (Temporary advertising device)

(1) Section 6, subsection (1), '(Requirement for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

(2) Section 6, subsection (2), 'section 5(4) (Requirement for a licence)' –

omit, insert –

section 5A (Minimum standards for licence regulated activity)

8 Replacement of s 7 (Election signs)

Section 7 –

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omit, insert –

7 Election signs

For the purposes of section 5A (Minimum standards for licence regulated activity) of the authorising law –

- (a) an election sign must comply with the particular minimum standards specified in part 1 of schedule 2; and
- (b) an election sign must comply with the general minimum standards specified in part 2 of schedule 2.

9 Amendment of s 12 (Requirement for a licence)

Section 12, '(Requirement for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

10 Amendment of s 16 (Conditions of a licence)

Section 16, 'unless, specifies' –

omit, insert –

unless specified

11 Amendment of s 17 (Application for a licence)

- (1) Section 17, before 'the authorising' –

insert –

of

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(2) Section 17, before 'be' –

insert –

must

12 Amendment of s 18 (Conditions of a licence)

Section 18, 'unless,' –

omit, insert –

unless

13 Amendment of s 19 (Application for a licence)

(1) Section 19, before 'the authorising' –

insert –

of

(2) Section 19, after 'local government' –

insert –

)

14 Amendment of s 20 (Conditions of a licence)

Section 20, 'unless,' –

omit, insert –

unless

15 Amendment of s 21 (Exempt licence regulated activity)

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Section 21, '(Requirement for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

16 Amendment of s 22 (Minimum standards)

(1) Section 22, 'section 5(4) (Requirements for a licence)' –

omit, insert –

section 5A (Minimum standards for licence regulated activity)

(2) Section 22, before 'schedule 5' –

insert –

in

17 Amendment of pt 9, hdg (Commercial activities on local government controlled roads and areas)

Section 9, heading, 'roads and areas' –

omit, insert –

areas and roads

18 Amendment of s 23 (Requirements for a licence)

(1) Section 23, '(Requirements for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

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(2) Section 23, 'schedule 5' –

omit, insert –

schedule 4

19 Amendment of s 24 (Application for a licence)

Section 24, before 'be accompanied' –

insert –

must

20 Amendment of s 25 (Conditions of a licence)

Section 25, 'unless,' –

omit, insert –

unless

21 Amendment of s 26 (Application for a licence)

(1) Section 26, before 'commercial activity' –

insert –

a

(2) Section 26, before 'be accompanied' –

insert –

must

22 Amendment of s 27 (Conditions of a licence)

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- (1) Section 27, before 'the authorising law' –

insert –

of

- (2) Section 27, before 'commercial activity' –

insert –

a

- (3) Section 27, 'unless,' –

omit, insert –

unless

23 Amendment of s 28 (Application for a licence)

Section 28, before 'be accompanied' –

insert –

must

24 Amendment of s 29 (Conditions of a licence)

Section 29, 'unless,' –

omit, insert –

unless

25 Insertion of new s 29A

Before section 30 –

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insert –

29A Requirement for a licence

For the purposes of Schedule 1, definition temporary entertainment event, of the authorising local law, the events listed in part 1 of schedule 6 require a licence.

26 Replacement of s 30 (Application for a licence)

Section 30 –

omit, insert –

- (1) For the purposes of section 5(3) (Offence to operate licence regulated activity without a licence) of the authorising law, a licence is not required for a temporary entertainment event of the category specified in column 1 of schedule 4 in the circumstances specified in column 2 of schedule 4.
- (2) For the purposes of section 6(1)(c)(iv) (Application for a licence) of the authorising local law, an application for a licence for the operation of a temporary entertainment event (unless otherwise required by the local government) must:
 - (a) be made to the local government within the time specified in column 2 of schedule 6, part 2, relevant to the impact of the event specified in column 1 of schedule 6, part 2; and
 - (b) be accompanied by the information, material and documents set out in:
 - (i) column 2 of schedule 6, part 2; and

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- (ii) column 3 of schedule 6, part 3, relevant to the impact of
the event specified in column 1 of schedule 6, part 3.

27 Amendment of s 31 (Conditions of a licence)

- (1) Section 31, 'schedule 3' –

omit, insert –

schedule 6, part 2

- (2) Section 31, 'unless,' –

omit, insert –

unless

28 Insertion of new s 31A

Before section 32 –

insert –

31A Requirement for a licence

- (1) For the purposes of section 5(3) (Offence to operate licence regulated activity without a licence) of the authorising law, a licence is not required for entertainment venue of the category specified in column 1 of schedule 4 in the circumstances specified in column 2 of schedule 4.
- (2) For the purposes of Schedule 1, definition entertainment venue, of the authorising local law, the venues listed in part 1 of schedule 7 require a licence.

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29 Amendment of s 32 (Application for a licence)

Section 32, 'of schedule 3' –

omit, insert –

of schedule 7, part 2

30 Amendment of s 33 (Conditions of a licence)

(1) Section 33, 'schedule 3' –

omit, insert –

schedule 7, part 2

(2) Section 33, 'unless,' –

omit, insert –

unless

31 Amendment of sch 1 (Dictionary)

(1) Schedule 1 –

insert –

Planning Act means the Planning Act 2016 (Qld) and includes the predecessor legislation to that Act.

Guide dog has the meaning given to that term under the Guide, Hearing and Assistance Dogs Act 2009 (Qld), Schedule 4.

Low risk means, for the purposes of an entertainment venue, a venue where amplified music is not the primary activity inside the building or other

circumstances where an authorised person believes there is no risk to the surrounding environment as a result of the venue.

Examples –

- ☐ A small band playing while guests eat dinner at the venue.
- ☐ A band playing irregularly in a licensed bar area at the venue where dining does not occur in the same area when the band is playing (e.g. a hotel that has bands/entertainment on weekends).

street pole banners means a light weight, vertical, promotional sign attached to a rate 3 light pole located in a local government area or road.

temporary advertising device means a device listed in column 1 of schedule 2, part 1.

- (2) Schedule 1, definition approved advertising device –

omit.

- (3) Schedule 1, definition business, after 'advertisement; and' –

omit, insert –

(i) the exhibition of a sign; and

(j) film production.

- (3) Schedule 1, definition commercial basis, 'an business .' –

omit, insert –

a business.

- (4) Schedule 1, definition entertainment, after 'amusement' –

insert –

.

- (5) Schedule 1, definition film production, 'residential' –

omit.

- (6) Schedule 1, definition planning scheme –

omit, insert –

planning scheme means the planning scheme made or amended from time-to-time under the Planning Act.

- (7) Schedule 1, definition residential area, subparagraph (a), 'Locality' –

omit, insert –

Area

- (8) Schedule 1, definition residential area, subparagraph (b), 'Locality' –

omit, insert –

Area

- (9) Schedule 1, definition residential area, '(iv) Special Uses Zone;' –

omit, insert –

(v) Special Uses Zone;

- (10) Schedule 1, definition residential area, subparagraph (c), 'Locality' –

omit, insert –

Area

- (11) Schedule 1, definition residential area, subparagraph (d), 'Locality' –

omit, insert –

Area

- (12) Schedule 1, definition residential area, subparagraph (d)(iv) –

omit.

- (13) Schedule 1, definition residential area, subparagraph (v) –

renumber as (iv).

- (14) Schedule 1, definition residential area, subparagraph (f), 'Locality' –

omit, insert –

Area

- (15) Schedule 1, definition residential area, subparagraph (f)(i) –

omit, insert –

(f) Rural C (Rural Living) Zone.

- (16) Schedule 1, definition residential area, after '1997' –

omit, insert –

, section 391 of the Sustainable Planning Act 2009 or section 89 of the Planning

Act 2016.

- (17) Schedule 1, definition swimming pool, ';' –

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omit, insert –

.

32 Amendment of sch 2 (Minimum standards for temporary advertising devices and election signs)

- (1) Schedule 2, Part 1, item 4 (Horizontal Banner Signs), column 2, subparagraph (a), after 'the site' –

insert –

to which the advertisement relates

- (2) Schedule 2, Part 1, item 7 (Real Estate Signs), subparagraph (c), '.' –

omit, insert –

; and

- (3) Schedule 2, Part 1, item 7 (Real Estate Signs), after subparagraph (c) –

insert –

- (d) be removed from the site within 14 days of the property reaching settlement or being leased.

- (4) Schedule 2, Part 1, after item 7 (Real Estate Signs) –

insert –

Street Pole Banner	Must – (a) be located in a local government controlled area or road;
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	<ul style="list-style-type: none">(b) support the local government's strategic direction for events, branding, place-making and urban design;(c) be structurally sound and capable of withholding any weather;(d) not have a detrimental effect on the amenity of the surrounding area;(e) not cause significant obstruction or distraction to vehicular or pedestrian traffic;(f) be of a size approved by the local government;(g) not be erected for longer than 30 days in a 90 day period.
--	--

- (5) Schedule 2, Part 1, item 8 (Vertical Banner Event Signs), column 2, subparagraph (a), after 'the site' –

insert –

to which the advertisement relates

- (6) Schedule 2, Part 1, item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraph (e)(i) –

omit, insert –

- (i) its surroundings, including buildings, allotments and natural features of the environment, including in relation to size, dimension, colour and appearance, so that –

- (A) its presence is not unduly dominating or oppressive; or
- (B) it does not unreasonably obstruct existing views;
- (7) Schedule 2, Part 1, item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraph (e)(ii) –
- omit.
- (8) Schedule 2, Part 1, item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraphs (e)(iii) to (iv) –
- renumber as subparagraphs (i) to (ii), respectively
- (9) Schedule 2, Part 1, item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraph (h) to (i) –
- omit.
- (10) Schedule 2, Part 1, item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraph (o), 'or' –
- omit, insert –
- of
- (11) Schedule 2, Part 1, item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraph (r) –

omit.

- (12) Schedule 2, Part 1, item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraph (s) –

omit.

- (13) Schedule 2, Part 1 item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed), column 2, subparagraphs (j) to (u) –

renumber as subparagraphs (h) to (q), respectively.

- (14) Schedule 2, Part 1, after item 9 (For temporary advertising devices other than those temporary advertising devices for which a specific category above is prescribed) –

insert –

Election signs	<p>Must –</p> <p>(a) not be erected or displayed until the election has been officially announced;</p> <p>(b) be removed within 7 days of the election polling day (or less if required by the relevant local government);</p> <p>(c) be no greater than 0.6m² in size;</p> <p>(d) be made of a material that is designed to be easily broken;</p> <p>(e) in relation to the timber stake or frame on which the sign is fastened, be made of a material that is</p>
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	<p>designed to be easily broken, and have a cross section measurement of not more than 55mm x 25mm;</p> <p>(f) not rotate or be illuminated;</p> <p>(g) not use reflective or fluorescent materials;</p> <p>(h) be located so as not to distract motorists, restrict sight distances on approaches to intersections, obstruct the view of road traffic signs, or otherwise impact on safety;</p> <p>(i) not be located on a motorway, freeway or roads of a similar standard;</p> <p>(j) be located at least three and a half metres from the edge of the nearest traffic lane on roads where the speed limit is 80km/hr or less;</p> <p>(k) be located at least six metres from the edge of the nearest traffic lane on roads where the speed limit is over 80km/hr;</p> <p>(l) not be located on centre medians or roundabouts;</p> <p>(m) not be attached to trees/vegetation or local government infrastructure (for example, road signs, guard rails, etc);</p> <p>(n) be located as close as practicable to the property boundary;</p>
--	--

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	<p>(o) not hinder the flow of traffic, protrude over the road or interfere with the road's operation (this includes a person holding or waving an election sign);</p> <p>(p) not obstruct pedestrians and cyclists (including people using a mobility device).</p>
--	--

(15) Schedule 2, Part 2, subparagraph (b) –

omit.

(16) Schedule 2, Part 2, subparagraphs (c) to (d) –

renumber as subparagraphs (b) to (c), respectively

33 Amendment of sch 3 (Matters affecting certain licences)

(1) Schedule 3, item 1 (Election signs) –

omit.

(2) Schedule 3, item 2 (Camping grounds), column 2, subparagraph (a), 'Address' –

omit, insert –

The location and real property description

(3) Schedule 3, item 2 (Camping grounds), column 3, subparagraph (h) –

omit, insert –

(h) all buildings, structures and fixtures allowed within the camping ground are located in accordance with the licence or if no provision for their location is included in the licence, in accordance with the layout plan that accompanied the application for a licence;

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- (4) Schedule 3, item 2 (Camping grounds), column 3, after subparagraph (k) –

insert –

- (l) all related licence fees are paid within stipulated timeframes.

- (5) Schedule 3, item 3 (Caravan parks), column 2, subparagraph (a), 'address' –

omit, insert –

location and real property description

- (6) Schedule 3, item 3 (Caravan parks), column 2, after subparagraph (f) –

insert –

- (g) Details of water quality, reticulation and drainage;

- (h) Details of the facilities for sanitation, washing, laundry, cooking and recreation to be provided for occupants.

- (7) Schedule 3, item 3 (Caravan parks), column 3 –

omit, insert –

1 Sites

- (a) site sizes and locations must be maintained in accordance with the approved plan of the caravan park.
- (b) site numbers must be clearly displayed at each site in accordance with the approved plan of the caravan park.
- (c) a person must not camp or sleep in a place within the caravan park that is not a site nominated in the approved plan of the caravan park.

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2 Caravan Park Maintenance

- (a) the caravan park (including all sites) are kept clean and tidy.
- (b) all buildings, structures and facilities provided for the operation of the caravan park are kept and maintained in good and serviceable condition.
- (c) the caravan park (including all fixtures, fittings, equipment and furniture) must be maintained –
 - (i) in good working order; and
 - (ii) in a good state of repair; and
 - (iii) in a clean, tidy, sanitary and hygienic condition.

3 Waste

- (a) waste containers sufficient to accommodate the collection and storage of all waste generated as part of the operation of the caravan park must be provided and maintained in good order.
- (b) each site that is part of the operation of the caravan park must be approved and maintained in good order.
- (c) all waste generated as part of the operation of the caravan park must be removed and disposed of in a sanitary manner.
- (d) waste containers that are provided as part of the operation of the caravan park must be –
 - (i) provided with close fitting lids; and

- (ii) regularly serviced and maintained in a clean, tidy, sanitary and hygienic condition; and
 - (iii) designed and constructed to prevent access to pests; and
 - (iv) designed and constructed to be easily and effectively cleaned and disinfected; and
 - (v) kept closed when not in use.
- (e) all waste generated as part of the operation of the caravan park must be –
 - (i) kept so as not to attract pests; and
 - (ii) disposed of in a manner which maintains the caravan park in a clean, tidy, sanitary and hygienic condition.

4 Toilets and Ablution Facilities

- (a) the licensee must ensure that the toilets and ablution facilities are provided for the use of residents in accordance with the approved plan of the caravan park, unless written approval to vary the toilets and ablution facilities has been granted by the local government.
- (b) an adequate number of laundry tubs, washing machines, mechanical clothes driers, ironing boards and clothes lines of a suitable length must be provided for the use of occupants.

5 Water Supply

- (a) an adequate and continuous supply of water must be maintained to all toilet, bathroom, kitchen, laundry and drinking water facilities that form part of the caravan park.
- (b) an adequate and continuous supply of hot water must be maintained to all bathroom, kitchen and laundry facilities that form part of the operation of the caravan park.
- (c) the water supply for drinking and ablutionary purposes must be potable water.
- (d) the licensee must notify the local government of any modifications to the water supply system.
- (e) any water supply outlet for non-potable water must be clearly labelled with the words, "Unsuitable For Drinking".

6 Sewage and Wastewater

- (a) all sewage and waste water must be discharged safely to the sewerage system or an on-site sewerage facility.
- (b) waste water must not be discharged on the ground.

7 Pest Control

- (a) the caravan park –
 - (i) must be kept free of pests; and
 - (ii) must be kept free of conditions offering harbourage for pests; and
 - (iii) must not attract fly breeding

- (b) the licensee must ensure that a documented pest control program is in place to control and eliminate pests within the premises.

8 Residential Park Operation

- (a) the licensee must ensure that a cleaning and maintenance schedule is in place, which specifies the frequency with which caravan park facilities are to be cleaned and maintained.
- (b) the licensee must keep a register, available for inspection at any time by an authorised person, containing –
 - (i) the names and addresses of each person who hires a relocatable home, caravan, tent, or a site in the caravan park; and
 - (ii) an identifying number for the accommodation or site; and
 - (iii) if a caravan is brought onto the site, the registration number of the caravan and (if applicable) the vehicle towing it; and
 - (iv) the dates when the hiring of the accommodation or site begins and ends.
- (c) the caravan park is managed and supervised by an individual (the "resident manager") who is resident on or near the caravan park.

- (d) the resident manager, or a representative of the resident manager, is present or available at all reasonable times to ensure the property operation of the caravan park.
- (e) no part of the caravan park is hired out or leased for separate occupation, unless permitted by the licence.
- (f) a person is not permitted to bring onto a site a caravan or other type of accommodation that is not fit for human habitation.
- (g) any supplied bedding is kept in a clean and sanitary condition and changed whenever the occupier changes.
- (h) adequate telephone and postal services must be provided within the caravan park.
- (i) the operation of the caravan park must not detrimentally affect the amenity of neighbouring premises.
- (j) adequate water and electricity must be available for use of residents of the caravan park.
- (k) swimming pools must be fenced to meet the standards imposed by the Building Act 1975 and the Building Regulations 2006 as if the swimming pool were an outdoor swimming pool on residential land for the purposes of the Act or Regulation.
- (l) unless the licence holder requests a change in the conditions of the licence and the local government grants the request, there is no change to the sites in a caravan park by –
 - (i) adding to the existing sites; or

- (ii) changing the position or boundaries of a site.
- (m) unless the licence holder requests a change in conditions of the licence and the local government grants the request, there is no change to the structures or facilities in a caravan park by –
 - (i) adding new structures or facilities; or
 - (ii) removing existing structures or facilities; or
 - (iii) changing the position of structures or facilities in the caravan park.
- (n) the standard condition referred to in subparagraphs (l) and (m) do not apply if the proposed change constitutes development under the Planning Scheme or Planning Act.
- (o) if the licence holder is an individual the licence holder may be the manager of the caravan park.
- (p) if the local government is not satisfied that a person nominated to be resident manager of a caravan park is a suitable person to be the resident manager –
 - (i) the local government may, by notice given to the licence holder, require the licence holder to nominate a resident manager acceptable to the local government within a time stated in the notice; and
 - (ii) the licence holder must comply with the notice given under standard (a) above within the time specified in the notice.

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9 The licensee must ensure that all related licence fees are paid within stipulated timeframes.

(8) Schedule 3, item 4 (Public swimming pool), column 2, subparagraph (a), 'address' –

omit, insert –

location and real property description

(9) Schedule 3, item 4 (Public swimming pool), column 3 –

omit, insert –

1 Ensure that the water in the public swimming pool is at all times maintained in accordance with the chemical parameters and microbiological criteria specified below.

Chemical Parameters Table

	Indoor Pool	Heated Indoor Pool	Outdoor Pool	Heated Outdoor Pool	Spa
Water temperature		>26°C		>26°C	35° - 37°C ideal 40°C max
Free chlorine (mg/l, ppm) minimum	1.5	2	1.5	3	3
Free chlorine (mg/l ppm) with cyanuric acid	N/A	N/A	3	4	N/A
Total chlorine (mg/l ppm)	Free chlorine level +1 (10 max)	Free chlorine level +1 (10 max)	Free chlorine level +1 (10 max)	Free chlorine level +1 (10 max)	10.0
Bromine (mg/l ppm) minimum	3.0	4.0	3.0	4.0	4.6
Ozone (for chlorine level see above)	0 residual	0 residual	0 residual	0 residual	0 residual
pH	7.2 – 7.8	7.2 – 7.8	7.2 – 7.8	7.2 – 7.8	7.2 – 7.8
Total alkalinity mg/l ppm	80 - 200	80 - 200	80 - 200	80 - 200	80 - 200
Cyanuric Acid	0*	0*	30 - 50	30 - 50	0*

*As indoor pools are protected from direct sunlight, cyaruric acid must not be used as the effectiveness of chlorine is reduced.

- 2 Combined chlorine shall not exceed half the total chlorine concentration with a maximum of 1.0 parts per million ("ppm").

Note: The level of one chemical parameter can adversely affect another, for example, if the pH is too high or too low the disinfectant properties of chlorine are decreased.

- 3 Unless otherwise directed by an authorised person, ensure pool water quality is regularly monitored and recorded in accordance with the levels as specified in condition 1.
- 4 Public swimming pool water chemical parameters, bacterial standards and frequency of water testing and methods of recording must comply with the Queensland Health Swimming & Spa Pool Water Quality and Operational Guidelines.
- 5 The records of results required by condition 1, above, plus any backwashing, chemical adjustments or dose setting are to be kept for a minimum period of 12 months at the premises and be available for inspection by an authorised person at all times.
- 6 An authorised person may require the testing of public swimming pool water for compliance with bacteriological criteria as detailed in the Queensland Health Swimming & Pool Water Quality and Operational Guidelines. If testing is required, it is to be carried out by a National Association Testing Authorities or equivalent registered analyst.
- 7 An animal, other than a guide dog, must not be allowed within the enclosed area of premises on which the public swimming pool is situated.

- 8 The licensee must not operate a public swimming pool that is classified as a high usage pool as defined in the Queensland Health Swimming & Pool Water Quality and Operational Guidelines unless there is a person in attendance at the public swimming pool who has obtained and kept current the qualifications of pool lifeguard (as per the Guidelines for Safe Pool Operations – Aquatic Supervision by Royal Life Saving Society Australia) or other qualification to the satisfaction of an authorised person.
- 9 The licensee must manage and supervise the swimming pool to protect public safety and prevent nuisances.
- 10 The holder of this licence must provide specified equipment for –
- (a) Rescue;
 - (b) First aid and safety; and
 - (c) Other aspects of public health and safety (as per the Guidelines for Safe Pool Operations – Safety Equipment by Royal Life Saving Society).
- 11 The licensee must ensure that equipment, to the satisfaction of an authorised person, for the purposes stated in condition 10 are readily available for use. Equipment includes but is not limited to: Rescue Boards, Throw Ropes, Reach Poles, Rescue Tubes, Radios, Helmets and medical equipment including Oxygen Resuscitation units, resuscitation devices (airways, masks etc.) and Defibrillation units.
- 12 The licensee must not allow a person who appears to be suffering from any type of infectious or contagious disease or skin complaint to enter the water.

- 13 Ensure that all facilities provided at the public swimming pool, such as toilets and change rooms, are maintained in a clean and sanitary condition at all times.
- 14 The public swimming pool must be fenced and the fence must be a permanent structure and maintained in a good condition.
- 15 Any gate or door giving access to the public swimming pool is to be kept securely closed at all times when the gate or door is not in use.
- 16 Facilities, fittings and equipment provided at the public swimming pool are to be maintained in a good state of repair and working order and condition.
- 17 If applicable, a notice advising of the dangers of immersion in hot spas is to be prominently displayed near the spa pool.
- 18 The surrounds of the public pool are to be maintained in good repair at all times.
- 19 A notice explaining mouth-to-mouth resuscitation must be prominently displayed.
- 20 If the licensee intends to empty the pool, written notification must be given to the local government at least 24 hours prior. The licensee must comply with directions given by an authorised person about when and how the swimming pool is to be emptied.
- 21 The licensee must ensure that all related licence fees are paid within stipulated timeframes.

(10) Schedule 3, item 5 (Catteries), column 2, subparagraph (a), 'address' –

omit, insert –

location and real property description

- (11) Schedule 3, item 5 (Catteries), column 2, subparagraph (e), from 'confirmation' to 'be kept has' –

omit, insert –

details of

- (12) Schedule 3, item 5 (Catteries), column 3 –

omit, insert –

- 1 The licensee must ensure that all necessary approvals are obtained from the local government.
- 2 The licensee must ensure that the local government is advised of any amendments to the premises and licence details. Amendments must be applied for by submitting to the local government the completed approved forms with design plans if required and any relevant fees if required.
- 3 The cats are adequately identified so that the keeper's name, address and telephone number is readily ascertainable.
- 4 An adequate supply of food and water is provided.
- 5 Water containers are kept free from mosquitoes and flies.
- 6 All faeces, urine, food scrapes, and other waste are disposed of so as not to cause a nuisance.

- 7 Cats are kept in a manner so as not to be injurious to the health of a person.
- 8 Cats are kept in a manner so as not to cause a nuisance including to the occupiers of adjoining premises or premises in the immediate vicinity of the place where the animal is kept.
- 9 All pet food to be stored in vermin proof containers.
- 10 The cats have adequate freedom to exercise having due regard to the species, breed, size and nature of the animal.
- 11 all cats kept on the premises, sold, given away or otherwise disposed of must be microchipped and vaccinated appropriate to the age of the animal.
- 12 Any cat suffering from a transmissible or communicable disease is prevented from interacting with other vector animals.
- 13 The cats do not create excessive noise. Cat noise is considered excessive if –
 - (a) it is made or can be heard within a residential area for more than a total of 6 minutes whether continually or intermittently in an hour from 7.00 am to 10.00 pm on any day; or
 - (b) it is made or can be heard in a residential area for more than a total of 3 minutes whether continually or intermittently in any 30 minute period on any day after 10.00 pm but before 7.00 am; and
 - (c) in the opinion of an authorised person it unreasonably disrupts or inhibits an activity ordinarily carried out on residential premises.

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- 14 The cats are provided with a suitable shelter from the elements having regards to the breed, size and nature of the animals.
- 15 Any shelter is –
- (a) constructed and maintained so as to prevent the harbourage of vermin; and
 - (b) maintained and kept at all times in a clean and sanitary condition.
- 16 Records of all cats kept on the premises, sold, given away or otherwise disposed of must be kept, including vaccination certificates, microchipping information and the new owner's name and address.
- 17 Any cat that is found to be suffering from a transmissible or communicable disease must be placed in isolation. The holder of the licence must have facilities to effectively isolate diseased cats when necessary.
- 18 All waste and refuse generated from the keeping of cats under this licence must be disposed of in a manner so as not to cause a nuisance.
- 19 All cages or enclosures to be thoroughly cleansed and disinfected on a daily basis to avoid the spread of disease.
- 20 adequate enclosures must be provided to prevent the egress of housed cats and the ingress of other cats.
- 21 All cats must be kept in a manner so as not to cause a nuisance.
- 22 All cats are to be confined to the premises at all times.

- 23 The maximum number of cats to be kept on the premises shall be determined by the local government giving regards to all relevant circumstances.
- 24 The licensee must ensure that all related licence fees are paid within stipulated timeframes.
- (13) Schedule 3, item 6 (Kennels), column 2, subparagraph (a), 'address' –
omit, insert –
location and real property description
- (14) Schedule 3, item 6 (Kennels), column 2, subparagraph (e), from 'confirmation' to 'be kept has' –
omit, insert –
details of
- (15) Schedule 3, item 6 (Kennels), column 3 –
omit, insert –
- 1 The licensee must ensure that all necessary approvals are obtained from the local government.
- 2 The licensee must ensure that the local government is advised of any amendments to the premises and licence details. Amendments must be applied for by submitting to the local government the completed approved forms with design plans if required and any relevant fees if required.

- 3 The dogs are adequately identified so that the keeper's name, address and telephone number is readily ascertainable.
- 4 An adequate supply of food and water is provided.
- 5 Water containers are kept free from mosquitoes and flies.
- 6 All faeces, urine, food scrapes, and other waste are disposed of so as not to cause a nuisance.
- 7 Dogs are kept in a manner so as not to be injurious to the health of a person.
- 8 Dogs are kept in a manner so as not to cause a nuisance including to the occupiers of adjoining premises or premises in the immediate vicinity of the place where the animal is kept.
- 9 All pet food to be stored in vermin proof containers.
- 10 The dogs have adequate freedom to exercise having due regard to the species, breed, size and nature of the animal.
- 11 all dogs kept on the premises, sold, given away or otherwise disposed of must be microchipped and vaccinated appropriate to the age of the animal.
- 12 Any dog suffering from a transmissible or communicable disease is prevented from interacting with other vector animals.
- 13 The dogs do not create excessive noise. Dog noise is considered excessive if –

- (a) it is made or can be heard within a residential area for more than a total of 6 minutes whether continually or intermittently in an hour from 7.00 am to 10.00 pm on any day; or
 - (b) it is made or can be heard in a residential area for more than a total of 3 minutes whether continually or intermittently in any 30 minute period on any day after 10.00 pm but before 7.00 am; and
 - (c) in the opinion of an authorised person it unreasonably disrupts or inhibits an activity ordinarily carried out on residential premises.
- 14 The dogs are provided with a suitable shelter from the elements having regards to the breed, size and nature of the animals.
- 15 Any shelter is –
 - (a) constructed and maintained so as to prevent the harbourage of vermin; and
 - (b) is maintained and kept at all times in a clean and sanitary condition.
- 16 Records of all dogs kept on the premises, sold, given away or otherwise disposed of must be kept, including vaccination certificates, microchipping information and the new owner's name and address.
- 17 Any dog that is found to be suffering from a transmissible or communicable disease must be placed in isolation. The holder of the licence must have facilities to effectively isolate diseased dogs when necessary.

- 18 All waste and refuse generated from the keeping of dogs under this licence must be disposed of in a manner so as not to cause a nuisance.
- 19 All cages or enclosures to be thoroughly cleansed and disinfected on a daily basis to avoid the spread of disease.
- 20 adequate enclosure are provided to prevent the egress of housed dogs and the ingress of other dogs.
- 21 All dogs must be kept in a manner so as not to cause a nuisance.
- 22 All dogs to be confined to the premises at all times.
- 23 The maximum number of dogs to be kept on the premises shall be determined by the local government giving regards to all relevant circumstances.
- 24 The licensee must ensure that all related licence fees are paid within stipulated timeframes.
- (16) Schedule 3, item 7 (Pet shops), column 2, subparagraph (a), 'address' –
omit, insert –
location and real property description
- (17) Schedule 3, item 7 (Pet shops), column 2, subparagraph (p), after 'receptacle' –
insert –
and
- (18) Schedule 3, item 7 (Pet shops), column 3 –
omit, insert –

- 1 The licensee must ensure that all necessary approvals are obtained from the local government.
- 2 The licensee must ensure that the local government is advised of any amendments to the premises and licence details. Amendments must be applied for by submitting to the local government the completed approved forms with design plans if required and any relevant fees if required.
- 3 Operation of the pet shop is carried out so as not to cause a nuisance or disturbance to adjoining properties or properties in the immediate vicinity of the pet shop.
- 4 All animals are provided with appropriate accommodation and equipment suitable for the physical and behavioural requirements of the animals having regard to their species and breed.
- 5 All animals are protected from the adverse impacts of natural and artificial origins, environmental conditions, other animals and interference from humans.
- 6 Sufficient space is provided for the animal to prevent overcrowding and to allow them to stand and move around freely.
- 7 Sufficient quantities of appropriate food and water are provided to maintain the animals in good health.
- 8 The animals are protected from disease, distress, injury and excess heat or cold.
- 9 The animals are provided with prompt veterinary or other appropriate treatment in the event of disease, distress or injury.

- 10 The premises are kept clean and hygienic, including vermin and pest control of the premises.
- 11 The keeping of the animals on the premises does not cause a public health nuisance.
- 12 The animals are adequately fed, watered and inspected daily to ensure their wellbeing.
- 13 All structures and enclosures for the animals must –
 - (a) prevent the escape of any animal from the premises;
 - (b) allow for regular cleaning of all internal and external surfaces and regular checking of the animals;
 - (c) be impervious and able to be easily and readily cleaned and effectively disinfected;
 - (d) ensure the comfort of the animals and prevent the spread of disease; and
 - (e) maintain the health of the animals and limit the spread of disease
- 14 All structures and enclosures are treated, sprayed or dusted with insecticide or disinfectant, to the manufacturer's instructions, for the purpose of fly, insect and disease control.
- 15 All animals are removed from any structure or enclosure before the structure or enclosure, as the case may be, is treated sprayed or dusted in accordance with Minimum Standards.
- 16 All cases or enclosures for animals are thoroughly cleaned and disinfected on a daily basis.

- 17 All waste water from the washing down of floors, surfaces and enclosures and drain waste waters are disposed of in an industrial type grease trap or into adequate subsurface disposal trenches or such other method for the disposal of waste waters as is approved by an authorised person.
- 18 All manure and offensive matter is cleaned up at least daily, wrapped in newspaper and then placed into a fly proof covered receptacle, collected from the premises daily and the contents disposed of so as not to adversely affect public health or safety.
- 19 The premises are kept free of flies and vermin at all times and all feed is stored in fly and vermin proof receptacles.
- 20 All animals offered for sale must be vaccinated as appropriate to the age of the animal prior to the completion of any sale.
- 21 All provisions contained in any other local law concerning the keeping or sale of animals are complied with.
- 22 The licensee must ensure that all related licence fees are paid within stipulated timeframes.
- (19) Schedule 3, item 8 (Cemeteries) –
omit.
- (20) Schedule 3, item 9 (Stables), column 2, subparagraph (a), 'address' –
omit, insert –
location and real property description
- (21) Schedule 3, item 9 (Stables), column 2, subparagraph (b), 'or their authorised agent' –

omit.

- (22) Schedule 3, item 9 (Stables), column 2, subparagraph (e), from 'confirmation' to 'be kept has' –

omit, insert –

details of

- (23) Schedule 3, item 9 (Stables), column 3 –

insert –

- 1 The licensee must ensure that all necessary approvals are obtained from the local government.
- 2 The licensee must ensure that the local government is advised of any amendments to the premises and licence details. Amendments must be applied for by submitting to the local government the completed approved forms with design plans if required and any relevant fees if required.
- 3 It is prohibited to keep a horse on an allotment less than 2000m² other than in the Bundamba Racecourse Stables Zone in the Planning Scheme.
- 4 The animal is adequately identified so that the keeper's name, address and telephone number are readily ascertainable.
- 5 An adequate supply of food and water is provided.
- 6 Water containers are kept free from mosquitoes and flies.
- 7 All faeces, urine, food scraps, and other waste are disposed of so as not to cause a nuisance.

- 8 Animals are kept in a manner so as not to be injurious to the health of a person.
- 9 Animals are kept in a manner so as not to cause a nuisance including to the occupiers of adjoining premises or premises in the immediate vicinity of the place where the animal is kept.
- 10 All feed is kept in a vermin and fly proof container or facility.
- 11 The owner or responsible person must ensure that –
 - (a) A minimum of 800m² of open land, unencumbered by buildings, is available for each horse kept on the premises, other than in the Bundamba Racecourse Stables Zone in the Planning Scheme; and
 - (b) Where the grazing behaviour of horses kept on land is causing or is likely to cause damage to neighbouring property, the keeper must take all reasonable measures to effectively isolate the horses from the property at risk, to the satisfaction of an authorised person. "Reasonable measures" may include the construction of a fence to the satisfaction of an authorised person to achieve 3 metre set-back from affected property boundaries.
- 12 The animal has adequate freedom to exercise having due regard to the species, breed, size and nature of the animal.
- 13 Any animal kept, sold, given away or otherwise disposed of is vaccinated and inoculated having regard to the age of the animal.

- 14 Any animal suffering from a transmissible or communicable disease is prevented from interacting with other vector animals.
- 15 An animal does not create excessive noise. Horse noise is considered excessive if –
- (a) it is made or can be heard within a residential area for more than a total of 6 minutes whether continually or intermittently in an hour from 7.00 am to 10.00 pm on any day; or
 - (b) it is made or can be heard in a residential area for more than a total of 3 minutes whether continually or intermittently in any 30 minute period on any day after 10.00 pm but before 7.00 am; and
 - (c) in the opinion of an authorised person it unreasonably disrupts or inhibits an activity ordinarily carried out on residential premises.
- 16 The animal is provided with a suitable shelter from the elements having regard to the breed, size and nature of the animal
- 17 Any shelter is –
- (a) constructed and maintained so as to prevent the harbourage of vermin; and
 - (b) is maintained and kept at all times in a clean and sanitary condition.
- 18 If a law requires registration of an animal then the person selling the animal must register the animal offering it for sale or alternatively keep a register giving full details of –

- (a) all horses sold or otherwise disposed of including the name and address of the new keeper of the horse; and
 - (b) a full description of each horse sold or otherwise disposed of; and
 - (c) the date of sale or disposal of each horse.
- 19 A person who offers for sale any animal suffering from a transmissible or communicable disease must provide a person intending to buy the horse with a report from a qualified veterinarian indicating the horse's present condition.
- 20 The licensee must ensure that all other relevant State and Federal Legislation regarding keeping of and/or moving horses and be able to provide proof of compliance to an authorised officer upon request.
- 21 The licensee must ensure that all related licence fees are paid within stipulated timeframes.
- (24) Schedule 3, item 10 (Commercial activity on local government controlled area or roads other than footpath dining), column 3 –
omit, insert –

Roadside Vending

- 1 The approved activity is for a suitably equipped and registered mobile premises to be situated out the front of <<Insert Street>> from <<insert day/s and times>>.
- 2 This licence may be suspended, cancelled or varied at any time in accordance with Local Law No. 3 (Commercial Licensing) 2013 should any matter arise at any time which warrants, in the opinion of the local

government, the suspension, cancellation or variation of the permit or conditions including a legitimate complaint from the public.

- 3 This licence does not give the permit holder or operator any rights to erect a permanent structure or sign on or over the road reserve or to make any structural changes to the road reserve including the footpath and verge areas.
- 4 This licence shall be kept on site at all times and must be produced when required.
- 5 The licence holder shall take all necessary actions to protect the public from injury or loss and reasonable direction given by a police officer or an authorised person shall be followed.
- 6 Whilst acting under the authority of this licence, the licence holder and operator is to hold public liability insurance for a minimum of \$20 million for the period of the permit to the satisfaction of the local government. Proof of such insurance is to be provided to the local government prior to exercising this licence and must be renewed prior to its expiry.
- 7 The licence holder agrees to indemnify and save harmless the local government from any loss, damage, injury or death, or any claim for any loss, damage, injury or death, whatsoever or howsoever arising, either directly or indirectly, from the exercise of the powers and rights granted by this licence.
- 8 No compensation shall be payable by the local government if the licence is not renewed for a further period of time, or in the event of this permit being suspended, cancelled or varied during the term of this licence.

- 9 The licence holder will be responsible for the payment of reasonable costs incurred by the local government in repairing and maintaining the road, including the footpath, nature strip or shoulder of the road, to a safe condition if the Chief Operating Officer (Health, Security and Regulatory Services) determines the damage to be attributable to the exercise of the permit by the licence holder. Such payment will be under reasonable terms set by the local government and shall be a debt due and owing.
- 10 The applicant is to keep aware via the local government's website of any upcoming events or proposed roadworks/maintenance that may result in the activity being suspended for the duration of that event.
- 11 The licensee must ensure that all related licence fees are paid within stipulated timeframes.
- 12 The goods or services to be sold, displayed, offered or solicited are limited to those generally described in the application for the licence.
- 13 Exercise of the licence must not cause nuisance to motorists, pedestrians or residents.
- 14 Adequate rubbish receptacles must be provided and the area must be kept clean at all times.
- 15 All goods must be displayed and stored within a vehicle or stall.
- 16 The licence holder is to prevent any obstruction or nuisance to motorists and pedestrians, motorists, residents and businesses.
- 17 The exercise of the licence must not impede pedestrians such that tables, chairs, goods or other items or structures must be kept clear of any exits

or doorways to buildings, and a minimum unobstructed envelope 1.5 m wide and 2.1 m high, or other appropriate distances depending on location or circumstances, must be maintained.

- 18 No tables, chairs, structures or goods are to be placed on the footway within 1m of the kerb.

Touting/Hawking

- 1 The approved activity is for <<insert type of activity>> to be conducted on <<insert street>> <<insert day and time activity approved>>.
- 2 The activity is limited to <<insert times>>.
- 3 This licence may be suspended, cancelled or varied at any time in accordance with Local Law No. 3 (Commercial Licensing) 2013 should any matter arise at any time which warrants, in the opinion of the local government, the suspension, cancellation or variation of the licence or conditions including a legitimate complaint from the public.
- 4 This approval licence shall be kept on site at all times and must be produced when required.
- 5 Whilst acting under the authority of this licence, the licence holder and operator is to hold public liability insurance for a minimum of \$20 million for the period of the licence to the satisfaction of the local government.
- 6 Proof of such insurance is to be provided to the local government prior to exercising this licence and must be renewed prior to its expiry.
- 7 The licence holder shall take all necessary actions to protect the public from injury or loss and reasonable direction given by a police officer or an authorised person shall be followed.

- 8 The licence holder agrees to indemnify and save harmless the local government from any loss, damage, injury or death, or any claim for any loss, damage, injury or death, whatsoever or howsoever arising, either directly or indirectly, from the exercise of the powers and rights granted by this licence.
- 9 Limit the goods or services to be sold, displayed, offered or solicited to those generally described in the application for the licence.
- 10 This licence does not give the licence holder or operator any rights to erect a permanent structure or sign on or over the road reserve or to make any structural changes to the road reserve including the footpath and verge areas.
- 11 Provide for adequate rubbish receptacles and that the area be kept clean at all times.
- 12 The licence holder is to prevent any obstruction or nuisance to motorists and pedestrians, motorists, residents and businesses.
- 13 Provide for the free flow of pedestrians on footways such that tables, chairs, goods or other items or structures must be kept clear of any exits or doorways to buildings, and must leave a minimum unobstructed envelope 1.5 metre wide and 2.1 metre high, or other appropriate distance depending on location or circumstances.
- 14 Ensure that no tables, chairs, structures or goods be placed on the footway within 1 metre from the kerb.
- 15 No compensation shall be payable by the local government if the licence is not renewed for a further period of time, or in the event of this licence being suspended, cancelled or varied during the term of this licence.

- 16 The licence holder will be responsible for the payment of reasonable costs incurred by the local government in repairing and maintaining the road, including the footpath, nature strip or shoulder of the road, to a safe condition if the Chief Operating Officer (Health, Security and Regulatory Services) determines the damage to be attributable to the exercise of the licence by the licence holder. Such payment will be under reasonable terms set by the local government and shall be a debt due and owing.
- 17 Compliance with all State Acts, Local Laws and Subordinate Locals Laws of the local government.
- 19 The licence holder is to keep aware via the local government's website of any upcoming events or road maintenance works that may result in this activity being suspended for a period of time.

Busking

- 1 Performers will not be able to perform within 30 metres of another performer and will be restricted to zones having regard to the appropriateness for the area.
- 2 Busking will only occur between the hours of 9.00am and 5.00pm Saturday to Wednesday and 9.00am to 9.00pm Thursday and Friday.
- 3 Performances must not contain nudity or offensive, derogatory, sexual, racist, or generally discriminatory material or inference;.
- 4 Performers are prohibited from using animals, amplification, dangerous materials or implements (unless otherwise approved by the local government).
- 5 Group acts must not have more than four artists. Holders of a 'group licence' are not permitted to perform as individual acts.

- 6 If a performer(s) fails to comply with terms of the licence or the local laws the local government may withdraw, amend or cancel a permit as determined by the Chief Operating Officer (Health, Security and Regulatory Services).
- 7 A designated street performance location may be unavailable owing to, but not limited to –
 - (a) Landscaping or other works in the area;
 - (b) A special event which is approved by the local government taking place at or around the location;
 - (c) Complaints that are being investigated;
 - (d) Health and safety concerns; or
 - (e) The site has been withdrawn due to unsuitability.
- 8 The licence must be displayed in a prominent, highly visible position so it can be seen at all times during performance.
- 9 The performer(s) must perform in a safe manner so that the artist does not endanger themselves, the community, or any property in the area including vehicles, street furniture etc.
- 10 The performer(s) can accept voluntary donations from the audience, but may not harass or intimidate spectators and passers-by by overt solicitation or touting for contributions.
- 11 The performer(s) must reinstate the site to original conditions after the performance.
- 12 Performers are not to sell or offer products and are not to advertise any product service or sponsorship.

- 13 The performer(s) must not interfere with another approved entertainment or activity.
- 14 The performer(s) must hold a valid certificate of Public Liability Insurance.

(25) Schedule 3, item 11 (Commercial activity on a local government controlled area or road – footpath dining), column 3 –

omit, insert –

- 1 The approved activity is for footpath dining outside of <<insert premises name and address>> on <<insert day and time activity approved>>
- 2 The licence is limited to the road (including the nature strip or footpath) out the front of << Insert business address>>. The area that may be used is limited to the area depicted on the plan submitted with the application. The total area to be used is <<insert area m²>>.
- 3 This licence may be suspended, cancelled or varied at any time in accordance with Local Law No. 3 (Commercial Licensing) 2013 should any matter arise at any time which warrants, in the opinion of the local government, the suspension, cancellation or variation of the licence or conditions including a legitimate complaint from the public
- 4 This approval licence shall be kept on site at all times and must be produced when required.
- 5 Whilst acting under the authority of this licence, the licence holder and operator is to hold public liability insurance for a minimum of \$20 million for the period of the permit to the satisfaction of the local government.

Proof of such insurance is to be provided to the local government prior to exercising this licence and must be renewed prior to its expiry.

- 6 The licence holder shall take all necessary actions to protect the public from injury or loss and reasonable direction given by a police officer or an authorised person shall be followed.
- 7 The licence holder agrees to indemnify and save harmless the local government from any loss, damage, injury or death, or any claim for any loss, damage, injury or death, whatsoever or howsoever arising, either directly or indirectly, from the exercise of the powers and rights granted by this licence.
- 8 This licence does not give the licence holder or operator any rights to erect a permanent structure or sign on or over the road reserve or to make any structural changes to the road reserve including the footpath and verge areas.
- 9 The licence holder must keep the area clean and tidy at all times.
- 10 The licence holder is to prevent any obstruction or nuisance to motorists and pedestrians, motorists, residents and businesses.
- 11 The activity does not result in the obstruction of pedestrian access on the footpath to less than a minimum unobstructed envelope of 1.8 metres wide and 2.1 metres high or such other distance, depending on the location or circumstances.
- 12 The activity and any goods placed in performance of the activity occurs no closer than 1 metre of the kerb of the road.

- 13 Any goods, such as tables and chairs, placed in the area are to be temporary only and capable of being removed. All goods are to be removed from the area outside of the approved operating hours.
- 14 Any goods placed in the area must be capable of withstanding any weather, including wind.
- 15 If the activity is not associated with the adjoining premises that the agreement of the owner or operator of the adjoining premises has been obtained.
- 16 No compensation shall be payable by the local government if the permit is not renewed for a further period of time, or in the event of this permit being suspended, cancelled or varied during the term of this permit.
- 17 The licence holder will be responsible for the payment of reasonable costs incurred by the local government in repairing and maintaining the road, including the footpath, nature strip or shoulder of the road, to a safe condition if the Chief Operating Officer (Health, Security and Regulatory Services) determines the damage to be attributable to the exercise of the licence by the licence holder. Such payment will be under reasonable terms set by the local government and shall be a debt due and owing.
- 18 Compliance with all State Acts, Local Laws and Subordinate Locals Laws of the local government.
- 19 The licence is subject to the applicant holding a current licence under the Food Act 2006.
- 20 Liquor may not be consumed on the footpath without first obtaining an appropriate authority under the Liquor Act 1992.

- 21 The licence holder is to keep aware via the local government's website of any upcoming events or road maintenance works that may result in this activity being suspended for a period of time.
- 22 The licensee must ensure that all related licence fees are paid within stipulated timeframes.

(26) Schedule 3, item 12 (temporary entertainment events) –

omit.

(27) Schedule 3, item 13 (Entertainment venues) –

omit.

(28) Schedule 3, after item 13 (Entertainment venue) –

insert –

Pet daycare	<p>(a) The location and real property description of the place where the pets will be minded;</p> <p>(b) The maximum number of pets to be minded at any one time;</p> <p>(c) if the applicant is not the owner of the land on</p>	<p>(a) The activity must be carried out so as not to cause a nuisance or disturbance to adjoining properties or properties in the immediate vicinity.</p> <p>(b) all animals are provided with appropriate accommodation and equipment suitable for the physical and</p>
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	<p>which the activity is to occur –</p> <p>(i) the name, postal address, and contact phone number of the owner; and</p> <p>(ii) the written consent of the owner.</p> <p>(d) details of where the animals will be kept, including the type of accommodation if being used;</p> <p>(e) details of appropriate fencing to keep the animals contained;</p> <p>(f) a sketch plan to scale showing where the animals will be kept and detail of any accommodation for the animals, including its location in relation to</p>	<p>behavioural requirements of the animals having regards to their species and breed.</p> <p>(c) all animals are protected from adverse impacts of natural and artificial origin, environmental conditions, other animals and interference from humans (other than those minding the animals).</p> <p>(d) sufficient space is provided for the animals to prevent overcrowding and to allow them to stand and move around freely.</p> <p>(e) sufficient quantities of appropriate food and water are provided to maintain the animals in good health.</p>
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	<p>other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	<p>(f) no more than 10 animals are to be minded at any one time.</p> <p>(g) different breeds or species or animals are to be kept separately as appropriate.</p> <p>(h) the animals are protected from disease, distress, injury and excess heat or cold.</p> <p>(i) the animals are provided with prompt veterinary or other appropriate treatment in the event of disease, distress or injury, depending on the terms or conditions of the pet sitting.</p> <p>(j) the premises are kept clean and hygienic, including vermin and pest control of the premises.</p>
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		<p>(k) the minding of the animals on the premises does not cause a public health nuisance.</p> <p>(l) the animals are adequately fed, watered and inspected to ensure their wellbeing.</p> <p>(m) all structures, enclosures or other accommodation for the animals is maintained to –</p> <p>(i) prevent the escape of any animal from the premises;</p> <p>(ii) allow for regular cleaning of all internal and external surfaces and regular checking of animals;</p> <p>(iii) be impervious and able to be</p>
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		easily and readily cleaned and effectively disinfected;
	(iv)	ensure the comfort of the animals and prevent the spread of disease;
	(v)	maintain the health of the animals and limit the spread of disease.
	(n)	all structure, enclosure or other accommodation are treated, sprayed and dusted with insecticide or disinfectant for the purpose of fly, insect and disease control.
	(o)	all animals are removed from any structure, enclosure or other accommodation before

		<p>the structure, enclosure or accommodation is treated, sprayed or dusted.</p> <p>(p) all enclosures, structures or other accommodation for animals are thoroughly cleaned and disinfected on a daily basis.</p> <p>(q) all waste waters from the washing down of floors, surfaces and enclosures and drain waste waters are disposed of into adequate subsurface disposal trenches or such other method for disposal of waste waters as is approved by an authorised person.</p> <p>(r) all effluent or other offensive material is cleaned up at least twice daily, wrapped and</p>
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		placed into a fly proof covered receptacle, and is collected from the premises daily and the contents disposed of so as not to adversely affect public health or safety.
	(s)	the premises are kept free of flies and vermin at all times.
	(t)	all feed is stored in fly and vermin proof receptacles.
	(u)	any animals that have not been vaccinated appropriate to their age must not be minded.
	(v)	all provisions contained in any other local law concerning the keeping of animals are complied with, as applicable.

34 Amendment of sch 4 (Exceptions)

(1) Schedule 4, after item 2 (Footpath dining) –

insert –

Entertainment venue	Where the entertainment venue is determined by an authorised person to be Low risk .
Temporary entertainment event	Where the proposed number of attendees is less than 500 people.

- (2) Schedule 4, subparagraph (a), after 'authorised' –

insert –

person,

- (3) Schedule 4, subparagraph (a), 'cause,' –

omit, insert –

cause

- (4) Schedule 4, subparagraph (b), 'officer' –

omit, insert –

person

35 Insertion of new sch 6

After schedule 5 –

insert –

Schedule 6 Temporary entertainment events

Chapter 2, Part 11

Part 1 Temporary entertainments events requiring a licence

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Event impact	Attendees per day	Other impact criteria	Examples
Low	500 – 1,000 people	<p>(a) event is to be held between 8:00am – 10:00pm;</p> <p>(b) event is to be for a maximum of 1 day;</p> <p>(c) a maximum 2 food stalls and/or amusement devices are to be provided at the event;</p> <p>(d) minimum/low level sound amplification (under 500 watts RMS);</p> <p>(e) the event is to have a maximum infrastructure footprint of 100m²;</p> <p>(f) footpaths are to be used;</p> <p>(g) parking lanes are to be used;</p> <p>(h) minor roads that are easily detoured with no intersections or commercial activity are to be affected.</p>	<p><input type="checkbox"/> small charity events;</p> <p><input type="checkbox"/> small commercial activities;</p> <p><input type="checkbox"/> community gatherings;</p> <p><input type="checkbox"/> sporting events.</p>
Medium	1,001 – 6,000 people	<p>(a) event is to be held between 8:00am – 10:00pm;</p>	<p><input type="checkbox"/> sports events;</p> <p><input type="checkbox"/> markets;</p>

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		<p>(b) event is to be for a maximum of 3 days;</p> <p>(c) a maximum 10 food stalls and/or amusement devices are to be provided at the event;</p> <p>(d) the event will involve the sale or supply of alcoholic beverages;</p> <p>(e) medium level sound amplification (500 – 5,000 watts RMS);</p> <p>(f) the event is to have a maximum infrastructure footprint of 300m²;</p> <p>(g) the event will impact on one or more of the following:</p> <p style="padding-left: 40px;">(i) roads with bus routes;</p> <p style="padding-left: 40px;">(ii) multiple streets/roads and intersections (non-signalised);</p> <p style="padding-left: 40px;">(iii) adjacent commercial or traffic generating properties; or</p>	<p><input type="checkbox"/> small carnivals;</p> <p><input type="checkbox"/> pet shows/events;</p> <p><input type="checkbox"/> motor vehicle displays.</p>
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		(iv) roads carrying over 5,000 vehicles per day.	
High	Over 6,000 people	<p>(a) event may operate outside 8:00am – 10:00pm;</p> <p>(b) event is to be for 5 or more days, including Saturday and Sunday;</p> <p>(c) more than 10 food stalls and/or amusement devices are to be provided at the event;</p> <p>(d) the event will involve the sale or supply of alcoholic beverages;</p> <p>(e) high level sound amplification (over 5,000 watts RMS);</p> <p>(f) the event will have an infrastructure footprint that exceeds 300m²;</p> <p>(g) the event will impact on one or more State-controlled roads.</p>	<p><input type="checkbox"/> major sporting events such as triathlons and grand finals;</p> <p><input type="checkbox"/> music festivals;</p> <p><input type="checkbox"/> public events such as Christmas and New Years Eve events.</p>

Part 2 General matters affecting licence for temporary entertainment event

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
Temporary entertainment event	<p>(a) the location and real property description of where the temporary entertainment event is to take place;</p> <p>(b) a layout plan of the temporary entertainment event's venue showing boundaries and all buildings, structures and facilities;</p> <p>(c) details of the type and number of ablution facilities to be provided;</p> <p>(d) details of all structure and facilities to be erected;</p> <p>(e) a detailed statement of the nature of the entertainment to be provided at the</p>	<p>(a) the operation of the temporary event must not detrimentally affect the amenity of neighbouring premises.</p> <p>(b) the hours of operation of the temporary event must not detrimentally affect the amenity of neighbouring premises.</p> <p>(c) the operation of the temporary event must, unless otherwise varied by an authorised person, be limited to the hours stated in the licence.</p> <p>(d) the operation of the temporary event must not –</p>

	<p>temporary entertainment event, when the event is to be open to the public and the expected maximum number of attendees;</p> <p>(f) if the applicant is not the owner of the venue where the temporary entertainment event is to be held – the written consent of the owner.</p>	<p>(i) create a traffic problem or risk; or</p> <p>(ii) increase an existing traffic problem or risk;</p> <p>(iii) detrimentally affect the efficiency of the existing road network.</p> <p>(e) the operation of the temporary entertainment event must comply with any relevant local or State legislation requirements and approvals.</p>
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Part 3 Matters affecting licence for particular temporary entertainment events

Column 1	Column 2	Column 3
Temporary entertainment event – event impact based on part 1, column 1	Minimum time for making application for a licence	Documents to be provided with application
Low	At least 1 month prior to the event.	(a) a layout plan confirming:

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		<p>(i) a maximum of 2 food stalls and/or amusement devices will be provided;</p> <p>(ii) the infrastructure footprint for the event; and</p> <p>(b) details of the footpaths, parking lanes and/or roads that will be impacted by the event and a traffic management plan;</p> <p>(c) details of any sound amplification to be used, confirming a maximum amplification of 500 watts RMS and a noise management plan.</p>
Medium	At least 4 months prior to the event.	<p>(a) a layout plan confirming:</p> <p>(i) a maximum of 10 food stalls and/or amusement devices will be provided;</p>

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		<p>(ii) the infrastructure footprint for the event;</p> <p>(b) details of the roads, streets and/or intersections that will be impacted by the event and a traffic management plan;</p> <p>(c) details of any adjacent commercial or traffic-generating properties that will be impacted by the event;</p> <p>(d) Evidence of consultation with nearby residents. landowners and tenants, including of commercial properties;</p> <p>(e) Evidence of consultation or approval from all relevant government agencies, such as the Queensland Police Service and Office of Liquor and Gaming Regulation;</p> <p>(f) details of any sound amplification to be used,</p>
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		confirming a maximum amplification of 5,000 watts RMS and a noise management plan.
High	At least 8 months prior to the event.	<p>(a) a layout plan confirming:</p> <p>(i) the number and location of all food stalls and/or amusement devices to be provided;</p> <p>(ii) the infrastructure footprint for the event;</p> <p>(b) details of the roads, streets and/or intersections that will be impacted by the event and a traffic management plan;</p> <p>(c) details of any adjacent commercial or traffic-generating properties that will be impacted by the event;</p> <p>(d) Evidence of consultation with nearby residents, landowners and tenants, including of commercial</p>

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		<p>properties for a minimum of 28 days;</p> <p>(e) Evidence of consultation or approval from all relevant government agencies, such as the Queensland Police Service and Office of Liquor and Gaming Regulation;</p> <p>(f) details of any sound amplification to be used, confirming the expected maximum amplification (in watts RMS) and a noise management plan.</p>
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36 Insertion of new sch 7

After new sch 6 –

insert –

Schedule 7 Entertainment Venues

Chapter 2, Part 12

Part 1 Circumstances and venues requiring a licence

Any venue that has a liquor licence or intends to hold a liquor licence and has live entertainment with amplified music unless determined to be a **Low risk** by an authorised person

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Willowbank precinct – Willowbank Raceway
Queensland Raceway
Halls where entertainment is intended to end after 10:00pm
Ivorys Rock Conference and Event Centre
Ipswich Turf Club
<p>Showgrounds –</p> <p><input type="checkbox"/> Ipswich;</p> <p><input type="checkbox"/> Rosewood; and</p> <p><input type="checkbox"/> Marburg</p>

Part 2 Matters affecting licence for an entertainment venue

Column 1 Licence regulated activity	Column 2 Documents, material or information required to accompany application for licence	Column 3 Standard Conditions
Entertainment venue	<p>(a) the location and real property description of the entertainment venue;</p> <p>(b) a layout plan of the entertainment venue;</p> <p>(c) details and drawings of buildings and other</p>	<p>1 Event notifications</p> <p>(1) The licence holder must notify the local government at least 30 days before the commencement of the event if –</p> <p>(a) the licensee is not liable for the event if a third</p>

	structural elements of the entertainment venue;	party is organising and/or managing the event; and/or
	(d) a detailed statement of the nature of the entertainment to be provided at the entertainment venue and when the entertainment venue is to be open to the public;	(b) the venue is leased for any ancillary activity besides the primary purpose of the entertainment venue (the primary purpose is defined in the development approval for venue); and/or
	(e) if the applicant is not the owner of the entertainment venue – the written consent of the owner;	(c) if the patron numbers exceed what is specified in the development approval and/or design approval for the venue.
	(f) if approval of anything to be done under the licence is required under another law – a certified copy or other appropriate evidence of the approval; and	(2) If an event is to occur that is in any of the three categories listed in section (1) above then a Temporary Entertainment Event Licence application will need to be submitted for approval a minimum of 30 days prior to the event. Please note: if a

	<p>(g) the expected number of patrons to the entertainment venue.</p>	<p>third party is liable for the event then they must submit the application.</p> <p>2 Lighting</p> <p>(1) Adequate lighting must be installed/available to ensure the safety and security of all patrons.</p> <p>(2) Lighting must not create a nuisance or intrude on the privacy of the occupiers of adjoining lands.</p> <p>(3) The licence holder must ensure the spillage of light from artificial illumination does not create a nuisance to adjacent residential premises as per Australian Standard 4282 (Control of the obtrusive effects of outdoor lighting).</p> <p>(4) Lighting must not create a nuisance for traffic.</p> <p>3 Air-conditioning units</p>
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		<p>(1) All air conditioning units, cooling towers and heating units are to be regularly serviced and maintained in accordance with relevant Australian Standards.</p> <p>(2) Units must be located in such a position as not to create a nuisance to adjacent premises.</p> <p>(3) Units must be capable of transporting air outside the entertainment venue (eg via an exhaust) that complies with the Australian Standard AS 1668.</p> <p>4 Water supply</p> <p>(1) An adequate and continuous supply of water is maintained to all toilets, bathroom, kitchen, laundry and drinking water facilities at all times.</p>
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		<p>(2) Any water supply intended for drinking or cooking is potable water.</p> <p>(3) A readily accessible and adequate water supply must be made available for firefighting and first-aid.</p> <p>(4) An adequate drinking water supply is to be provided separate to sanitary conveniences.</p> <p>5 Sanitary convenience</p> <p>(1) Sanitary conveniences must be provided –</p> <p>(a) in accordance with Building Code Australia; and</p> <p>(b) in good working order; and</p> <p>(c) connected with sewer or comply with any onsite waste water treatment.</p> <p>6 Pest control</p>
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		<p>(1) The entertainment venue must be kept free of vermin and insects with, so far as it is practical, no access provided for the ingress of vermin.</p> <p>(2) The entertainment venue must be treated for vermin and insects at least annually by a licensed pest control operator or more frequently if required by the local government.</p> <p>(3) Records are to be kept of all pest control treatments and provided to the local government on request.</p> <p>7 Cleaning and maintenance</p> <p>(1) Where the venue is used on a regular basis (i.e. one or more times a week, each week) – the floors, furniture and fittings must be cleaned and disinfected at least once</p>
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		<p>a week by washing or spraying them with solution of approved disinfectant.</p> <p>(2) Where building is used occasionally i.e. the venue is not used in consecutive weeks) – the floor, furniture and fittings must be cleaned and disinfected prior to each use.</p> <p>(3) All rubbish and litter must be removed from the premises and appropriately disposed of the next day or before the next event takes place whichever is sooner.</p> <p>(4) All carpets, matting or other flooring (including stair coverings) must be securely fixed to the floor and stairs in a sound condition.</p> <p>8 Waste management</p> <p>(1) Provide and maintain an adequate number of refuse receptacles on the premises</p>
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Subordinate Local Law (Amending) Subordinate Local Law No. 3.1 (Commercial Licensing) 2019

		<p>as stipulated by an authorised person.</p> <p>(2) Any area that is used to accommodate and clean refuse receptacles is kept clean and tidy at all times.</p> <p>(3) Any solid and liquid waste produced from the venue must not contaminate any stormwater drain.</p> <p>9 Animals</p> <p>(1) No animal/s are to be kept at an entertainment venue or on an event site that creates a nuisance to the patrons or occupiers of adjoining properties.</p> <p>10 Means of escape</p> <p>(1) Any means of escape must be kept free from obstruction; and</p> <p>(2) A copy of a current certificate of inspection issued under the Fire and</p>
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		<p>Emergency Services Act 1990 must be provided to the local government on an annual basis or as required by the authorised person.</p> <p>(3) The evacuation plan and procedures for the operation of the entertainment venue must be displayed in the manner and locations specified by the local government or otherwise so that it can be viewed by members of the public.</p> <p>11 Noise</p> <p>(1) Entertainment provided must not generate significant noise, dust or light pollution (or other significantly adverse effects) on the surrounding neighbourhood.</p> <p>(2) The use of amplified sound is prohibited between the hours of 10:00 pm and 7:00 am (except extended hours</p>
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		<p>approved in your development approval or temporary events license).</p> <p>Whilst in operation, the use of amplified sound must at all times be kept at a level so that no nuisance or annoyance is caused to any nearby residents. The amplified sound shall be directed away from residents adjacent to the site.</p> <p>12 Hazardous materials</p> <p>(1) All hazardous materials must be stored and used in a safe manner as part of the operation of the entertainment venue.</p> <p>(2) Adequate storage must be provided for all hazardous materials stored or used as part of the operation of the entertainment venue.</p> <p>(3) All objects (including vehicles and machinery)</p>
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		<p>which are dismantled as part of the operation of the entertainment venue must be dismantled undercover and on a paved impervious surface which is unaffected by storm water runoff and must not create a nuisance.</p> <p>(4) A spillage of a waste, contaminant or other material must –</p> <p>(a) be cleaned up immediately; and</p> <p>(b) must not be cleaned up by hosing, sweeping or otherwise releasing such waste, contaminant or material to any storm water system or waters.</p> <p>13 Miscellaneous</p> <p>(1) The operation of the entertainment venue including all premises, buildings, structures, vehicles, facilities or</p>
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		<p>equipment must be maintained at all times –</p> <p>(a) in a good working order; and</p> <p>(b) in a good state of repair; and</p> <p>(c) in a clean and sanitary condition.</p> <p>(2) Adequate space and crowd control measures must be provided in respect of the operation of the entertainment venue.</p> <p>(3) Adequate first aid and medical facilities must be provided for persons attending the entertainment venue.</p> <p>(4) The licensee must ensure that all related licence fees are paid within stipulated timeframes.</p> <p>14 Advisory information</p>
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		<p>(1) Where food is sold, served or produced on site there may be a requirement to hold a licence to do so under the Food Act 2006. Please contact the Health, security and Regulatory Services Department of Ipswich City Council on 07 3810 6666 for further advice and information on this matter.</p> <p>(2) Keeping of animals on the site must be in accordance with Local Law No. 6 (Animal Management) 2013, the Animal Management (Cats and Dogs) Act 2008, the Animal Management (Cats and Dogs) Regulation 2009 and the Food Act 2006.</p>
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Doc ID No: A5570311

ITEM: 4

SUBJECT: PERMITS - LOCAL LAW (AMENDING) LOCAL LAW NO.4 (PERMITS) 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 29 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.4 (Permits) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make *Local Law (Amending) Local Law No.4 (Permits) 2019*, as attached to the report of the Strategic Policy and Systems Manager dated 29 June 2019.
- B. That it be noted that a review of the proposed *Local Law (Amending) Local Law No.4 (Permits) 2019* has been undertaken and has identified potential anti-competitive provisions.
- C. That Council approve to conduct a public interest test in relation to any potential anti-competitive provisions contained within the proposed amended laws as part of the public consultation process mentioned in Clause D below.
- D. That Council approve to proceed to public consultation for the proposed *Local Law (Amending) Local Law No.4 (Permits) 2019*, as detailed in Clause A above.
- E. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.4 (Permits) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- F. That, following public consultations and the State Government interest check, as detailed in Clauses D and E above, the General Manager – (Coordination and

Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy "Local Law Making Process" which is available on Council's website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council's Business Transformation Program a review of Council's existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren't included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.
- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).

- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - o Advertisement in Queensland Times
 - o Ipswich First articles
 - o Dedicated web page on Council's website
 - o Ability to lodge submissions online, via email and post
 - o Social media postings promoting the review and how to make a submission
 - o Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will be published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all proposed local laws for a minimum of 21 days (see policy for requirements)	17/07/19	7/08/19	Ready to commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly	8/08/19	30/08/19	Ready to

made to the Council (see policy for criteria) + develop Council Committee report for step 6			commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No.4 (Permits) 2013 (Attachment 1)* whose objective is to ensure that a permit regulated activity doesn't result in harm to health, safety or the environment; property damage; or a loss of amenity. It also ensures the operation of a permit regulated activity complies with the Local Government Acts that regulate the permit regulated activity by subjecting the permit regulated activity to an inspection, monitoring and enforcement regime.

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.4 (Permits) 2019 (Attachment 2)*. It is noted that there have been anti-competitive provisions identified in the amended laws and as such a public interest test will be conducted as part of the public consultation process.

A review has been conducted and drafting undertaken to:

- correct typographical errors and inconsistencies; and an improved layout and formatting to the law to assist with greater readability (providing some consistency in layout for permits (Local Law 4) the same as licences (Local Law 3).
- clearer requirements of what is required in the permit application and approval process;
- inclusion of provisions to allow for Council to add minimum standards on activities where appropriate in the future.

FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation and enforcement costs will be minimal for these amendments as they are administrative in nature.

RISK MANAGEMENT IMPLICATIONS

Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedules require amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)



COMMUNITY AND OTHER CONSULTATION

Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Amending Local Law No.4 (Permits) 2019*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.4 (Permits) 2013 
2.	Local Law (Amending) Local Law No.4 (Permits) 2019 

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

Ipswich

City Council

Local Law No. 4 (Permits) 2013

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No.4 (Permits) 2013*.

1A Commencement

This local law commences on 1 August 2013.

2 Object

The objects of this local law are to ensure that—

- (a) a permit regulated activity does not result in—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; and
- (b) the operation of a permit regulated activity¹ complies with the Local Government Acts that regulate permit regulated activities by subjecting the regulated activities to an inspection, monitoring and enforcement regime.

3 Definitions—the Dictionary

- (1) The dictionary in the Schedule (Dictionary) of this local law defines particular words used in this local law.
- (2) The dictionary in *Local Law No. 1 (Administration) 2013* also defines words used in this local law

4 Relationship to other laws

- (1) This local law does not apply to—

¹ For definition of permit regulated activity see Schedule

- (a) the operation of a permit regulated activity on a State-controlled road if licensing of the activity is prohibited by Chapter 6 (Road Transport Infrastructure) of the *Transport Infrastructure Act 1994*; or
- (b) the operation of a permit regulated activity which is—
 - (i) authorised; or
 - (ii) required to be operated in the performance of an express duty or power;under legislation (including subordinate legislation); or

Example—

If incineration was a permit regulated activity this section would exempt officers of the Queensland Fire and Rescue Service and other authorised persons from being licensed as they have the power to light fires under the Fire and Rescue Service Act 1990.

- (c) a person operating a permit regulated activity where that person is required to be licensed, registered or approved in respect of the operation of that permit regulated activity pursuant to—
 - (i) the *Environmental Protection Act 1994*; or
 - (ii) the *Residential Services (Accreditation) Act 2002*; or
 - (iii) the *Public Health (Infection Control for Personal Appearance Services) Act 2003*; or
 - (iv) the *Child Protection Act 1999*; or
 - (v) the *Disability Services Act 2006*.

Example of paragraph (c)—

This would exempt the operation of a regulated activity that is registered by the State government under the Environmental Protection Act 1994.

- (2) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
 - (a) the *Environmental Protection Act 1994*; and
 - (b) the *Fire and Rescue Service Act 1990*; and

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- (c) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
- (d) the *Transport Operations (Roads Use Management) Act 1995*; and
- (e) the *Land Act 1994*; and
- (f) the *Plumbing and Drainage Act 2002*; and
- (g) the *Building Act 1975*; and
- (h) the *Sustainable Planning Act 2009*; and
- (i) the *Residential Services (Accreditation) Act 2002*; and
- (j) the *Food Act 2006*; and
- (k) the *Work Health and Safety Act 2011*; and
- (l) the *Coroners Act 2003*; and
- (m) the *Transport Infrastructure Act 1994*; and
- (n) the *Food Production (Safety) Act 2000*; and
- (o) the *Retirement Villages Act 1999*; and
- (p) the *Public Health Act 2005*; and
- (q) the *Public Health (Infection Control for Personal Appearance Services) Act 2003*.

5 Relationship with other local laws

- (1) This local law applies to -
 - (a) the application for, grant of and enforcement of permits; and
 - (b) all other incidental matters concerning permit regulated activities; specified in -
 - (i) *Local Law No. 5 (Parking) 2013* and its subordinate laws; and

- (ii) *Local Law No. 6 (Animal Management) 2013* and its subordinate laws; and
 - (iii) *Local Law No. 7 (Local Government Controlled Areas and Roads) 2013* and its subordinate laws; and
 - (iv) *Local Law No. 8 (Nuisances and Community Health and Safety) 2013* and its subordinate laws.
- (2) A reference in this local law to a power to make a subordinate law is to be taken to be a power to make that subordinate local law under any of the local laws referred to section 5 (1)(b (i)-(iv) (Relationship with other local laws)

Part 2 Permits

6 Application for a permit

- (1) An application for a permit must be—
 - (a) made by the person who will be operating the permit regulated activity; and
 - (b) made in the prescribed form; and
 - (c) accompanied by—
 - (i) the name, contact telephone number and postal address of the applicant; and
 - (ii) the prescribed fee; and
 - (iii) evidence that all approvals under the Local Government Acts required for the operation of the permit regulated activity have been obtained; and
 - (iv) full details of the permit regulated activity; and
- (2) If an applicant for a permit is not the owner of the premises on which the permit regulated activity is to be operated, the application must be accompanied by the written consent of the owner. This requirement does not apply if the premises is under local government control.
- (3) The local government is not required to consider an application which is—

- (a) not made in the prescribed form; or
 - (b) not accompanied by the documents, materials or fee required in section 6(1) (Application for permit).
 - (4) The local government may, by written notice, request that the applicant provide further information or clarify any information reasonably required for the local government to assess the application.
 - (5) If the applicant does not, without reasonable excuse, provide the further information within 10 business days of the request in section 6(4) (Application for permit), then the local government may refuse the application.
 - (6) The local government may waive the requirements of section 6 (Application for a permit) of this local law—
 - (a) in an emergency; or
 - (b) if there are special reasons for dispensing with the requirements; or
- Example—*
Where a development permit exists for the permit regulated activity.
- (c) in the circumstances specified in a subordinate local law.

7 Deciding an application for a permit

- (1) The local government must—
 - (a) consider an application for a permit; and
 - (b) subject to section 7(2) (Deciding application for a permit) of this local law, decide whether to grant or refuse the application.
- (2) In deciding an application the local government may have regard to—
 - (a) the likelihood of the activity causing nuisance, inconvenience or annoyance to the occupiers of adjoining premises or the community;
 - (b) the likely effect of the activity on the amenity of the surrounding area;
 - (c) the likely effect of the activity on the local environment or any environmental harm or nuisance caused or contributed to by the activity;
 - (d) the likely effect of the activity on public health, safety and amenity;

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- (e) the physical suitability of the land for the proposed use;
 - (f) whether any improvements or structures associated with the activity and proposed to be constructed on land, are structurally sound and consistent with surrounding buildings and the environment;
 - (g) whether any other current approvals required to conduct the activity under another law are held; and
 - (h) whether the applicant complies with the provisions of the Local Government Acts that regulate the operation of the permit regulated activity; and
 - (i) whether the activity complies with the assessment criteria ; and
 - (j) whether the activity complies with the minimum standards.
 - (k) any other matters which the local government considers relevant to deciding the application.
- (3) Before the local government decides an application for a permit, an authorised person may—
- (a) inspect any premises², vehicle, equipment, animal, plant or thing to be involved in the operation of the permit regulated activity; and
 - (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected.
- (5) For the purposes of determining whether the matters specified in section 7(2) (Deciding application for a permit) of this local law have been satisfied the local government may have regard to the results of any periodic inspection, testing or monitoring program undertaken in respect of the operation of the permit regulated activity.

8 Term of a permit

- (1) A permit granted by the local government is for a term—
- (a) specified in the permit; or
 - (b) otherwise specified in a subordinate local law.

² Entry to property for the purpose of assessing an application is subject to section 132 of the *Local Government Act 2009*.

- (2) A permit expires at the end of the day specified in section 8(1) (Term of a permit) of this local law.

9 Conditions of a permit

- (1) A permit may be granted by the local government on conditions the local government considers appropriate.
- (2) The conditions of a permit may—
- (a) require the holder of the permit to take specified measures to—
 - (i) prevent harm to human health or safety or personal injury; and
 - (ii) prevent property damage or a loss of amenity; and
 - (iii) prevent environmental harm or environmental nuisance; and
 - (iv) prevent a nuisance; and
 - (v) ensure that there is compliance with the provisions of the Local Government Acts that regulate the undertaking of the permit regulated activity; and
 - (vi) ensure that the permit regulated activity complies with the minimum standards; and
 - (b) require compliance with specified safety requirements; and
 - (c) require the holder of the permit to carry out specified work; and
 - (d) regulate the time within which the permit regulated activity must be carried out; and
 - (e) specify standards with which the permit regulated activity must comply; and
 - (f) require the holder of the permit to give the local government specified indemnities and to take out specified insurance; and

- (g) require the holder of the permit to take out specified insurance indemnifying persons who may suffer personal injury, or loss or damage, as a result of the permit regulated activity; and
 - (h) require the holder of the permit to exhibit specified warning notices and to take other specified precautions; and
 - (i) require the holder of the permit to notify the local government within a period specified in the permit that the holder of the permit is no longer undertaking the permit regulated activity or is undertaking the permit regulated activity other than in accordance with the permit; and
 - (j) require the certification by a person specified by the local government of a vehicle, equipment or thing involved in the permit regulated activity; and
 - (k) require the giving of a security to secure compliance with the permit and the provisions of this local law; and
 - (l) require records to be kept at a place and for a time specified in the permit or a subordinate local law; and
 - (m) require the holder of the permit to prepare, provide, undertake or comply with a periodic inspection, monitoring or management program in respect of the permit regulated activity.
- (3) The local government may specify in a subordinate local law, the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit for a permit regulated activity.

10 Power to change the conditions of a permit

- (1) The local government may change a condition of a permit where³—
- (a) the holder of the permit agrees to the proposed change; or
 - (b) the change is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or

³ A change to the conditions of a permit includes a change by omission, substitution or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).

- (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (c) the change is necessary to ensure that the undertaking of the permit regulated activity complies with the minimum standards.
- (2) If the local government is satisfied it is necessary to change a condition of a permit under section 10(1)(b) or 10(1)(c), the local government must—
 - (a) give the holder of the permit a written notice stating—
 - (i) the proposed change and the reasons for the change; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed change; and
 - (iii) the time (at least 15 business days after the notice is given to the holder of the permit) within which the written representations may be made; and
 - (b) consider any written representation made by the holder of the permit within the time stated in the notice.
- (3) After considering any written representation made by the holder of the permit, the local government must give to the holder of the permit—
 - (a) if the local government is not satisfied the change is necessary – a written notice stating that it has decided not to change the condition; or
 - (b) if the local government is satisfied that the change is necessary – a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the notice was given to the holder of the permit.

11 Amendment, renewal or transfer of a permit

- (1) The holder of a permit may make application to the local government to—
 - (a) amend the permit; or

- (b) renew the permit; or
 - (c) transfer the permit to another person.
- (2) An application to amend, renew or transfer a permit must be—
 - (a) made by the holder of the permit; and
 - (b) made in the prescribed form; and
 - (c) accompanied by the prescribed fee and such other information as is requested by the local government; and
 - (d) accompanied by, in the case of a transfer of the permit, the consent of the person to whom the permit will be transferred.
- (3) The local government may renew or transfer a permit—
 - (a) where the undertaking of the permit regulated activity complies with the conditions of the permit and the provisions of this local law; and
 - (b) subject to such conditions the local government considers appropriate.
- (4) The local government may amend a permit subject to such conditions the local government considers appropriate having regard to the matters specified in section 7(2) (Deciding application for a permit) of this local law.
- (5) Subject to section 11(6) (Amendment, renewal or transfer of a permit) of this local law, if an application to renew a permit is made pursuant to section 11(1)(b) (Amendment, renewal or transfer of a permit) of this local law, the permit is taken to continue in force from the day that it would, apart from this section, have expired until the day the application is decided pursuant to section 11(3) (Amendment, renewal or transfer of a permit) of this local law.
- (6) Section 11(5) (Amendment, renewal or transfer of a permit) of this local law does not apply where a permit has been cancelled pursuant to section 12 (Cancellation of a permit) of this local law.

12 Cancellation or suspension of a permit

- (1) The local government may cancel or suspend a permit where—
 - (a) the holder of the permit agrees to the cancellation or suspension; or

- (b) the cancellation or suspension is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (c) the holder of the permit contravenes—
 - (i) this local law; or
 - (ii) a condition of a permit; or
 - (iii) a requirement of a compliance notice; or
 - (d) the operation of the permit regulated activity does not comply with—
 - (i) the provisions of a Local Government Act that regulate the operation of the permit regulated activity; or
 - (ii) the minimum standards; or
 - (e) the permit was granted on the basis of false, misleading or incomplete information; or
 - (f) changes in circumstances, as specified by a subordinate local law, since the permit was granted make the continued operation of the permit inappropriate.
- (2) If the local government is satisfied it is necessary to cancel or suspend a permit, other than with the agreement of the holder of the permit under section 12(1)(a), the local government must—
- (a) give the holder of the permit a written notice (a show cause notice) stating—
 - (i) the reasons for the proposed cancellation or suspension; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed cancellation or suspension; and

- (iii) the time (at least 15 business days after the notice is given to the holder of the permit) within which written representations may be made; and
 - (b) consider any written representations made by the holder of the permit within the time stated in the notice.
- (3) After considering any written representation made by the holder of the permit the local government must give to the holder of the permit—
 - (a) if the local government is not satisfied that the cancellation or suspension is necessary – a written notice stating it has decided not to cancel the permit; or
 - (b) if the local government is satisfied that the cancellation or suspension is necessary – a written notice stating it has decided to cancel the permit.
- (4) Before the local government cancels or suspends a permit under section 12(3) (Cancellation or suspension of a permit) of this local law, the local government must consider the impact of the cancellation or suspension of the permit on those persons who would be effected by the permit regulated activity ceasing to be operated.
- (5) The cancellation or suspension of the permit takes effect from the day the written notice was given to the holder of the permit.
- (6) Where the local government has cancelled or suspended a permit, the holder of the permit must cease to operate the permit regulated activity.

Maximum penalty for subsection (6)—50 penalty units.

13 General compliance provision

- (1) The holder of a permit must ensure that the conditions of the permit are complied with.

Maximum penalty for subsection (1) –

 - (a) for first offence– 20 penalty units.
 - (b) for second offence in a 2 year period – 30 penalty units.
 - (c) for third or further offences in a 2 year period – 50 penalty units.

- (2) The holder of a permit and any person undertaking a permit regulated activity must ensure that the undertaking of the permit regulated activity—
- (a) does not result in harm to human health or safety or personal injury; and
 - (b) does not result in property damage or a loss of amenity; and
 - (c) does not result in environmental harm or environmental nuisance; and
 - (d) does not result in a nuisance; and
 - (e) complies with the minimum standards.
- Maximum penalty for subsection (2)—
- (f) for first offence in— 20 penalty units.
 - (g) for second offence in a 2 year period – 30 penalty units.
 - (h) for third or further offences in a 2 year period – 50 penalty units.

Part 3 Enforcement

14 Compliance notice

- (1) The local government may give a compliance notice to—
- (a) a person who contravenes any local law; and
 - (b) any person involved in the contravention of any local law pursuant to section 20 (Liability of third parties) of this local law or pursuant to a provision in another local law .
- (2) A compliance notice may require the person to whom it is given to—
- (a) stop the contravention, if the contravention is of a continuing or recurrent nature;
 - (b) perform work or otherwise take specified action to remedy the contravention (including the making of an application for a permit) for or within a time specified in the compliance notice, whether or not the contravention is of a continuing or recurrent nature; or

- (c) perform work or otherwise take specified action for or within a time specified in the compliance notice to ensure compliance with the criteria specified in section 13(2) (General compliance provision) of this local law.
- (3) A person to whom the compliance notice is given must comply with the compliance notice.

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

15 Procedure for immediate suspension of permit

- (1) Despite section 12 (Cancellation or suspension of permit), the local government may immediately suspend a permit if the local government believes that continuation of the permit activity by the permit holder poses—
 - (a) an urgent and serious threat to public health or safety;
 - (b) or 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 permit holder about the decision to immediately suspend the permit, together with a show cause notice about proposed action under section 12 (2) (Cancellation or suspension of permit); 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 permit holder notice under section 12(3) (Cancellation or suspension of permit) of its decision about the show cause notice;
 - (iii) 10 business days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice;

- (iv) 10 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.

16 Inspection of activities

- (1) An authorised person may inspect the undertaking of the permit regulated activity or any activity for which minimum standards have been prescribed under a local law of this subordinate local law and any vehicle, equipment, animal, plant or thing involved in the undertaking of the permit regulated activity or activity to establish whether there is compliance with⁴—
 - (a) the requirements of this local law; and
 - (b) the minimum standards; and
 - (c) the conditions of the permit; and
 - (d) the requirements of a compliance notice; and
- (2) An authorised person may direct the person undertaking the permit regulated activity or activity to produce for inspection⁵—
 - (a) the permit granted by the local government; and
 - (b) any records that are required to be kept as a condition of the permit or as specified in a subordinate local law and may take copies of or extracts from those records; and
 - (c) any vehicle, equipment, plant or thing involved in the undertaking of the permit regulated activity or activity; and
 - (d) any inspection, monitoring or management programs required to be kept as a condition of the permit or as a requirement of the minimum standards or as specified in a subordinate local law.
- (3) An authorised person may measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected pursuant to section 16 (Inspection of activities) of this local law⁶.

⁴ See the powers contained in Chapter 5, Part 2, Division 1 of the Act.

⁵ See the powers contained in Chapter 5, Part 2, Division 1 of the *Local Government Act 2009*.

⁶ See the powers contained in Chapter 5, Part 2, Division 1 of the *Local Government Act 2009*.

- (4) The person who is undertaking the permit regulated activity must comply with—
 - (a) a direction of an authorised person pursuant to section 16(2) (Inspection of a permit regulated activity) of this local law; and
 - (b) the terms of a periodic inspection, monitoring or management program in respect of the undertaking of the prescribed activity specified in a subordinate local law.

Maximum penalty for subsection (4) – 50 penalty units.

17 Performance of work

- (1) A person committing an offence under this local law must make good any damage caused directly or indirectly by the commission of the offence.
- (2) The local government may perform the work where a person has failed to perform the work required to be performed by⁷a compliance notice issued under this local law.
- (3) The local government must dispose of any material of any nature removed by it pursuant to section 17 (Performance of work) of this local law in accordance with section 40 (Confiscated goods), *Local Law No.1 (Administration) 2013*.
- (5) An authorised person may perform the work that the local government is empowered to undertake pursuant to section 17 (Performance of work) of this local law.
- (6) The Court may order a person found guilty of an offence under this local law to—
 - (a) perform work required to be performed by—
 - (i) section 17(1) (Performance of work) of this local law; or
 - (ii) a compliance notice issued under this local law; or
 - (iii) a condition of a permit; or
 - (iv) a provision of this local law; or

⁷ The exercise of this power is subject to Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.

- (b) pay to the local government all costs incurred by the local government in performing the work pursuant to section 17 (Performance of work) of this local law.

18 Power of entry and cost recovery

- (1) If the work to be carried out by the local government under section 17 (Performance of work) is on land of which the local government is not the owner or occupier, the local government may enter the land to perform the work⁸—
 - (a) if the person who has failed to perform the work is the owner or occupier of the land; or
 - (b) if the entry is necessary for the exercise of the local government's jurisdiction.
- (2) If the person who failed to perform the work is the owner of the land, the amount properly and reasonably incurred by the local government to perform the work is recoverable (together with any interest) under Chapter 5, Part 2, Division 2 of the Act.
- (3) If the person who failed to perform the work is not the owner of the land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the person in default together with interest on the same basis as applies to an owner of the land under Chapter 5, Part 2, Division 2 of the Act.

Part 4 Administrative provisions

19 Executive officers must ensure the corporation complies with the local law

- (1) The executive officers of a corporation must ensure the corporation complies with this local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the corporation's executive officers also commit an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

⁸ See the powers contained in Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.

Maximum penalty for subsection (2) – the penalty for the contravention of the relevant provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law or that the corporation has paid a penalty infringement notice issued in relation to a breach of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence – the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) This section applies so as not to limit or affect in any way the liability of a corporation to be proceeded against and punished for an offence committed by the corporation in contravention of this local law.

20 Liability of third parties

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

Maximum penalty for subsection (1) – the penalty for which any person who committed the contravention would be liable.
- (2) For the purposes of section 20(1) (Liability of third parties) of this local law, 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 threats or promises 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 others to effect the contravention; or

- (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

21 Attempts to commit offences

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

Maximum penalty for subsection (1) – 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.

Part 5 Subordinate local laws

22 Subordinate local laws

The local government may make a subordinate local law with respect to -

- (a) the changes in circumstances since a permit was granted that make the continued operation of the permit inappropriate pursuant to section 12(1)(f) (Cancellation or suspension of a permit) of this local law; and

Part 6 Transition, Savings and Repeals

23 Existing Permits

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a permit regulated activity is taken to be a holder of a permit under this local law to operated that activity.

Schedule Dictionary

section 3

approval has the meaning given in *Local Law No. 1 (Administration) 2013*.

assessment criteria means the criteria, if any, specified in a subordinate local law for deciding an application for a permit for the undertaking of a permit regulated activity.

authorised person means a person authorised by the local government pursuant to *Local Law No. 1 (Administration) 2013*.

compliance notice means the written notice given pursuant to section 14 (Compliance notice) of this local law.

corporation means a corporation as defined in the *Corporations Act 2001 (Cth)* and includes an association as defined in the *Associations Incorporation Act 1981*.

court means the court of law which has jurisdiction to deal with offences under this local law.

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

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

executive officer of a corporation means a person who is concerned with, or takes part in, the corporation's management whether or not the person is a director or the person's position is given the name of executive officer.

local government means Ipswich City Council.

Local Government Act has the meaning given to the term Local Government Act in the Act and includes approvals granted pursuant to a Local Government Act.

local government area has the meaning given in the Act.

local law has the meaning in the Act, section 26, and includes a subordinate local law.

nuisance has the meaning given in *Local Law No. 8 (Nuisances and Community Health and Safety) 2013*.

minimum standards means the standards specified in a local law with which the operation of a permit regulated activity or other prescribed activity must comply.

occupier of premises means the person who has the control or management of the premises.

operating a permit regulated activity includes carrying out, providing, performing, undertaking or otherwise engaging in any activity in respect of the permit regulated activity.

owner means the person for the time being entitled to receive the rent for the premises or would be entitled to receive the rent for it if it were let to a tenant at a rent.

perform work includes take action to comply with a Local Government Act and includes work required to be performed pursuant to a compliance notice or a condition of a permit.

permit means a permit which has been granted pursuant to section 7 (Grant of a permit) of this local law which—

- (a) has not expired pursuant to section 8(2) (Term of a permit) of this local law; or
- (b) has not been cancelled pursuant to section 12 (Cancellation of a permit) of this local law.

permit regulated activity means—

- (a) an activity which is prescribed as a permit regulated activity in a local law; or
- (b) an activity which would ordinarily be prohibited by a local law unless authorized by a permit, but for which a local law or subordinate local law prescribes that a permit is not required.

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

prescribed fee means a fee prescribed by the local government.

prescribed form means the form prescribed by the local government.

road means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road in respect of which the chief executive has given written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b) where that act requires such agreement.

Endnotes

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- 3 Key
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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

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 – no amendments

5 List of Legislation

Original Local Law

Local Law No. 4 (Permits) 2013

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Ipswich City Council
Local Law No.4 (Permits) 2013

date of gazettal 5 July 2013

6 List of annotation

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Local Law (Amending) Local Law No. 4 (Permits)
2019

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Local Law (Amending) Local Law No. 4 (Permits) 2019

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 4 (Permits) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 4 (Permits) 2013.

Part 2 Amendment of Local Law No. 4 (Permits) 2013

4 Amendment of s 2 (Objects)

(1) Section 2(a), subsection (ii), ‘; or’ –

omit, insert –

; and

(2) Section 2(a), subsection (iii) –

omit.

5 Amendment of s 3 (Definitions – the Dictionary)

Section 3(2), after ‘this local law’ –

insert –

.

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

6 Amendment of s 4 (Relationship to other laws)

- (1) Section 4(1), subsection (a), 'licensing' –

omit, insert –

regulation

- (2) Section 4(1)(b), subsection (ii), ';;' –

omit, insert –

,

- (3) Section 4(2), 'with all Acts' –

omit, insert –

with any Acts

- (4) Section 4(2), subsection (b), 'Fire and Rescue Service Act 1990' –

omit, insert –

Fire and Emergency Services Act 1990

- (5) Section 4(2), subsection (c), 'Land Protection (Pest and Stock Route Management) Act
2002' –

omit, insert –

Stock Route Management Act 2002

- (6) Section 4(2), subsection (h), 'Sustainable Planning Act 2009' –

omit, insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

Planning Act 2016

- (7) Section 5(2), subsection (q), '. ' –

omit, insert –

; and

- (8) Section 5(2), after subsection (q) –

insert –

(r) Vegetation Management Act 1999; and

(s) Nature Conservation Act 1992; and

(t) Environment Protection and Biodiversity Conservation Act 1999 (Cth).

7 Amendment of s 5 (Relationship with other local laws)

- (1) Section 5, before subsection (1) –

insert –

(1) This local law is to be read with Local Law No. 1 (Administration) 2013.

- (2) Section 5, subsections (1) and (2) –

renumber as subsections (2) and (3), respectively

8 Insertion of new s 5A

After Part 2, heading –

insert –

5A What is a permit regulated activity

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

- (1) A **permit regulated activity** means –
- (a) an activity which is prescribed as a permit regulated activity in a local law or subordinate local law; or
 - (b) an activity which would ordinarily be prohibited by a local law unless authorised by a permit, but for which a local law or subordinate local law prescribes that a permit is not required.

9 Insertion of new s 5B

After new section 5A –

insert –

5B Offence to undertake permit regulated activity without permit

- (1) A person must not carry out a permit regulated activity on premises within the local government area unless authorised by a permit granted under section 7 (Deciding an application for a permit) of this local law, or another local law;

Maximum penalty for subsection (1) – 50 penalty units.

- (2) A person must not, in any manner or by any means indicate that a permit regulated activity which does not comply with this local law or any other relevant local law does comply with the local law.

Maximum penalty for subsection 2 – 50 penalty units.

- (3) Despite section 5B(1) (Offence to undertake permit regulated activity without permit) of this local law, a local law or a

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subordinate local law may specify that a permit is not required in respect of a permit regulated activity (**exempt permit regulated activity**).

10 Insertion of new s 5C

After new section 5B –

insert –

5C Minimum standards for permit regulated activity

- (1) The local government may, by subordinate local law, prescribe minimum standards that must be complied with in carrying out a permit regulated activity.
- (2) The local government may, by subordinate local law, require that a permit regulated activity or an exempt permit regulated activity cannot be carried out unless—
 - (a) minimum standards for the regulated activity prescribed in a subordinate local law are complied with; or
 - (b) if minimum standards cannot be complied with, the written approval of the local government has been obtained.
- (3) If the local government prescribes minimum standards for the conduct of a permit regulated activity or exempt permit regulated activity, a person must not—

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- (a) undertake the permit regulated activity or exempt permit regulated activity (as the case may be) on premises within the local government area unless—
 - (i) the relevant minimum standards are complied with; or
 - (ii) the person has obtained the written approval of the local government under section 5A(2)(b); or
- (b) change the manner of operation of a permit regulated activity on premises within the local government area unless –
 - (i) minimum standards are complied with; or
 - (ii) the person has obtained the written approval of the local government under section 5A(2)(b).

Maximum penalty for subsection (3)—50 penalty units

11 Amendment of s 6 (Application for a permit)

- (1) Section 6(1)(c), subsection (iii) –

omit, insert –
 - (iii) in respect of any separate approval relating to the proposal that is required under another law:
 - (A) proof that the applicant holds any separate approval relating to the proposal; or

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Local Law (Amending) Local Law No. 4 (Permits) 2019

- (B) proof that an application has been made for any separate approval relating to the proposal and advice on the status of that application; or
 - (C) advice on when an application for any separate approval relating to the proposal will be made; and
- (2) Section 6(1)(c), after subsection (iv) –
insert –
 - (v) such other information and materials specified in a subordinate local law.
- (3) Section 6(3), subsection (b), before 'permit' –
insert –
 - a
- (4) Section 6, subsections (4) and (5) –
omit.
- (5) Section 6, subsection (6) –
renumber as subsection (4)

12 Insertion of new s 6A

After section 6 –

insert –

6A Request for further information

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

- (1) The local government may, by written notice, request the applicant to provide further information or clarification of information, documents or materials included in the application.
- (2) The notice under subsection (1) 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 10 business days after the applicant receives the notice, by which the applicant must provide the information.
- (3) If the applicant does not 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.
- (4) However, the local government may extend the period for the applicant to provide the further information.

13 Amendment of s 7 (Deciding an application for a permit)

- (1) Section 7(1), subsection (a), before 'consider' –

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

insert –

subject to section 6(3) of this local law,

(2) Section 7(1), subsection (b) –

omit, insert –

(b) after carrying out assessment of the application:

(i) approve the application;

(ii) approve the application subject to conditions; or

(iii) refuse the application.

(3) Section 7(2), subsection (c), 'environmental harm or' –

omit.

(4) Section 7(2), subsection (g) –

omit, insert –

(g) whether the applicant holds any other approvals required to conduct the activity under another law; and

(5) Section 7(2), subsection (i), 'criteria ;' –

omit, insert –

criteria¹;

(6) Section 7(2), subsection (j), '.' –

¹ See definition of assessment criteria in the Schedule (Dictionary).

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Local Law (Amending) Local Law No. 4 (Permits) 2019

omit, insert –

; and

(7) Section 7, subsection (4), after 'Deciding' –

insert –

an

14 Amendment of s 9 (Conditions of a permit)

Section 9, subsection 2 –

omit, insert –

(2) However, the conditions must—

- (a) be reasonably necessary to ensure that the operation and management of the proposal will be adequate to protect public health, safety and amenity; and
- (b) be consistent with the purpose of any relevant local law or subordinate local law; and
- (c) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the proposal under an Act within 3 days of the relevant approval being suspended or cancelled.

15 Amendment of s 10 (Power to change the conditions of a permit)

(1) Section 10(1), subsection (b), 'urgently' –

omit.

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Local Law (Amending) Local Law No. 4 (Permits) 2019

- (2) Section 10(1)(b), subsection (iii) –

omit.

- (3) Section 10(1)(b), subsection (iv) –

renumber as subsection (iii)

- (4) Section 10, after subsection (1) –

insert –

(1A) Section 10(1) (Power to change the conditions of a permit) of this local law does not limit the power a local government may have apart from this section to amend a condition of a permit.²

- (5) Section 10, subsection (4), after 'permit' –

insert –

or a later day stated in the notice

16 Amendment of s 11 (Amendment, renewal or transfer of a permit)

- (1) Section 11, subsection (1), after 'make' –

insert –

an

- (2) Section 11(1), subsection (a), after 'permit' –

insert –

including the conditions of the permit

² See section 9 of Local Law No. 1 (Administration) 2013.

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

- (3) Section 11(2)(d), after 'transfer of the permit' –

omit, insert –

:

- (i) the written consent of the person to whom the permit will be transferred;
and
- (ii) if the applicant for the transfer or the transferee is not the owner, the written consent of the owner of the premises on which the permit regulated activity is or is to be undertaken.

- (4) Section 11, subsection (4), after 'Deciding' –

insert –

an

- (5) Section 11, subsection (5) –

omit, insert –

- (5) If an application to renew a permit is made to the local government, the permit remains in force until –
 - (a) the application is granted;
 - (b) if the application is refused and the applicant applies for a review under Part 6 of Local Law No. 1 (Administration) 2013 – 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 of Local Law No. 1

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Local Law (Amending) Local Law No. 4 (Permits) 2019

(Administration) 2013 – 14 days after the applicant is given an
information notice.

17 Amendment of s 12 (Cancellation or suspension of a permit)

- (1) Section 12(1), subsection (b), 'urgently' –

omit.
- (2) Section 12(1)(b), subsection (iii) –

omit.
- (3) Section 12(1)(b), subsection (iv) –

renumber as subsection (iii)
- (4) Section 12(1), subsection (f), '.' –

omit, insert –

; or
- (5) Section 12(1), after subsection (f) –

insert –

(g) another permit or approval required to undertake the activity under
another law has been suspended or cancelled.
- (6) Section 12(2), subsection (a), before 'give the holder' –

insert –

before taking the proposed action,
- (7) Section 12(2)(a), subsection (i) –

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Local Law (Amending) Local Law No. 4 (Permits) 2019

omit, insert –

- (i) the proposed action and the reasons for the proposed action; and

- (8) Section 12(2)(a), after subsection (i) –

insert –

- (ii) if the local government proposes to suspend the permit – the proposed period of suspension;

- (9) Section 12(2)(a), subsection (ii) and (iii) –

renumber as subsections (iii) and (iv), respectively.

- (10) Section 12(3), subsection (b), after 'cancel' –

insert –

or suspend

- (11) Section 12, subsection (4), 'effected' –

omit, insert –

affected

- (12) Section 12, subsection (6), after 'permit regulated activity' –

insert –

from the date the cancellation or suspension takes effect under subsection (5)

18 Insertion of new s 12A

After section 12 –

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

insert –

12A Procedure for immediate suspension of a permit

- (1) Despite section 12 (Cancellation or suspension of a permit), the local government may immediately suspend a permit if the local government believes that continuation of the activity by the permit holder poses—
- (a) an urgent and serious threat to public health or safety; or
 - (b) an urgent and serious risk of property damage or loss of amenity.
- (2) The suspension—
- (a) can be effected only by the local government giving a notice to the permit holder about the decision to immediately suspend the permit, together with a notice about proposed action under section 12(2); and
 - (b) operates immediately the notices are given to the permit 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 permit holder notice under section 12(3) of its decision after it has considered all submissions made within the stated time;

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Local Law (Amending) Local Law No. 4 (Permits) 2019

- (iii) 10 business days have passed since the expiry of the stated time for the making of written submissions;
- (iv) 10 business days have passed since the permit holder notifies the local government that it has made its final written submissions.

19 Amendment of s 13 (General compliance provision)

- (1) Section 13, subsection (2), 'undertaking a permit regulated activity' –
omit, insert –

acting under the permit
- (2) Section 13(2), subsection (c) –

omit.
- (3) Section 13(2), subsections (d) and (e) –

renumber as subsections (c) and (d), respectively
- (4) Section 13(2), subsections (f) to (h) –

renumber as subsections (i) to (iii), respectively

20 Amendment of s 14 (Compliance notice)

- (1) Section 14, subsection (1) –

omit, insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

The local government may give a compliance notice to a person in relation to a contravention of this local law.³

- (2) Section 14, subsection (2) –

omit.

- (3) Section 14, subsection (3) –

renumber as subsection (2)

- (4) Section 14, subsection (3), 'subsection (3)' –

omit, insert –

subsection (2)

21 Omission of s 15 (Procedure for immediate suspension of licence)

Section 15 –

omit.

22 Amendment of s 16 (Inspection of activities)

- (1) Section 16, subsection (1), 'the permit regulated activity' –

omit, insert –

a permit regulated activity

- (2) Section 16, subsection (1), 'any activity for which minimum standards have been prescribed under a local law of this subordinate local law' –

omit, insert –

³ See section 30 of Local Law No. 1 (Administration) 2013.

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Local Law (Amending) Local Law No. 4 (Permits) 2019

an exempt permit regulated activity

- (3) Section 16(2), subsection (b), after 'condition of the permit' –

insert –

, or as a requirement of the minimum standards

- (4) Section 16(2), subsection (c), after 'equipment,' –

insert –

animal,

- (5) Section 16(4), subsection (a), '(Inspection of a permit regulated activity)' –

omit, insert –

(Inspection of activities)

23 Amendment of s 17 (Performance of work)

- (1) Section 17, subsection (1), 'committing' –

omit, insert –

who commits

- (2) Section 17, subsection (1), after 'the offence' –

insert –

, including by repairing the damage or restoring any damaged structure, object
or thing to its original standard

- (2) Section 17, subsection (2), after 'may perform the work' –

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Local Law (Amending) Local Law No. 4 (Permits) 2019

insert footnote –

See section 31 of Local Law No. 1 (Administration) 2013.

- (3) Section 17, subsection (2), after 'performed by' –

omit, insert –

:

- (a) section 17(1) (Performance of work) of this local law; or
- (b) a compliance notice issued under this local law.

- (3) Section 17, subsections (3) and (5) –

omit.

- (4) Section 17, subsection (6) –

renumber as subsection (3)

24 Amendment of s 18 (Power of entry and cost recovery)

Section 18, subsection (2) and (3) –

omit, insert –

- (2) The local government may recover the cost of action taken under this section as a debt from the person responsible for the activity.

25 Insertion of new s 19A

After section 19 –

insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 4 (Permits) 2019

19A Owners and occupier must ensure compliance with the local law

- (1) The owner and occupier of premises must ensure that a person who is undertaking a permit regulated activity on the premises complies with this local law.
- (2) If a person who is undertaking a permit regulated activity on the premises commits an offence against a provision of this local law, the owner and the occupier of the premises also commit an offence, namely, the offence of failing to ensure that the person who is undertaking the permit regulated activity on the premises complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision.

- (3) Evidence that the person who is undertaking the permit regulated activity on the premises has been convicted of an offence against a provision of this local law or has paid a penalty infringement notice is evidence that the owner and the occupier of the premises committed the offence of failing to ensure that the person who is undertaking the permit regulated activity on the premises complied with the provision.
- (4) However it is a defence for an owner or occupier to prove that—
- (a) the owner or occupier exercised reasonable diligence to ensure that the person undertaking the permit regulated activity on the premises complied with the provision; or
 - (b) the non compliance with a provision of this local law occurred without that person's knowledge or consent.

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26 Insertion of new s 21A

After section 21 –

insert –

21A Defence

It is a defence to any breach of or non-compliance with a provision contained in this local law if a person has a lawful excuse or defence.

Example—

It is a defence to any breach or non-compliance of any provision contained in a local law if a person was not criminally responsible in accordance with Chapter 5 (Criminal Responsibility) of the Criminal Code.

27 Amendment of s 22 (Subordinate local laws)

Section 22, subsection (a) –

omit, insert –

- (a) the assessment criteria for deciding an application for a permit for the operation of a permit regulated activity pursuant to the Schedule (Dictionary) of this local law; and
- (b) an activity as a permit regulated activity pursuant to the Schedule (Dictionary) of this local law; and
- (c) the minimum standards with which the undertaking of a permit regulated activity must comply pursuant to the Schedule (Dictionary) of this local law; and

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- (d) any minimum standards for the purposes of section 5A (Minimum standards for permit regulated activity) of this local law; and
- (e) a permit regulated activity in respect of the operation of which a person is not required to hold a licence pursuant to section 5B(3) (Offence to undertake permit regulated activity without permit) of this local law; and
- (f) the information that must accompany an application for a permit pursuant to section 6(1)(c)(v) (Application for a permit) of this local law; and
- (g) the circumstances in which the local government may waive the requirements of section 6 (Application for a licence) of this local law pursuant to section 6(6)(c) (Application for a licence) of this local law; and
- (h) the term of a permit pursuant to section 8(1) (Term of a permit) of this local law; and
- (i) the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit pursuant to section 9(3) (Conditions of a permit) of this local law; and
- (j) the changes in circumstances since a permit was granted that make the continued operation of the permit inappropriate pursuant to section 12(1)(f) (Cancellation or suspension of a permit) of this local law; and
- (k) the records that are required to be kept pursuant to section 16(2)(b) (Inspection of activities) of this local law; and

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- (l) the terms of a periodic inspection, monitoring or management program in respect of the operation of a licence regulated activity pursuant to section 16(2)(d) or (4)(b) (Inspection of activities) of this local law.

28 Amendment of s 23 (Existing permits)

- (1) Section 23, 'operate an activity' –

omit, insert –

undertake an activity

- (2) Section 23, 'operated' –

omit, insert –

undertake

29 Amendment of sch 1 (Dictionary)

- (1) Schedule 1 –

insert –

the Act means the Local Government Act 2009

- (2) Schedule 1, definition environmental harm –

omit.

- (3) Schedule 1, definition environmental nuisance –

omit.

- (4) Schedule 1, definition minimum standards, before 'local law' –

insert –

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subordinate

- (5) Schedule, definition permit, subsection (b), after 'Cancellation' –

insert –

or suspension

- (6) Schedule, definition permit regulated activity –

omit, insert –

permit regulated activity see section 5A

- (7) Schedule 1, definition premises –

omit, insert –

premises see the Planning Act 2016, schedule 2

Doc ID No: A5570318

ITEM: 5

SUBJECT: PARKING - LOCAL LAW (AMENDING) LOCAL LAW NO.5 (PARKING) 2019 AND
SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.5.1
(PARKING) 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 29 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.5 (Parking) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. **That Council propose to make Local Law (Amending) Local Law No.5 (Parking) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 29 June 2019.**
- B. **That it be noted that a review of the proposed *Local Law (Amending) Local Law No.5 (Parking) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019* has been undertaken and no anti-competitive provisions have been identified.**
- C. **That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.5 (Parking) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019, as detailed in Clause A above.**

- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.5 (Parking) 2019*, in accordance with section 29A of the *Local Government Act 2009*.**
- E. That, following public consultations and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council’s *Local Law Making Process Policy*.**

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy “Local Law Making Process” which is available on Council’s website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council’s Business Transformation Program a review of Council’s existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren’t included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.

- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).
- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - o Advertisement in Queensland Times
 - o Ipswich First articles
 - o Dedicated web page on Council's website
 - o Ability to lodge submissions online, via email and post
 - o Social media postings promoting the review and how to make a submission
 - o Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all	17/07/19	7/08/19	Ready to

proposed local laws for a minimum of 21 days (see policy for requirements)			commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No.5 (Parking) 2013* and *Subordinate Local Law No.5.1 (Parking) 2013 (Attachment 1 and 2)* whose objective is:

- a) to provide for safe, efficient and equitable parking regulation in traffic areas, on roads and in off-street regulated parking areas in the local government area in accordance with Chapter 5, Part 6 of the TORUM Act including -
 - a. establishing and regulating parking in traffic areas, on roads and in off-street regulated parking areas; and
 - b. fixing parking fees and regulating paid parking; and
 - c. regulating the issuing and use of parking permits¹; and
 - d. imposing temporary parking prohibitions and restrictions.
- b) to provide for the regulation of parking and storage of heavy vehicles in residential areas

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.5 (Parking) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019 (Attachment 3 and 4)*. It is noted that there have been no anti-competitive provisions identified in the amended law.

A review has been conducted and drafting undertaken to:

- a. correct typographical errors and inconsistencies and provide an improved layout and formatting to the laws;

- b. more rigour and detailed criteria for parking permits and when they can/cant be granted;
- c. increase the scope of heavy vehicle parking as a permit regulated activity to now include rural areas (in addition to the status quo of residential areas) – this has been amended in the Local Law. Rural areas are defined as those rural zones under Council’s planning scheme;
- d. Key amendments, primarily in the amended subordinate local law, as listed in the table below.
- e.

Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019

Related Section	What is changing	Why is it changing	Enforcement expectations
Rationalisation Section 9 - parking permits issued by Council	<p>Permits that currently exist that will no longer exist under the proposed laws –</p> <ul style="list-style-type: none"> Media parking permits; Community group or charitable activities for general parking across the City; and Councillor parking permits. <p>Proposed permits will be: All proposed permits currently exist however they will have more rigour and transparency about when permits can be issued</p> <ul style="list-style-type: none"> A contractor or worker undertaking work on adjoining site. This is a Works Zone Permit – where tools of the trade are required to be near the site for a specific date/time. (Note: work zone permits will not be granted where the site is also subject to a road closure permit – any parking should be included in the road closure permit) A local government employee or contractor carrying out local 	<p>Under the current laws permits have been issued to many and varied applicants where a perceived imbalance has occurred creating inequitable parking, particularly in the Ipswich CBD. That is, more permits resulting in longer term parking in sought after parking locations and less turnover of vehicles to assist businesses and customers in the area. The city is going through a cultural change through its growth from a country town to a major City in South East Queensland and the proposed permits are in line with other Councils in SEQ. The permits that will cease to exist have been a legacy of previous amalgamated Councils (Moreton and Ipswich) and a contemporary and balanced approach is needed.</p>	<p>Administrative process change but education and promotion needed. Normal parking patrols and complaint processes will continue.</p>

	<p>government related activities (Note: the mere fact that a person is an employee is not sufficient for a permit to be granted. Examples of this permit include contractors who maintain Council's parking metres; undertake maintenance of Council assets etc, and if a Council employee it must be a registered fleet vehicle)</p> <ul style="list-style-type: none"> • A person who resides in a residence (within a regulated parking area) of which the permit is granted or a visitor to the premises (note that conditions and criteria apply to the granting of this permit and how many permits may be issued for one address) 		
Insertion of New Declared Traffic Area Maps	<p>Council currently has a declared traffic area for the Central Business District of Ipswich.</p> <p>The proposed laws have added the below traffic areas (as defined by the included maps)</p> <ul style="list-style-type: none"> • Springfield Traffic Area • Willowbank Traffic Area A & B 	<p>Declared Traffic Areas enable Councils to declare an area as a regulated parking area or traffic area with signage on the boundaries to such areas, for example, in Brisbane there are many including New Farm/Teneriffe; West End; Sunnybank along with traffic areas for Lang Park; The Gabba; St Lucia University of Qld.</p> <p>The addition of Springfield was identified as a growth area in iGO Transport Strategy and its inclusion in the law does not mean that there will be any immediate change to</p>	<p>There will be no immediate changes relating to the Springfield declared traffic area. Any implementation in the coming years will need to go through a community awareness process.</p> <p>Likewise, the Willowbank Traffic Areas implementation will be scoped out with engagement to occur between Council, event organisers and local residents.</p>

		<p>regulated parking hours or enforcement. The inclusion allows for future scoping to best manage the growth of traffic in that area.</p> <p>The Willowbank Traffic Area A & B is also allowing Council to manage the traffic when major events occur to assist with traffic flow & safety; and to ensure any potential impact on residents in the area is reduced.</p>	
Insertion of new Off Street regulated parking areas	<p>Council currently has the below off street regulated parking areas defined:</p> <ul style="list-style-type: none"> • Foote Lane car park • Rodertick Street Council car park • Car park behind RSL building • Civic Hall car park • Eastern West Street car park • Western West Street car park • Laneway between Ipswich City Council Library and Administration Building • Ipswich Visitors Centre car park • Robelle Domain car park • Denmark Hill car park • Bob Gamble car park <p>The proposed laws have added the below as additional off street regulated parking areas:</p> <ul style="list-style-type: none"> • Marsden Parade car park • Robelle Domain and Lagoon • Queens park • Olga Street car park 	<p>The inclusion of the majority of new off street regulated areas is a result of community feedback where Council has received complaints about parking in these areas – primarily dangerous parking (eg parking in spots that aren't defined parks meaning its dangerous to remove vehicles without damaging vehicles; and parking on grassed areas that could be damaging underground utilities or making it dangerous to exit the site into traffic). Council has not had the power to take enforcement action. With these areas added Council's approach would be education and awareness before any fines would be issued. The Rosewood Library has been added now in</p>	<p>Awareness campaign to be rolled out with signage on site and any with any relevant user groups.</p> <p>Enforcement would be on complaint or if witnessed by an Authorised Officer.</p>

	<ul style="list-style-type: none">• Limestone Park – Salisbury Road car park• Rosewood Library	preparation for its completion and opening.	
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FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation and enforcement costs will be minimal for these amendments as they are administrative in nature, however there will be some promotional and signage expenditure required for immediate and longer term roll out of off street parking areas and declared traffic areas.

RISK MANAGEMENT IMPLICATIONS

Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedules require amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)

COMMUNITY AND OTHER CONSULTATION





Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee

Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Amending Local Law No.5 (Parking) 2019 and Amending Subordinate Local Law No.5.1 (Parking) 2019*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.5 (Parking) 2013 ↓ 
2.	Subordinate Local Law No.5.1 (Parking) 2013 ↓ 
3.	Local Law (Amending) Local Law No.5 (Parking) 2019 ↓ 
4.	Subordinate Local Law (Amending) Subordinate Local Law No.5.1 (Parking) 2019 ↓ 

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

Ipswich

City Council

*Local Law No. 5
(Parking) 2013*

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Ipswich City Council
Local Law No. 5 (Parking) 2013

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Ipswich City Council
Local Law No. 5 (Parking) 2013

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 5 (Parking) 2013*.

1A Commencement

This local law commences on 1 August 2013

2 Object

The object of this local law is—

- (a) to provide for safe, efficient and equitable parking regulation in traffic areas, on roads and in off-street regulated parking areas in the local government area in accordance with Chapter 5, Part 6 of the TORUM Act including -
 - (i) establishing and regulating parking in traffic areas, on roads and in off-street regulated parking areas; and
 - (ii) fixing parking fees and regulating paid parking; and
 - (iii) regulating the issuing and use of parking permits¹; and
 - (iv) imposing temporary parking prohibitions and restrictions.
- (b) to provide for the regulation of parking and storage of heavy vehicles in residential areas.

3 Definitions - the dictionary

- (1) The dictionary in the Schedule (Dictionary) defines particular words used in this local law.
- (2) The dictionaries in *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

4 Application of this local law

This local law does not apply to a State-controlled road unless the chief executive of the department which administers the TORUM Act has given written approval.²

¹ See section 101(1)(b) *TORUM Act*.

² The *TORUM Act* is the primary legislation dealing with road use and the regulation of parking in Queensland. It gives local governments the power to regulate parking in their local government areas

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Ipswich City Council
Local Law No. 5 (Parking) 2013

5 Relationship with other laws

This local law is -

- (a) made pursuant to the TORUM Act in the case of regulation of parking³;
- (b) in addition to, and intended to complement Chapter 5, Part 6 of the TORUM Act; and
- (c) to be read with Local Law No. 1 (Administration) 2013 and Local Law No. 4 (Permits) 2013

Part 2 Parking contrary to parking restriction

6 Issue of a permit

- (1) The local government may grant a permit for a permit regulated activity authorising a person to park—
 - (a) in a designated parking space where parking is restricted to permit parking; or
 - (b) in a traffic area, on a road or in an off-street regulated parking area contrary to an indication given by an official traffic sign regulating parking by time or payment of fee.
- (2) The local government may prescribe, by subordinate local law, persons who may be issued with a permit.

7 Types of permits ⁴

A vehicle may be parked contrary to an indication on an official traffic sign regulating parking by time or payment of fee, if the vehicle displays—

- (a) a parking permit for people with disabilities⁵ valid for the time and place at which the vehicle is parked; or

³ The TORUM Act is the primary legislation dealing with road use and the regulation of parking in Queensland. It gives local governments the power to regulate parking in their local government areas

⁴ See the TORUM Act, section 103(4).

⁵ Parking permits for people with disabilities are not issued by the local government under this local law. They are issued under section 111 of the TORUM Act by the Chief Executive of the State Government department administering that Act. The State government has adopted the Australian Disability Parking Permit scheme. Sections 203 and 205 of the TORUM Act are relevant to the use disability parking permits.

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Ipswich City Council
Local Law No. 5 (Parking) 2013

- (b) a permit issued under section 6 (Issue of a permit) of this local law.

8 Commercial vehicle identification labels⁶

- (1) The local government may issue a commercial vehicle identification label.
- (2) A vehicle displaying a current commercial vehicle identification label may be lawfully parked in a loading zone.⁷
- (3) The local government may prescribe, by subordinate local law, vehicles which may be issued with a commercial vehicle identification label.⁸

Part 3 Parking areas

9 Declaration of traffic areas

- (1) The local government may by subordinate local law, declare the whole or a part of its area to be a traffic area.⁹
- (2) The boundaries of a traffic area must be defined in a subordinate local law.

10 Off-street regulated parking areas

The local government may by subordinate local law specify an area of land owned or controlled¹⁰ by the local government, including structures on the land, as an off-street regulated parking area.¹¹

Example:

A local government might under an arrangement with the owner of a shopping centre, specify a public parking area at the shopping centre as an off-street regulated parking area and regulate parking in the area under this local law.

11 Temporary parking restrictions

- (1) The local government may temporarily prohibit or restrict parking on a road where the local government is satisfied that:
- (a) a temporary prohibition or restriction on parking is necessary because

⁶ See the *TORUM Act*, section 103(5).

⁷ See also *Transport Operations (Road Use Management-Road Rules) Regulation 2009*, section 179, relating to drivers who are permitted to stop in a loading zone.

⁸ The *TORUM Act* already defines certain vehicles designed for the carriage of goods as commercial vehicles – see schedule 4, definition, commercial vehicle.

⁹ See the *TORUM Act*, sections 102(3)(a) and 102(2)(b).

¹⁰ See the *TORUM Act*, section 104(2).

¹¹ See the *TORUM Act*, sections 104(1)(b) and 101(1)(c).

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Ipswich City Council
Local Law No. 5 (Parking) 2013

of a particular event; or

- (b) conditions temporarily applying in a particular part of the local government area warrant the prohibition or restriction.

Examples of subsection (1)—

- The local government may temporarily prohibit parking on a particular part of a road if building work that is being carried out on, or adjacent to, the road makes it impracticable to use the relevant part of the road for parking.
- The local government may temporarily prohibit parking on a particular part of a road if the road is to be closed to traffic for the purpose of a festival or public assembly.

- (2) Notwithstanding section 11(1) (Temporary parking restrictions) of this local law, the local government cannot regulate parking on a State-controlled road without the written agreement of the chief executive of the department which administers Chapter 6 (Road Transport Infrastructure) of the *Transport Infrastructure Act 1994*.
- (3) A temporary prohibition or restriction on parking imposed under section 11(1) (Temporary parking restrictions) of this local law takes effect when the local government installs the appropriate official traffic sign indicating the prohibition or restriction and ceases to take effect on removal of the sign by the local government.

Part 4 Heavy vehicle Parking

12 Parking or storage of heavy vehicles in residential areas

- (1) The parking or storage of heavy vehicles in residential areas is a permit regulated activity and a person must not park or store a heavy vehicle or allow a heavy vehicle to be parked or stored in a residential area unless authorised by a permit¹².

Maximum penalty for subsection (1) –

- (a) for first offence – 20 penalty units.
- (b) for second offence within a 2 year period – 30 penalty units.
- (c) for third or further offences within a 2 year period – 50 penalty units.
- (2) For the purposes of this section —

¹² See *Local Law No. 4 (Permits) 2013* as application for and issue of permits.

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Ipswich City Council
Local Law No. 5 (Parking) 2013

parking or storing a heavy vehicle means the parking or storage of a heavy vehicle for a period longer than is necessary for the loading and unloading of the heavy vehicle in a residential area including on premises in a residential area; but does not include—

- (a) the parking of a heavy vehicle owned or used by the local government on land owned or occupied by the local government; and
- (b) the parking of a heavy vehicle that is—
 - (i) an emergency vehicle; or
 - (ii) involved in a public utility undertaking for the period during which the vehicle is being used to carry out the undertaking ;
or
 - (iii) of a class specified in a subordinate local law.

Part 5 Offences

13 Parking infringement notice penalties¹³

The local government may, by subordinate local law, prescribe an amount as the infringement notice penalty for a minor traffic offence committed in the local government's area.¹⁴

14 Defence

It is a defence to any breach or non-compliance of any provision contained in this local law if a person has a lawful excuse or defence.

Example—

- It is a defence to any breach or non-compliance of any provision contained in this local law if a person was not criminally responsible in accordance with Chapter 5 (Criminal Responsibility) of the *Criminal Code*.
- Section 165 (Stopping in an emergency etc. or to comply with another provision) of the *Transport Operations (Road Use Management-Road Rules) Regulation 2009* details a number of circumstances that are a defence to prosecution for an offence against a provision of Part 12 (Restriction on stopping and parking) of the *Transport Operations (Road Use Management-Road Rules) Regulation 2009*.

¹³ Section 13 (Parking infringement notice penalties) of this local law does not create an offence. The offences, and the relevant legislation which create them, are specified in *Subordinate Local Law No. 5.1 (Parking) 2013*.

¹⁴ See section 108(1) (Local laws about minor traffic offences) of the *TORUM Act*.

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- Part 19 (Exemptions) of the *Transport Operations (Road Use Management-Road Rules) Regulation 2009* details a number exemptions whereby certain provisions of the *Transport Operations (Road Use Management-Road Rules) Regulation 2009* do not apply.

Part 6 Miscellaneous

15 Subordinate local laws

- (1) The local government may make a subordinate local law with respect to-
 - (a) traffic areas pursuant to section 9 (Declaration of traffic areas) of this local law; and
 - (b) off-street regulated parking area pursuant to section 10 (Declaration of off-street regulated parking areas) of this local law;
 - (c) persons who may be issued with a parking permit to park contrary to an indication on a traffic sign pursuant to section 7 (Types of permits) of this local law; and
 - (d) vehicles which may be issued with a commercial vehicle identification label pursuant to section 8 (Commercial vehicle identification labels) of this local law); and
 - (e) infringement notice penalty amounts which apply for minor traffic offences pursuant to section 12 (Parking infringement notice penalties) of this local law.

Part 7 Transition, Savings and Repeals

16 Repeals

The following Local Laws are repealed —

- Local Law No. 6 (Heavy and Other Vehicle Parking) 2004, gazetted 27 February 2004
- Local Law No. 27 (Regulated Parking) 1997, gazetted 9 January 1998

17 Existing Permits

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a permit regulated activity under this local law is taken to be a holder of a permit under this local law and *Local Law No. 4 (Permits) 2013* to operated that activity.

Schedule Dictionary

Section 3

adjunct vehicle means any of the following—

- (a) any trailer designed or adapted for the carriage of goods with a carrying capacity in excess of two (2) tonnes tare including the trailer of an articulated vehicle;
- (b) any trailer designed or adapted for earthmoving or road making purposes, including a vehicle or equipment designed or adapted for excavating materials or equipment such as rollers, compressors or the like designed or adapted to be drawn behind a heavy vehicle;
- (c) any trailer containing a refrigeration unit;
- (d) any earthmoving equipment or vehicle which is capable of being transported on the tray of a heavy vehicle;
- (e) any other trailer or equipment which is consistent with those trailers or equipment listed above.

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

declared road has the same meaning as in the TORUM Act

emergency vehicle means—

- (a) an ambulance; or
- (b) a fire appliance or other vehicle necessary to attend a fire or chemical incident or a vehicle used for building inspections and community education; or
- (c) a police vehicle; or
- (d) a State Emergency Service vehicle; or
- (e) such other vehicle as is specified in a subordinate local law.

heavy vehicle means any of the following—

- (a) a vehicle or combination of vehicles (including an adjunct vehicle) that has a gross vehicle mass (GVM) of more than 4.5 tonnes, or has a total length of in excess of 7.5 metres;
- (b) a trailer or semi-trailer standing alone which has a GVM of 3 or more tonnes or has a length exceeding 5 metres;

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- (c) any vehicle of whatever size equipped to carry, by whatever means, a motor vehicle;
- (d) a tractor;
- (e) any vessel whose length exceeds nine (9) metres;
- (f) any other vehicle or equipment which is consistent with those vehicle listed above.

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

local law has the meaning in the Act, section 26, and includes a subordinate local law.

the local government means Ipswich City Council.

local government area has the meaning in the Act.

official traffic sign see TORUM Act, schedule 4.

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

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

parking permit for people with disabilities means—

- (a) a parking permit for people with disabilities issued under the TORUM Act; or
- (b) an Australian Disability Parking Permit under a corresponding provision of the law of another State or Territory.

permit for a permit regulated activity means a permit which has been granted pursuant to section 7 (Grant of a permit) of *Local Law No. 4 (Permits) 2013* and this local law —

- (a) which has not expired pursuant to section 8(2) (Term of a permit) of *Local Law No. 4 (Permits) 2013* and this local law; and
- (b) which has not been cancelled pursuant to section 12 (Cancellation of a permit) of *Local Law No. 4 (Permits) 2013*; and
- (c) includes a parking permit.

permit regulated activity means—

- (a) an activity which is specified as a permit regulated activity in this local law;
- (b) an activity which would ordinarily be prohibited by this local law or subordinate

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local law unless authorised by a permit;

- (d) parking contrary to a an official traffic sign regulating parking by time or payment of fee or contrary to the provisions of this local law or its subordinate local law; or
- (e) parking in a designated parking space where parking is restricted to holders of a permit for such parking.

public utility undertaking means the provision of services to the public such as—

- (a) water, hydraulic power, electricity, gas; or
- (b) sewerage or drainage; or
- (c) telecommunications to the public.

residential area includes areas comprising predominantly residential development and land (other than *roads*), that is situated in one or more of the following zones or other similar designation under a *Structure Plan* under the Planning Scheme—

- (a) within the Urban Areas Locality—
 - (i) Large Lot Residential Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Character Areas - Housing Zone;
 - (v) Future Urban Zone;
 - (vi) Character Areas - Mixed Use Zone;
 - (vii) Business Incubator Zone;
 - (viii) Bundamba Racecourse Stables Area Zone;
 - (ix) Special Uses Zone;
 - (x) Special Opportunity Zone;
- (b) within the Rosewood Locality—
 - (i) Character Areas - Housing Zone;
 - (ii) Residential Low Density Zone;

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Local Law No. 5 (Parking) 2013

- (iii) Residential Medium Density Zone;
- (iv) Urban Investigation Zone;
- (iv) Special Uses Zone;
- (c) within the City Centre Locality—
 - (i) Residential High Density Zone;
- (d) within the Township Locality—
 - (i) Township Residential Zone;
 - (ii) Township Character Housing Zone;
 - (iii) Township Character Mixed Use Zone;
 - (iv) Stables Residential Zone;
 - (v) Special Uses Zone.
- (e) within the Springfield Structure Plan—
 - (i) Community Residential Designation.
- (f) within the Rural Locality—
 - (i) Rural Living Zone.

and includes land approved for residential development pursuant to a development approval, including a development which is recorded on the Planning Scheme pursuant to section 3.5.27 *Integrated Planning Act* 1997 or section 391 of the *Sustainable Planning Act* 2009.

road means —

- (a) a road as defined in the Act, section 59; and
- (b) a declared road in respect of which the chief executive has given written agreement under the TORUM Act section 101(b).

State-controlled road means a State-controlled road under the Transport Infrastructure Act 1994.

the Act means the Local Government Act 2009.

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

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traffic area see TORUM Act, schedule 4.

Endnotes

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- 5 List of legislation
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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

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 – no amendments

5 List of legislation

Original Local Law
Local Law No.5 (Parking) 2013
date of gazettal 5 July 2013

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6 List of annotations

Ipswich

City Council

Subordinate Local Law 5.1 (Parking) 2013

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Subordinate Local Law 5.1 (Parking) 2013

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Subordinate Local Law 5.1 (Parking) 2013

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law No. 5.1 (Parking) 2013.

2 Authorising local law

This subordinate local law is made pursuant to *Local Law No.5 (Parking) 2013*.

3 Object

The object of this subordinate local law is to assist with the implementation of *Local Law No.5 (Parking) 2013* by specifying those matters that are necessary for the implementation of a regulated parking system in the local government's area

4 Definitions — the dictionary

The dictionary in Schedule 1 (Dictionary) of this subordinate local law defines particular words used in this subordinate local law.

Part 2 Permits

5 Information required for permit application

For the purposes of section 6(1)(c)(v) (Application for a permit) of *Local Law No. 4 (Permits) 2013* an application for a permit to the local government of type specified in column 1 of schedule 2 must be accompanied by the information, material and documents prescribed in column 2 of schedule 2.

6 Conditions of permit

For the purposes of section 9(3) (Conditions of licence) of *Local Law No. 4 (Permits) 2013*, the conditions set out in column 3 of schedule 2 which relate to the permit types specified in column 1 of schedule 2 will apply to any permit granted by the local government unless otherwise specified in the permit document.

7 Parking permits issued by local government

For the purposes of section 7(2) (Types of permits) of the authorising local law, the following persons may be issued a permit for a permit regulated activity —

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Subordinate Local Law 5.1 (Parking) 2013

- (a) persons who are a member of the media for the purpose of conducting their business; and
- (b) a contractor or worker undertaking work on an adjoining site; and
- (c) a local government employee or contractor for carrying out local government related activities; and
- (d) a person who resides in the street or immediate vicinity of the place for which the permit is granted or is a visitor to the premises; and
- (e) Councillors of the Ipswich City Council; and
- (f) such other persons who are conducting community or charitable activities or are part of an official delegation to the local government or are conducting activities on behalf of the local government.

Example of paragraph (f)—

- Officials from another city or country who are part of an official delegation to the local government.
- Persons who are members of, or working for or on behalf of, a charity or community organisation such as the Red Cross or the Country Women's Association.
- Members of a local government committee or working group.

8 Commercial vehicle identification labels

For the purposes of section 8(3) (Commercial vehicle identification labels) of the authorising local law, the vehicles that may be issued with a commercial vehicle identification label are vehicles used for commercial purposes and reasonably required to use a loading zone for the loading or unloading of goods despite the nature of the vehicle by design, size or classification.

Part 3 Declaration of parking areas for the TORUM Act

9 Declaration of traffic areas

For the purposes of section 9(1) (Declaration of traffic areas) of the authorising local law, each part of the local government area outlined in the map in schedule 3 is declared to be a traffic area.

10 Off-street regulated parking areas

For the purposes of section 10 (Off-street regulated parking areas) of the authorising local law each area of land listed in schedule 5 is specified to be an off street regulated parking area.

Part 4 Minor traffic offence infringement notice penalties

11 Infringement notice penalty amounts

For section 13(1) (Parking Infringement notice penalties) of the authorising local law, the infringement notice penalty amount for an offence mentioned in column 1 of schedule 5 is the corresponding amount stated in column 2 of schedule 5.

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Subordinate Local Law 5.1 (Parking) 2013

Schedule 1 Dictionary

section 4

penalty unit has the same meaning as in the *Penalty and Sentences Act 1992*

Schedule 2 Information and permit conditions

sections 5 and 6

Column 1 Permit Type	Column 2 Information required	Column 3 Standard Conditions
Media Parking permit (section 7 (a))		<p>The driver of the vehicle displaying this permit may park in Council controlled regulated parking bays (including metered parking bays), parking areas and loading zones on roads within Ipswich contrary to time restrictions and payment of fees subject to the following conditions—</p> <p>(a) The permit must be displayed prominently on the dashboard of the vehicle with all details of the permit visible.</p> <p>(b) The vehicle must be easily identified as a media vehicle.</p> <p>(c) The driver or occupants must be engaged in news information gathering duties near the parking location.</p> <p>(d) The vehicle cannot remain parked for longer than is reasonable in the circumstances.</p> <p>(e) The vehicle must be immediately removed from the parking space if requested by an authorised person or a Police Officer.</p> <p>(f) The permit does not apply to No Stopping, No Parking, Clearway or other locations where parking is prohibited under the <i>Transport Operations (Road Use Management – Road Rules) Regulation 1999</i>.</p> <p>(g) The permit must not be used for personal or unrelated purposes.</p>
General Contractors Permit (section 7(b))		<p>The driver of the vehicle displaying this permit may park in areas specified in the permit on roads within Ipswich contrary to time restrictions and payment of fees subject to the following conditions—</p> <p>(a) This permit must be displayed prominently on the dashboard of the vehicle near the kerb when in use.</p> <p>(b) The driver or occupants must be</p>

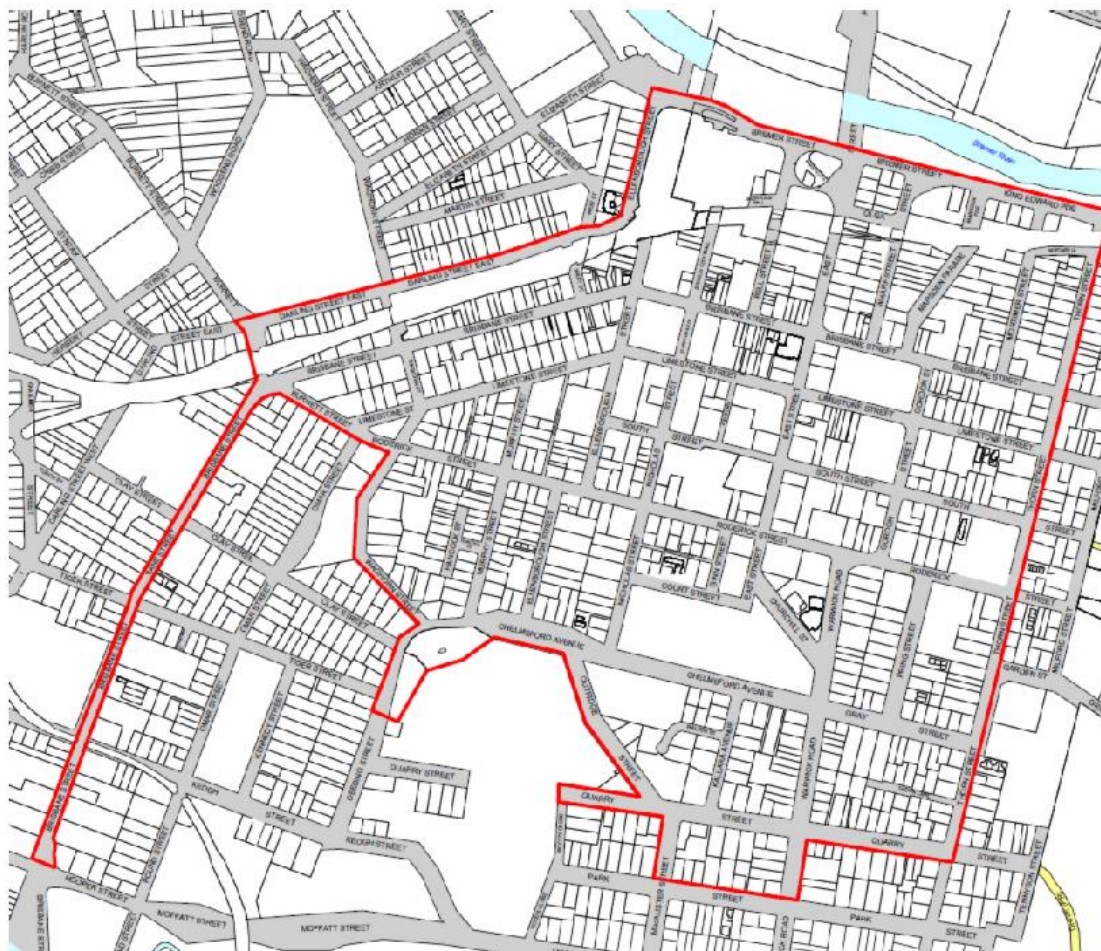
Column 1 Permit Type	Column 2 Information required	Column 3 Standard Conditions
Authorised local government employee or contractor permit (section 7(c))		<p>engaged in duties specified in the permit near the parking location.</p> <p>(c) The vehicle cannot remain parked for longer than is reasonable in the circumstances.</p> <p>(d) The vehicle must be immediately removed from the parking space if requested by an authorised person employed by the Ipswich City Council or a Police Officer.</p> <p>(e) This permit does not apply to No Stopping, No Parking, Clearway or other locations where parking is prohibited under the <i>Transport Operations (Road Use Management – Road Rules) Regulation 1999</i> unless specified in the permit.</p> <p>(f) This permit must not be used for personal or unrelated purposes.</p>
		<p>The driver of the vehicle displaying this permit may park in Council controlled regulated parking bays (including metered parking bays), parking areas and loading zones on roads within Ipswich contrary to time restrictions and payment of fees subject to the following conditions-</p> <p>(a) This permit must be displayed prominently on the dashboard of the vehicle near the kerb when in use.</p> <p>(b) The vehicle must be appropriately badged.</p> <p>(c) The driver or occupants must be engaged in Council duties near the parking location.</p> <p>(d) The vehicle cannot remain parked for longer than is reasonable in the circumstances.</p> <p>(e) The vehicle must be immediately removed from the parking space if requested by an authorised person employed by the Ipswich City Council or a Police Officer.</p> <p>(f) This permit does not apply to No Stopping, No Parking, Clearway or other locations where parking is prohibited under</p>

Column 1 Permit Type	Column 2 Information required	Column 3 Standard Conditions
Residential Parking Permit (section 7(d))		the <i>Transport Operations (Road Use Management – Road Rules) Regulation 1999</i> . This permit must not be used for personal or unrelated purposes.
		<p>The driver of the vehicle displaying this permit may park in a nominated street in Ipswich subject to the following conditions—</p> <p>(a) The permit must be displayed prominently on the dashboard of the vehicle with all details of the permit visible.</p> <p>(b) The permit is strictly for residential use only.</p> <p>(c) Council will not guarantee a permit holder a specific parking bay or even that on-street parking will be available for their use at any time.</p> <p>(d) The vehicle must be immediately removed from the parking space if requested by an authorised person or a Police Officer.</p>
Councillor's Permit (Green Zone Permit) (section 8 (e))		<p>The driver of the vehicle displaying the permit may park in the Council Car Park at the rear of the Administration Building at 45 Roderick Street in the specified areas signed "Council Green Card Holders Excepted" and such other areas as determined by the local government subject to the following conditions—</p> <p>(a) This permit must be displayed prominently on the dashboard of the vehicle.</p> <p>(b) This permit does not allow the holder to park in any other signed area.</p>
Heavy vehicle parking (section 12 of authorising law)		<p>(a) The permit holder must ensure that the permit is displayed prominently on the dashboard of the vehicle with all details of the permit visible.</p> <p>(b) The permit is retained by the permit holder and produced on demand of an authorised person.</p> <p>(c) A copy of the permit is retained by the landowners, and produced on demand from an authorised person.</p>

Column 1 Permit Type	Column 2 Information required	Column 3 Standard Conditions
		<p>(d) The bitumen sealed pavement of the existing road associated with the current driveway access point must be maintained and reinstated to its original form, should the permitted use cause excessive damage to the existing road surface. Any works performed in this regard shall meet the standards and be to the satisfaction of the Council.</p> <p>(e) No major service, repair or maintenance activities are to be conducted on the subject Heavy Vehicle upon the premises or adjacent road/road reserves.</p> <p>(f) No vehicles, tyres or any other material associated with the parking of the heavy vehicle, is to be stored on the land at any time.</p> <p>(g) If the heavy vehicle returns to the site loaded, no unloading is to taken place anywhere on the subject land.</p> <p>(h) The permit holder must ensure that the heavy vehicle parking does not cause a nuisance or disturbance, including by the hours at which the heavy vehicle arrives or departs from the land and by the operation of motors or refrigeration</p>

Schedule 3 Map of declared traffic areas

section 9



Schedule 4 Off-street regulated parking areas

section 10



Foote Lane car park (3 Foot Lane, Ipswich)

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Roderick Street Council car park (37, 39 and 45 Roderick Street and 69-71 East Street, Ipswich)

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Subordinate Local Law 5.1 (Parking) 2013



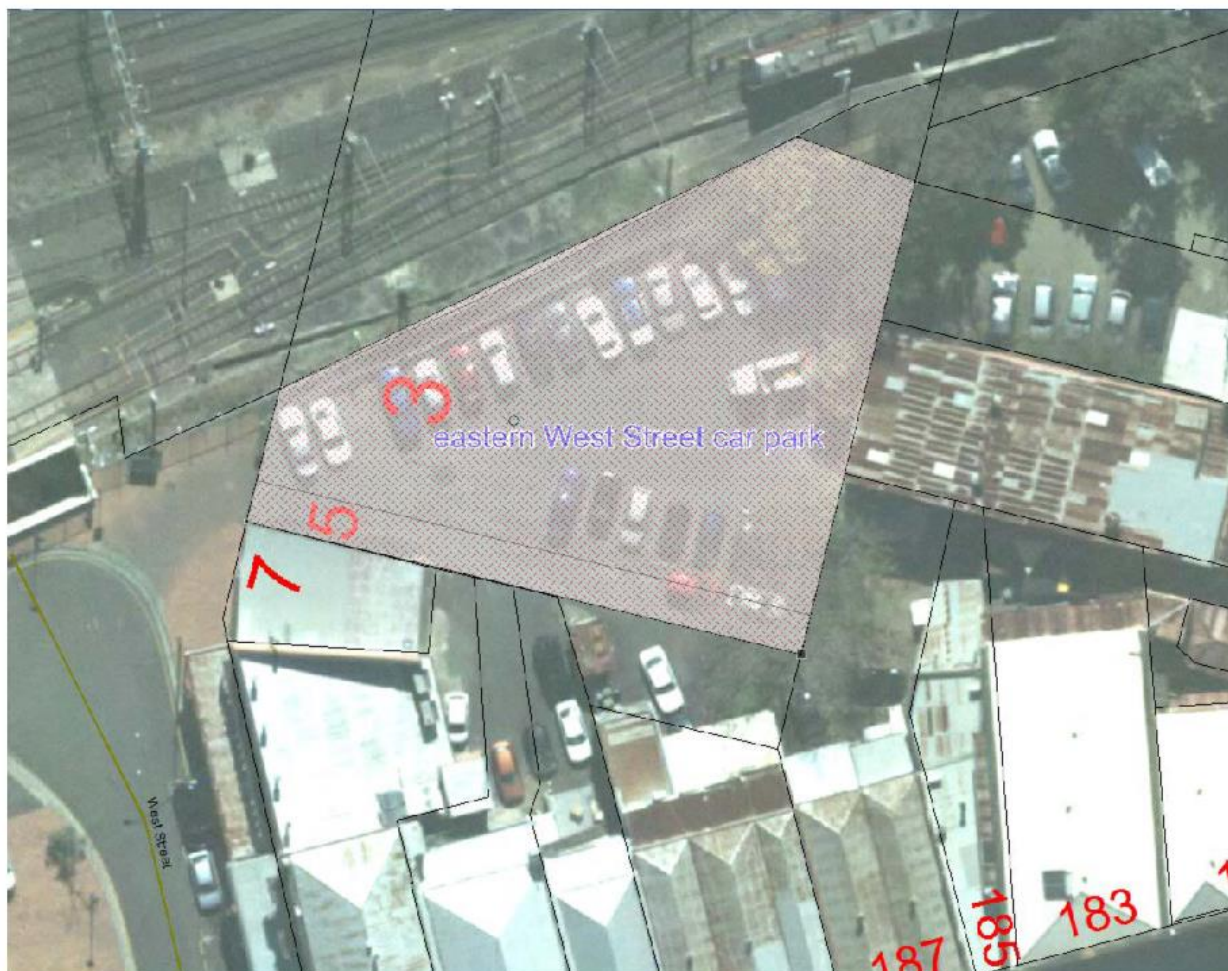
Car park behind RSL building at 63 Nicholas Street, Ipswich (opposite Civic Hall)

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Subordinate Local Law 5.1 (Parking) 2013



Civic Hall car park (50 Nicholas Street, Ipswich) entrance to car park from Limestone Street

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Eastern West Street car park (3-5 West Street, Ipswich - near railway line)

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Subordinate Local Law 5.1 (Parking) 2013



Western West Street car park (205, 213A and 215A Brisbane Street, Ipswich – near railway line),
entrance to car park from West Street

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Ipswich City Council
Subordinate Local Law 5.1 (Parking) 2013



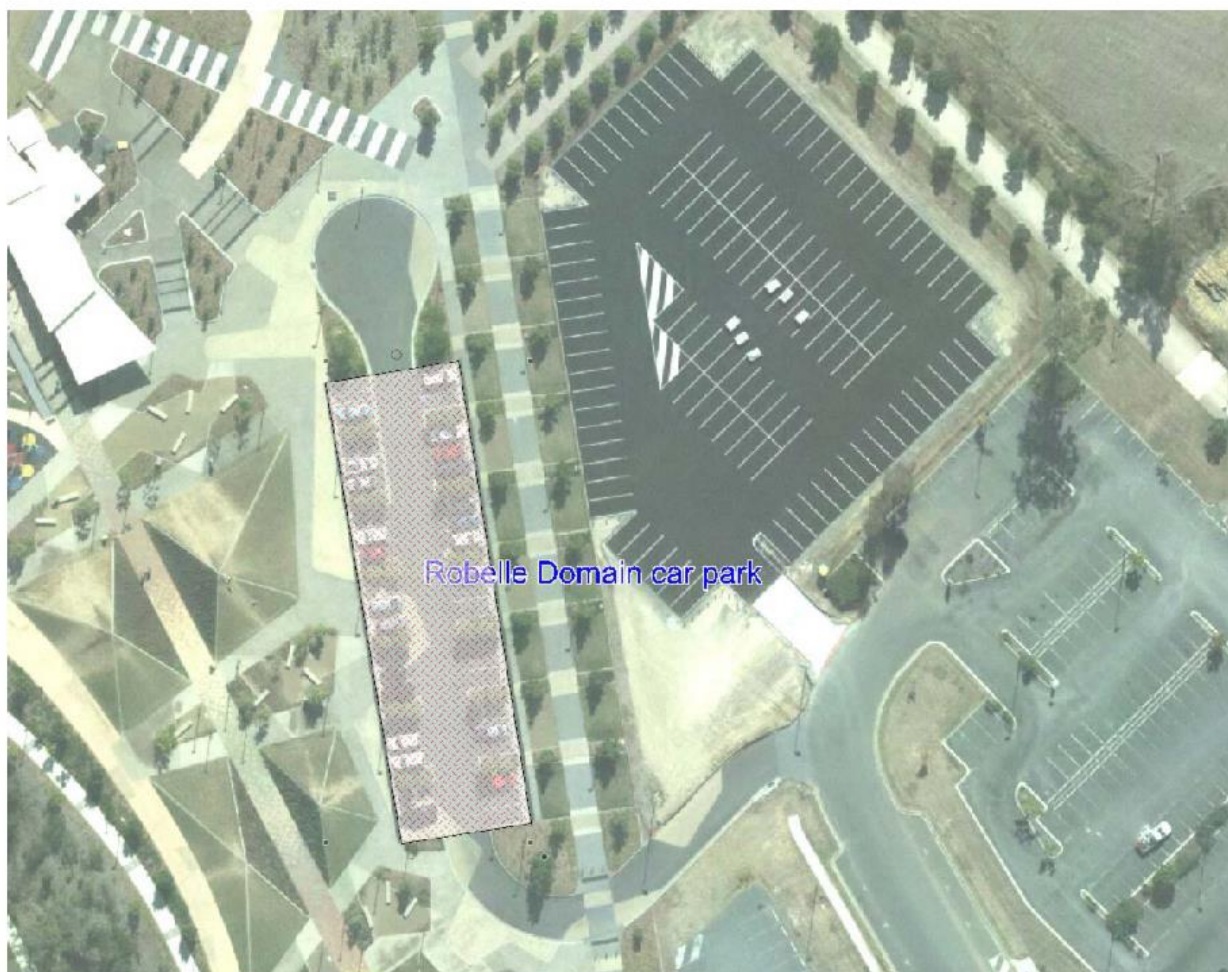
Laneway between Ipswich City Council Library and Administration building, 40-50 South Street, Ipswich

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Subordinate Local Law 5.1 (Parking) 2013



Ipswich Visitors Centre car park (Queens Park, 10A Milford Street, Ipswich), entrance to car park from Queen Victoria Parade

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Robelle Domain car park (155 Southern Cross Circuit, Springfield central), entrance to car park from Education Avenue

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Denmark Hill car park (5 Deebling Street, Ipswich)

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Bob Gamble Park car park, aka Riverheart Parklands Stage 2 (2 Blackall Street, Ipswich)

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Subordinate Local Law 5.1 (Parking) 2013

Schedule 5 Infringement notice penalty amounts

section 11

Column 1 Minor Traffic Offence	Column 2 Infringement notice penalty amount (in penalty units)
Transport Operations (Road Use Management – Road Rules) Regulation 1999	
S 167 – No Stopping signs	1
S 168 – No Parking signs	1
S 169 – No Stopping on a road with a yellow edge line	1
S 170 – Stopping in or near an intersection	0.75
S 171 – Stopping on or near a children’s crossing	1
S 172 – Stopping on or near a pedestrian crossing	1
S 173 – Stopping on or near a marked foot crossing	1
S 174 – Stopping at or near bicycle crossing lights	0.75
S 175 – Stopping on or near a level crossing	1
S 176 – Stopping on a clearway	1
S 177 – Stopping on a freeway	1
S 178 – Stopping in an emergency stopping lane	1
S 179 – Stopping in a loading zone	1
S 180 – Stopping in a truck zone	0.75
S 181 – Stopping in a works zone	0.75
S 182 – Stopping in a taxi zone	1
S 183 – Stopping in a bus zone	2
S 185 – Stopping in a permit zone	1
S 186 – Stopping in a mail zone	1
S 187 – Stopping in a bus lane, tram lane, transit lane, truck lane	1
S 188 – Stopping in a shared zone	0.75
S 189 – Double parking	1
S 190 – Stopping in or near a safety zone	0.75
S 191 – Stopping near an obstruction	0.75
S 192 – Stopping on a bridge or in a tunnel	1
S 193 – Stopping on a crest or curve outside a built-up area	1
S 194 – Stopping near a fire hydrant	1
S 195 – Stopping at or near a bus stop	1
S 196 – Stopping at or near a tram stop	1
S 197 – Stopping on a path, dividing strip or nature strip	0.75
S 198 – Obstructing access to and from a footpath, driveway	0.75
S 199 – Stopping near a post box	0.75
S 200 – Stopping on road – heavy and long vehicles	2
S 201 – Stopping on a road with bicycle parking sign	0.5
S 202 – Stopping on a road with motor bike parking sign	0.5
S 203 – Stopping in a parking area for people with disabilities	2
S 205 – Parking for longer than indicated on a permissive parking sign	0.75
S 206 – Time extension for people with disabilities	0.5
S 208 – Parallel parking on a road	0.75
S 209 – Parallel parking in a median strip parking area	0.75
S 210 – Angle parking	0.75

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Subordinate Local Law 5.1 (Parking) 2013

Column 1 Minor Traffic Offence	Column 2 Infringement notice penalty amount (in penalty units)
S 211 – Parking in parking bays	0.75
S 212 – Entering and leaving a median strip parking area	0.75
S 213 – Making a vehicle secure	0.75
Transport Operations (Road Use Management) Act 1995	
S 74 – Contravention of official traffic sign installed by local government	0.75
S 106 – Paid Parking offences	0.75

Endnotes

1 Index to Endnotes

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- 4 Table of reprints
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- 6 List of annotations

2 Date to which amendments incorporated

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3 Key

Key to abbreviations in list of legislation and annotations

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s = section
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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 – no amendments

5 List of legislation

Original Local Law

Subordinate Local Law No.5.1 (Parking) 2013

date of gazettal 5 July 2013

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Subordinate Local Law 5.1 (Parking) 2013

6 List of annotations

Ipswich

City Council

Draft

Local Law (Amending) Local Law No. 5 (Parking)
2019

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Local Law (Amending) Local Law No. 5 (Parking) 2019

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Ipswich City Council
Local Law (Amending) Local Law No. 5 (Parking) 2019

Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 5 (Parking) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 5 (Parking) 2013.

Part 2 Amendment of Local Law No. 5 (Parking) 2013

4 Amendment of s 2 (Objects)

(1) Section 2, subsection (a), 'on roads' –

omit, insert –

in or on local government controlled areas or roads

(2) Section 2(a), subsection (i), 'on roads' –

omit, insert –

in or on local government controlled areas or roads

5 Replacement of pt 2 (Parking contrary to parking restriction)

Part 2 –

omit, insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 5 (Parking) 2019

Part 2 Parking areas

6 Declaration of traffic areas

- (1) The local government may, by subordinate local law, declare the whole or a part of its local government area to be a traffic area.¹
- (2) The boundaries of a traffic area must be defined in a subordinate local law.

7 Off-street regulated parking areas

The local government may, by subordinate local law, specify an area of land owned or controlled² by the local government, including structures on the land, as an off-street regulated parking area.³

Example:

The local government may under an arrangement with the owner of a shopping centre, specify a public parking area at the shopping centre as on off-street regulated parking area and regulate parking in the area under this local law.

8 Temporary parking restrictions

- (1) The local government may temporarily prohibit or restrict parking on a road where the local government is satisfied that –

¹ See the TORUM Act, sections 102(2)(b) and (3)(a).

² See the TORUM Act, section 104(2).

³ See the TORUM Act, sections 101(1)(c) and 104(1)(b).

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- (a) a temporary prohibition or restriction on parking is necessary because of a particular event; or
- (b) conditions temporarily applying in a particular part of the local government area warrant the prohibition or restriction.

Example of subsection (1) –

- (a) The local government may temporarily prohibit parking on a particular part of a road if building work that is being carried out on, or adjacent to, the road, makes it impracticable to use the relevant part of the road for parking.
- (b) The local government may temporarily prohibit parking on a particular part of a road if the road is to be closed to traffic for the purpose of a festival or public assembly.

- (2) A temporary prohibition or restriction on parking imposed under section 8(1) (Temporary parking restrictions) of this local law takes effect when the local government installs the appropriate official sign indicating the prohibition or restriction and ceases to take effect on removal of the sign by the local government.

6 Replacement of pt 3 (Parking areas)

Part 3 –

omit, insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 5 (Parking) 2019

Part 3 Parking contrary to parking restriction

9 Issue of a permit

- (1) The local government may grant a permit for a permit regulated activity authorising a person to park –
 - (a) in a designated parking space where parking is restricted to permit parking; or
 - (b) in a declared traffic area, in or on a local government controlled area or road or in an off-street regulated parking area contrary to an indication given by an official traffic sign regulating parking by time or payment of a fee.
- (2) The local government may prescribe, by subordinate local law, persons who may be issued with a permit.

10 Parking in accordance with a permit

- (1) A vehicle may be parked contrary to an indication on an official traffic sign regulating parking by time or by payment of a fee, if the vehicle displays –
 - (a) a parking permit for people with disabilities;⁴
 - (b) a permit issued under section 9 (Issue of a permit) of this local law, valid for the time and place at which the vehicle is parked.

⁴ Parking permits for people with disabilities are issued under the TORUM Act, section 111, by the chief executive of the department administering the TORUM Act.

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11 Commercial vehicle identification labels

- (1) The local government may issue a commercial vehicle identification label.⁵
- (2) A vehicle displaying a current commercial vehicle identification label may be lawfully parked in a loading zone.⁶
- (3) The local government may prescribe, by subordinate local law, vehicles which may be issued with a commercial vehicle identification label.⁷

7 Amendment of s 12 (Parking or storage of heavy vehicles in residential areas)

Section 12 –

omit, insert –

12 Parking or storage of a heavy vehicle

- (1) The parking or storage of heavy vehicles in a residential or rural area is a permit regulated activity.
- (2) Subject to subsection (2), a person must not, unless authorised by a permit—
 - (a) park a heavy vehicle in—
 - (i) a residential area; or

⁵ See the TORUM Act, section 103(5).

⁶ See also Transport Operations (Road Use Management – Road Rules) Regulation 2009, section 179, relating to drivers who are permitted to stop in a loading zone.

⁷ The TORUM Act already defines certain vehicles designed for the carriage of goods as commercial vehicles – see schedule 4, definition, commercial vehicle.

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Local Law (Amending) Local Law No. 5 (Parking) 2019

- (ii) a rural area, where the premises are not used for primary production and the heavy vehicle is—
 - (A) parked within 50 metres of a residential dwelling situated on a neighbouring premises; or
 - (B) when parked, unable to be screened from view from all neighbouring residential dwellings or roads, or able to be screened from view from all neighbouring residential dwellings or roads but not screened from view; or
 - (C) unable to enter and exit the premises in a forward direction, or able to enter and exit the premises in a forward direction but does not; or
 - (D) moved on or off the premises more than four times per day; or
 - (E) moved on or off the premises outside building work hours; or
- (iii) rural areas where more than one heavy vehicle is to be parked on the premises, unless authorised by a permit granted under this local law; or
- (b) change the manner of heavy vehicle parking residential areas or rural areas within the local government area

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without obtaining an approval for an amendment to the
terms of a permit.

Maximum penalty for subsection (1)—

- (a) for first offence – 20 penalty units.
 - (b) for second offence within a 2 year period – 30 penalty units.
 - (c) for third or further offences within a 2 year period – 50 penalty units.
- (2) A person does not require a permit under this local law for—
- (a) an emergency vehicle being used for an emergency or other official purpose; or
 - (b) a heavy vehicle being lawfully used in the immediate vicinity of and in connection with the construction, investigation or maintenance of a community facility or undertaking; or
 - (c) a heavy vehicle involved in the conduct of a lawful activity reasonably required to be carried out in a residential or rural area; or
 - (d) a heavy vehicle permitted to be parked on residential premises or rural premises pursuant to a development approval given under the Planning Act; or
 - (e) a heavy vehicle owned or used by the local government being parked or stored on land owned or occupied by the local government; or

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Ipswich City Council
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- (f) a heavy vehicle specified in a subordinate local law.

Example of subsection (2)(c)—

The short term parking of a removal van.

- (3) For the avoidance of doubt, a heavy vehicle parked in a residential area or a rural area whilst awaiting a job assignment is not subject to an exemption for a permit in subsection (2).

8 Amendment of s 14 (Defences)

Section 14, after 'local law' –

insert –

or the related subordinate local law

9 Amendment of s 15 (Subordinate local laws)

- (1) Section 15, subsection (a), 'section 9' –

omit, insert –

section 6

- (2) Section 15, subsection (b), 'section 10 (Declaration of off-street regulated parking areas)'

–

omit, insert –

section 7 (Off-street regulated parking areas)

- (3) Section 15, after subsection (b) –

insert –

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- (c) persons who may be issued with a permit pursuant to section 9(2) (Issue of a permit) of this local law; and
- (4) Section 15, subsection (c), 'section 7 (Types of permits)' –
omit, insert –
section 10 (Parking in accordance with a permit)
- (5) Section 15, subsection (d), 'section 8' –
omit, insert –
section 11
- (6) Section 15 subsection (e), 'section 12' –
omit, insert –
section 13
- (7) Section 15, subsection (c) to (e) –
renumber as subsections (d) to (f), respectively

10 Amendment of s 17 (Existing permits)

- Section 17, 'operated' –
omit, insert –
operate

11 Amendment of sch (Dictionary)

- (1) Schedule –

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Ipswich City Council
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insert –

local government controlled area –

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

Examples of local government controlled areas—

- ☐ parks, reserves and recreational areas
- ☐ conservation parks
- ☐ cemeteries
- ☐ local government operated library, including mobile libraries
- ☐ local government Chambers and local government offices
- ☐ jetties
- ☐ a mall

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

parking or storing a heavy vehicle means the parking or storage of a heavy vehicle in a residential area or a rural area, whether or not the driver leaves the vehicle, for a period longer than is necessary for the loading and unloading of the heavy vehicle.

Planning Act means the Planning Act 2016 (Qld) and includes the predecessor legislation to that Act.

Planning Scheme means the planning scheme made or amended from time-to-time under a Planning Act.

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rural area includes areas comprising predominantly rural development and land (other than roads), that is situated in one or more of the following zones or other similar designation under a Structure Plan under the Planning Scheme –

- (a) Rural A (Agricultural) Zone;
 - (b) Rural B (Pastoral) Zone;
 - (c) Rural C (Rural Living) Zone;
 - (d) Rural D (Conservation) Zone;
 - (e) Rural E (Special Land Management) Zone; and
 - (f) Special Uses Zone.
- (2) Schedule, definition adjunct vehicle, subsection (d), after 'vehicle;' –
insert –
or
- (3) Schedule, definition heavy vehicle, subsection (a), 'length of in excess' –
omit, insert –
length in excess
- (4) Schedule, definition heavy vehicle, subsection (e), after 'metres;' –
insert –
or
- (5) Schedule, definition infringement notice penalty, 'State Penalties Enforcement Act 1999' –
omit, insert –

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Ipswich City Council
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State Penalties Enforcement Act 1999

- (6) Schedule, definition parking permit for people with disabilities, subsection (b) –
- omit, insert –
- (b) an Australian Disability Parking Permit issued under a corresponding provision of the law of another State or Territory.
- (7) Schedule, definition permit for a permit regulated activity –
- omit.
- (8) Schedule, definition permit regulated activity, subsection (d), 'to a an' –
- omit, insert –
- to an
- (9) Schedule 1, definition residential area, subparagraph (a), 'Locality' –
- omit, insert –
- Area
- (10) Schedule 1, definition residential area, subparagraph (b), 'Locality' –
- omit, insert –
- Area
- (11) Schedule 1, definition residential area, '(iv) Special Uses Zone;' –
- omit, insert –
- (v) Special Uses Zone;

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Ipswich City Council
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- (12) Schedule 1, definition residential area, subparagraph (c), 'Locality' –

omit, insert –

Area

- (13) Schedule 1, definition residential area, subparagraph (d), 'Locality' –

omit, insert –

Area

- (14) Schedule 1, definition residential area, subparagraph (d)(iv) –

omit.

- (15) Schedule 1, definition residential area, subparagraph (v) –

renumber as (iv).

- (16) Schedule 1, definition residential area, subparagraph (f), 'Locality' –

omit, insert –

Area

- (17) Schedule 1, definition residential area, subparagraph (f)(i) –

omit, insert –

(f) Rural C (Rural Living) Zone.

- (18) Schedule 1, definition residential area, after '1997' –

omit, insert –

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, section 391 of the Sustainable Planning Act 2009 or section 89 of the Planning Act 2016.

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Subordinate Local Law (Amending) Subordinate
Local Law No. 5.1 (Parking) 2019

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Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

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Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019.

2 Commencement

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

3 Subordinate local laws amended

This subordinate local law amends Subordinate Local Law No. 5.1 (Parking) 2013.

**Part 2 Amendment of Subordinate Local Law No. 5.1 (Parking)
2013**

4 Amendment of s 4 (Definitions – the dictionary)

Section 4 –

omit, insert –

Particular words used in this subordinate local law are defined in –

- (1) Schedule 1 (Dictionary) of this subordinate local law;
- (2) Local Law No. 5 (Parking) 2013; and
- (3) Local Law No. 1 (Administration) 2013.

5 Replacement of pt 2 (Permits)

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Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Part 2 –

omit, insert –

Part 2 Declaration of parking areas

5 Declaration of traffic areas

For the purposes of section 6(1) (Declaration of traffic areas) of the authorising local law, each part of the local government area outlined in the maps in schedule 3 are declared to be traffic areas.

6 Off-street regulated parking areas

For the purposes of section 7 (Off-street regulated parking areas) of the authorising local law, each area of land listed in schedule 4 is specified to be an off-street regulated parking area.

6 Replacement of pt 3 (Declaration of parking areas for the TORUM Act)

Part 3 –

omit, insert –

Part 3 Permits

7 Information required for permit application

For the purposes of section 6(1)(c)(v) (Application for a permit) of Local Law No. 4 (Permits) 2013, an application for a permit of the type specified in column 1 of schedule 2 must be accompanied by the information, material and documents prescribed in column 2 of schedule 2.

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Ipswich City Council
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8 Conditions of permit

For the purposes of section 9(3) (Conditions of a permit) of Local Law No. 4 (Permits) 2013, the conditions set out in column 3 of schedule 2 which relate to the permit types specified in column 1 of schedule 2 will apply to any permit granted by the local government unless otherwise specified in the permit document.

9 Parking permits issued by the local government

- (1) For the purposes of section 10 (Parking in accordance with a permit) of the authorising local law, the following persons may be issued a permit for a permit regulated activity –
- (a) a contractor or worker undertaking work on adjoining premises;
 - (b) a local government employee or contractor carrying out local government related activities; and
 - (c) a person who resides in the street or immediate vicinity of the place for which the permit is granted or a visitor to the premises.
- (2) In this section, a person is not carrying out local government related activities or conducting activities on behalf of the local government merely because of the fact that the person is an employee, Councillor or contractor of the local government.

Example for subsection (2) –

Mr Smith is an employee of the local government. The mere fact of Mr Smith's employment by the local government is not sufficient for him to obtain a permit under section 9(1) of this local law. Further details will need to be specified about the nature of the activities for which the permit is required, in the application for the permit.

- (3) An application for a permit under section 9(1)(c) by a resident of a single residential dwelling can only be made if it can be demonstrated that insufficient existing off-street parking is provided at the premises.
- (4) An application for a permit under section 9(1)(c) by a resident of a multiple residential dwelling can only be made if the multiple residential building contains 15 or less dwelling units.

10 Commercial vehicle identification labels

For the purposes of section 11(3) (Commercial vehicle identification labels) of the authorising local law, the vehicles that may be issued with a commercial vehicle identification label are:

- (a) vehicles used for commercial purposes; and
- (b) reasonably required to use a loading zone for the loading or unloading of goods,

irrespective of the nature of the vehicle in relation to design, size or classification.

7 Amendment of s 11 (Infringement notice penalty amounts)

Section 11, 'section 13(1)' –

omit, insert –

section 13

8 Amendment of sch 1 (Dictionary)

(1) Schedule 1 –

insert –

multiple residential has the same meaning as in the planning scheme.

Planning Act means the Planning Act 2016 (Qld) and includes the predecessor legislation to that Act.

planning scheme means the planning scheme made or amended from time-to-time under a Planning Act.

single residential has the same meaning as in the planning scheme.

(2) Schedule 1, definition penalty unit, 'Penalty' –

omit, insert –

Penalties

9 Amendment of sch 2 (Information and permit conditions)

(1) Schedule 2, subheading, 'sections 5 and 6' –

omit, insert –

sections 7 and 8

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Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

- (2) Schedule 2, item 1 (Media parking permit) –

omit.

- (3) Schedule 2, item 2 (General contractors permit), column 1 –

omit, insert –

Works zone permit (section (9(1)(a)))

- (4) Schedule 2, item 2 (General contractors permit), column 2 –

insert –

- (a) name, address, number and email address of applicant;
- (b) reason for permit, including details of the work being carried out and a copy of any relevant development permit or other approval authorising the work to be carried out;
- (c) location and real property description of site where works are being carried out;
- (d) period of time the permit is sought for, including dates and times of day;
- (e) details of the vehicle, including registration details, make, model and colour, if known;
- (f) prescribed fee; and
- (g) any other relevant information.

- (5) Schedule 2, item 2 (General contractors permit), column 3, 'Ipswich' –

omit, insert –

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the local government area

- (6) Schedule 2, item 2 (General contractors permit), column 3, subparagraph (a), after 'when in use' –

insert –

with all details of the permit visible

- (7) Schedule 2, item 2 (General contractors permit), column 3, subparagraph (d), 'employed by the Ipswich City Council' –

omit.

- (8) Schedule 2, item 2 (General contractors permit), column 3, after subparagraph (f) –

insert –

- (g) A Works zone permit must not be used where a road closure permit has also been issued over the particular area.

- (9) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 1, 'section 7(c)' –

omit, insert –

section 9(1)(b)

- (10) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 2 –

insert –

- (a) name, address, number and email address of applicant;

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- (b) confirmation of status of employment or contract with the local government;
 - (c) reason for permit, including details of the local government related activities are being carried out;
 - (d) location and real property description of site where activities are being carried out;
 - (e) period of time the permit is sought for, including dates and times of day;
 - (f) details of the vehicle, including registration details or local government fleet registered vehicle number, make, model and colour, if known;
 - (g) prescribed fee, if applicable; and
 - (h) any other relevant information.
- (11) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 3, 'Council controlled' –
omit, insert –
local government
- (12) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 3, 'Ipswich' –
omit, insert –
the local government area
- (13) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 3, subparagraph (a), after 'when in use' –

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insert –

with all details of the permit visible

- (14) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 3, subparagraph (b) –

omit, insert –

- (b) If the permit is to be used by a local government employee, the employee must drive a local government fleet registered vehicle.

- (15) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 3, subparagraph (c), 'Council' –

omit, insert –

local government

- (16) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 3, subparagraph (e), 'employed by the Ipswich City Council' –

omit.

- (17) Schedule 2, item 3 (Authorised local government employee or contractor permit), column 3, before 'This permit must not' –

insert –

(g)

- (18) Schedule 2, item 4, (Residential parking permit) –

omit, insert –

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<p>Residential (single residential) permit (section 9(1)(c))</p>	<p>(a) name, address, number and email address of applicant;</p> <p>(b) reason for permit;</p> <p>(c) details of any existing off-street parking for the premises, including the number and a sketch plan detailing the location and design of the off-street parking;</p> <p>(d) if the applicant is a visitor to the subject premises – the location and real property description of the premises which they are visiting;</p> <p>(e) period of time the permit is sought for, including dates and times of day;</p> <p>(f) details of the vehicle, including registration details, make, model and colour, if known;</p> <p>(g) prescribed fee, if applicable; and</p>	<p>The driver of the vehicle displaying the permit may park in a nominated street in a regulated parking area subject to the following conditions –</p> <p>(a) The permit must be displayed prominently on the dashboard of the vehicle with all details of the permit visible.</p> <p>(b) The permit is strictly for residential use only.</p> <p>(c) The local government cannot guarantee a permit holder a specific parking bay or that on-street parking will be available for use at any time.</p> <p>(d) The vehicle must be immediately removed from the parking space if requested by an authorised person or a Police Officer.</p> <p>(e) Only 2 Residential (single residential permits) can be issued in relation to the one premises at any one time.</p>
--	--	--

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	(h) any other relevant information.	
Residential (multiple residential) permit section 9(1)(c)	(a) name, address, number and email address of applicant; (b) reason for permit; (c) details of existing off-street parking for the premises; (d) details of the multiple residential building, including the number of dwelling units in the building; (e) if the applicant is a visitor to the subject premises – the location and real property description of the premises which they are visiting; (f) period of time the permit is sought for, including dates and times of day; (g) details of the vehicle, including registration details, make, model and colour, if known;	The driver of the vehicle displaying the permit may park in a nominated street in a regulated parking area subject to the following conditions – (a) The permit must be displayed prominently on the dashboard of the vehicle with all details of the permit visible. (b) The permit is strictly for residential use only. (c) The local government cannot guarantee a permit holder a specific parking bay or that on-street parking will be available for use at any time. (d) The vehicle must be immediately removed from the parking space if requested by an authorised person or a Police Officer. (e) Only 2 Residential (single residential permits) can be

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	<p>(h) prescribed fee, if applicable; and</p> <p>(i) any other relevant information.</p>	issued in relation to the one premises at any one time.
--	--	--

(19) Schedule 2, item 5 (Councillor's permit) –

omit.

(20) Schedule 2, item 6 (Heavy vehicle parking), column 1, after 'parking' –

insert –

permit

(21) Schedule 2, item 6 (Heavy vehicle parking), column 2 –

insert –

- (a) name, address, number and email address of applicant;
- (b) reason for permit, including an explanation of why it is necessary that the heavy vehicle be parked or stored in the subject location and cannot be parked out stored anywhere else;
- (c) location and real property description of site where the heavy vehicle will be parked or stored;
- (d) period of time the permit is sought for, including dates and times of day;
- (e) details of the vehicle, including registration details, make, model and colour, if known;
- (f) prescribed fee, if applicable; and

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- (g) any other relevant information.
- (22) Schedule 2, item 6 (Heavy vehicle parking), column 3, subparagraph (d), 'Council' –
- omit, insert –
- local government
- (23) Schedule 2, item 6 (Heavy vehicle parking), column 3, subparagraph (g), 'taken' –
- omit, insert –
- take
- (24) Schedule 2, item 6 (Heavy vehicle parking), column 3, subparagraph (h), after
'refrigeration' –
- insert –
- .
- (25) Schedule 2, item 6 (Heavy vehicle parking), column 3, after subparagraph (h) –
- insert –
- (i) if the heavy vehicle is to be parked in a rural area, no more than
[INSERT NUMBER] of heavy vehicles are to be parked on the premises at
any one time.

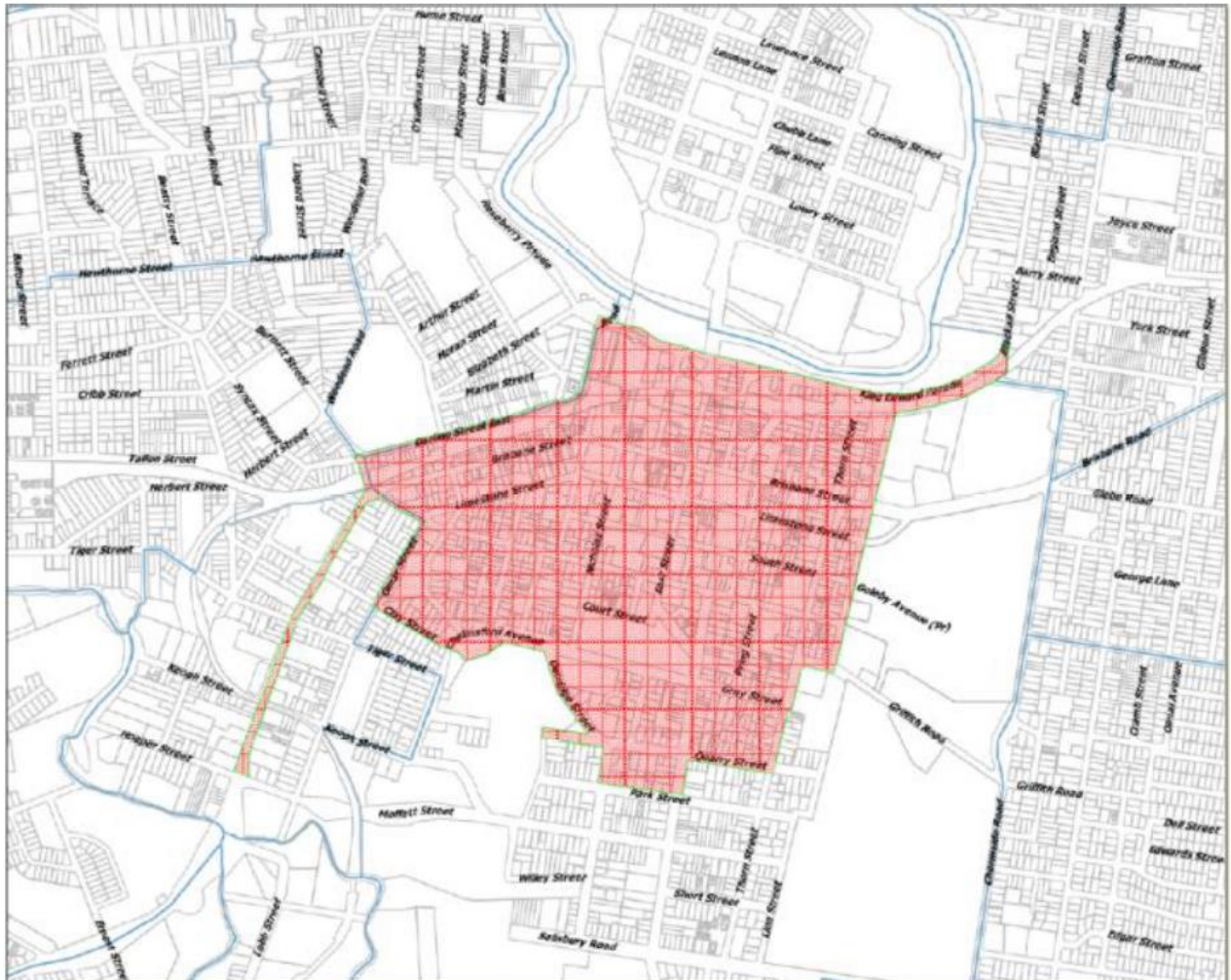
10 Replacement of sch 3 (Map of declared traffic areas)

Schedule 3 –

omit, insert –

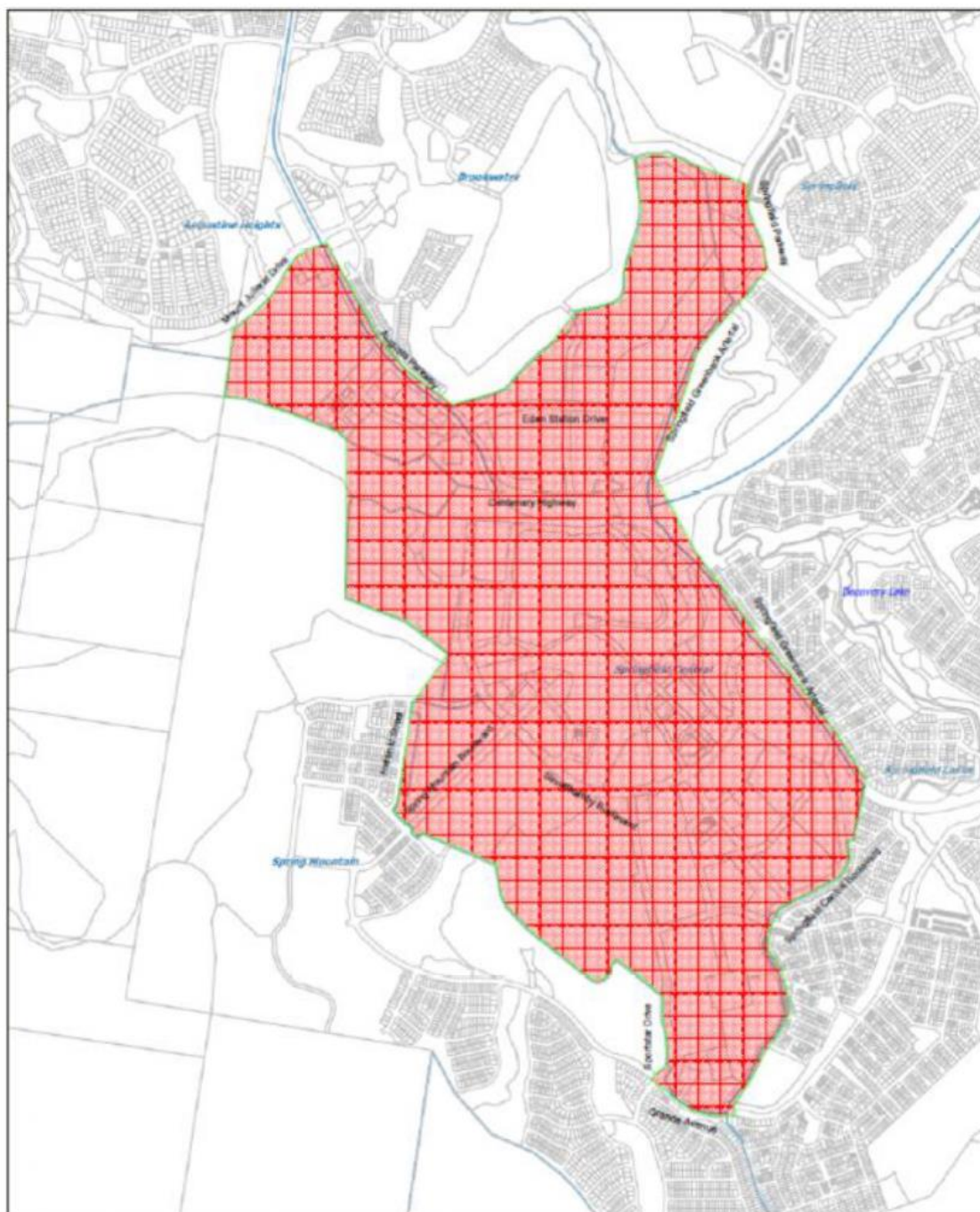
Schedule 3 Declared traffic areas

Map A – Ipswich CBD Traffic Area



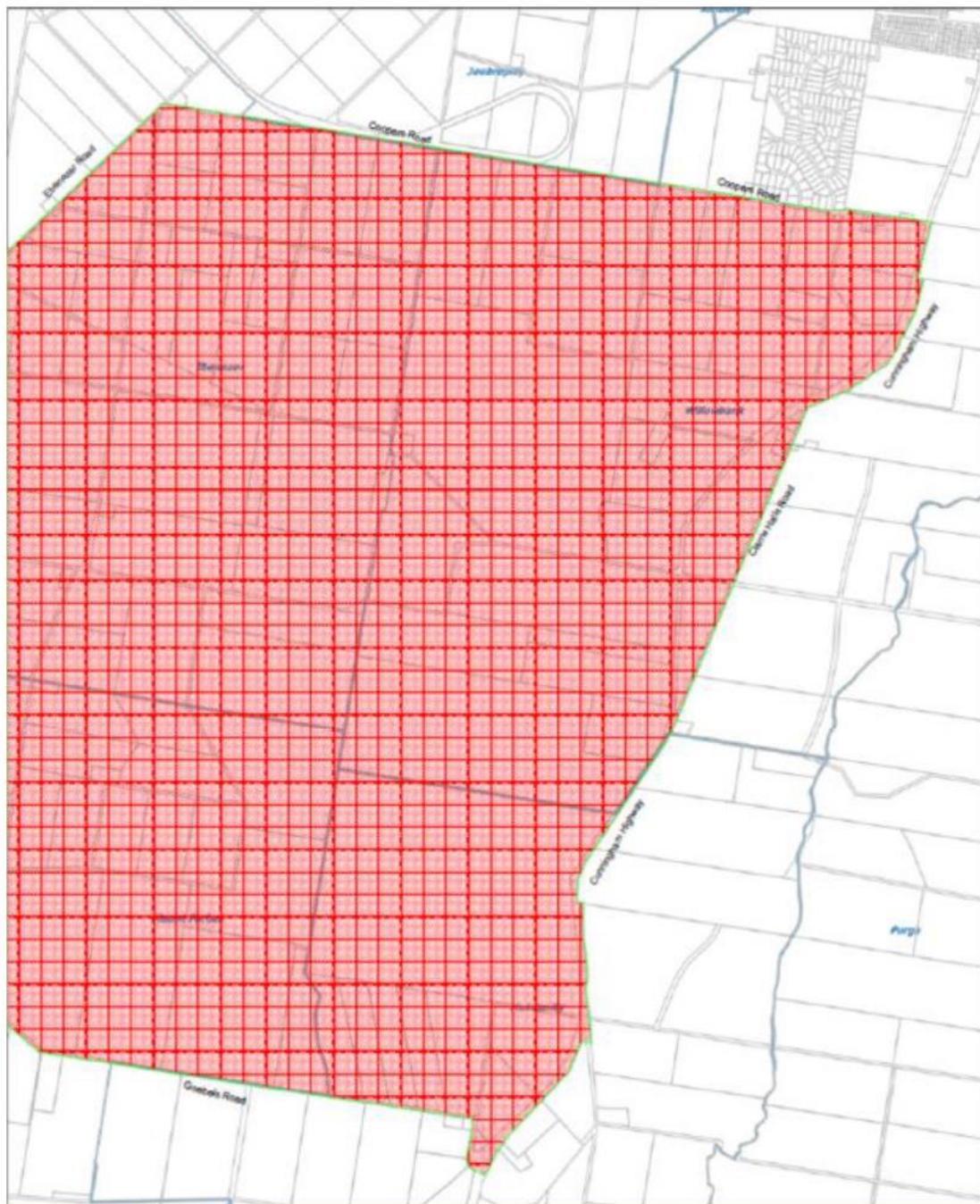
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Map B – Springfield Traffic Area



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Map D – Willowbank Traffic Area - B



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11 Replacement of sch 4 (Off-street regulated parking areas)

Schedule 4 –

omit, insert –

Schedule 4 Off-street regulated parking areas

section 6

Map A – Foote Lane car park (3 Foot Lane, Ipswich)



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Map B – Roderick Street Council car park (37, 39 and 45 Roderick Street and 69-71 East Street, Ipswich)



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Map C – Car park behind RSL building located at 63 Nicholas Street, Ipswich
(opposite Civic Hall)



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Map D – Civic Hall car park (50 Nicholas Street, Ipswich – entrance to car park from Limestone Street)



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Map E – Eastern West Street car park (3-5 West Street, Ipswich)



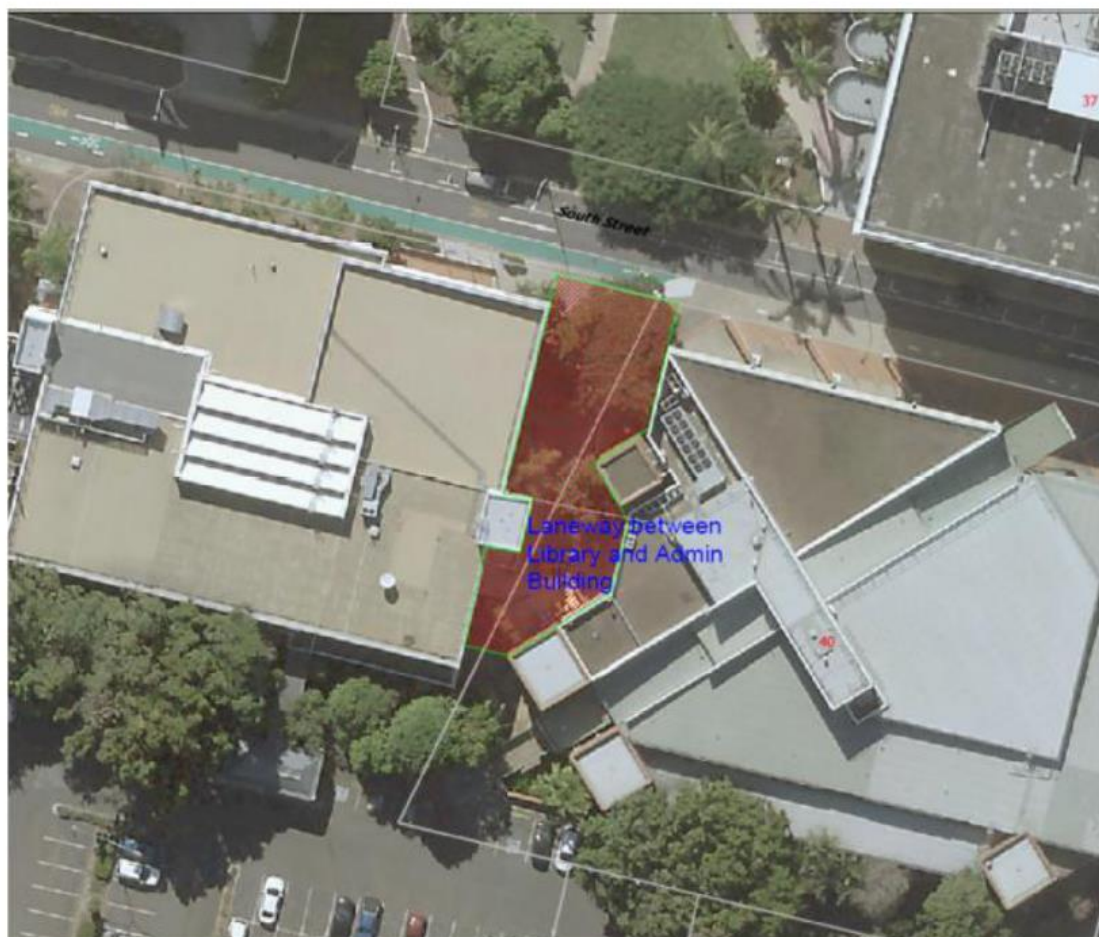
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Map F – Western West Street car park (205, 213A and 215A Brisbane Street,
Ipswich – entrance to car park from West Street)



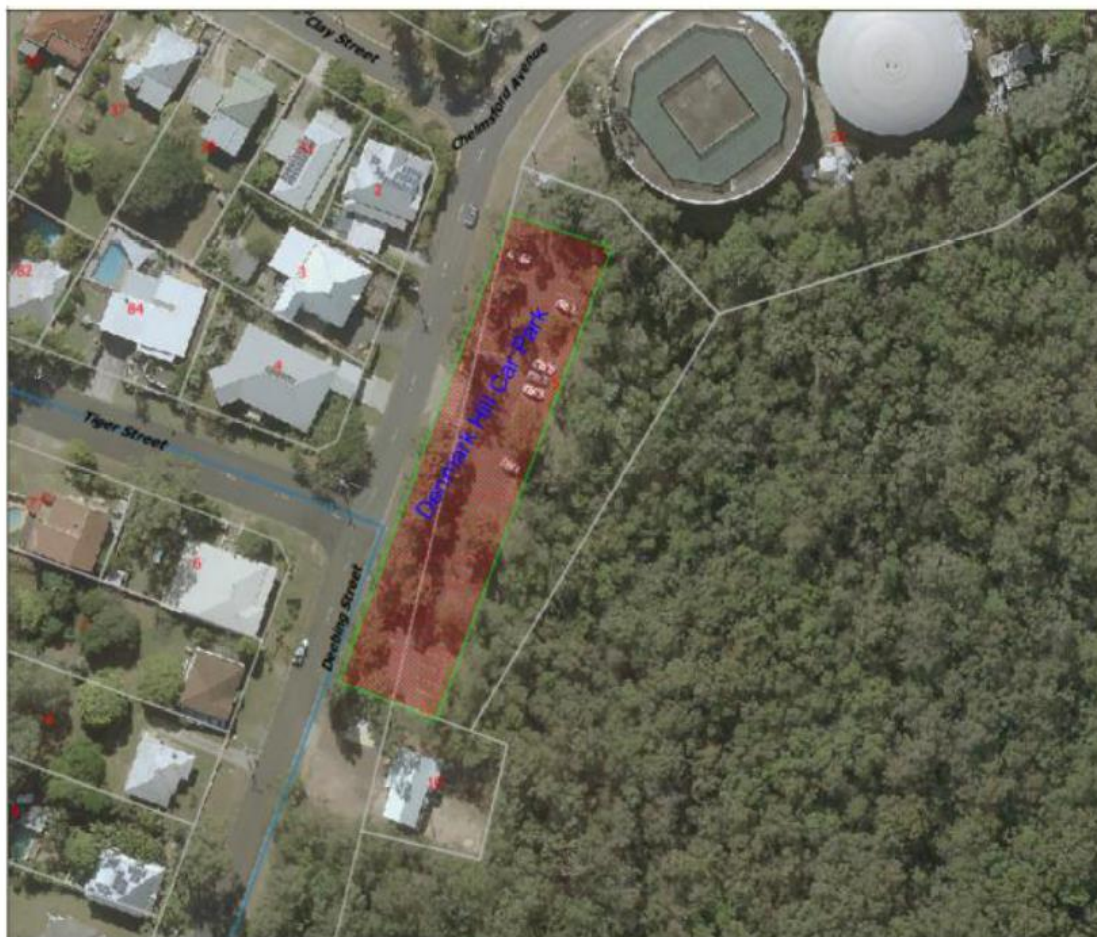
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Map G – Laneway between Ipswich City Council Library and Administration Building (40-50 South Street, Ipswich)



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Map H – Denmark Hill car park (5 Deebling Street, Ipswich)



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Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Map I – Bob Gamble car park / Riverheart Parklands Stage 2 (2 Blackall Street, Ipswich)



29
Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Map J – Marsden Parade car park (corner of Marsden Parade and Brisbane Street, Ipswich)



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Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Map K – Robelle Domain & Lagoon, Springfield Central



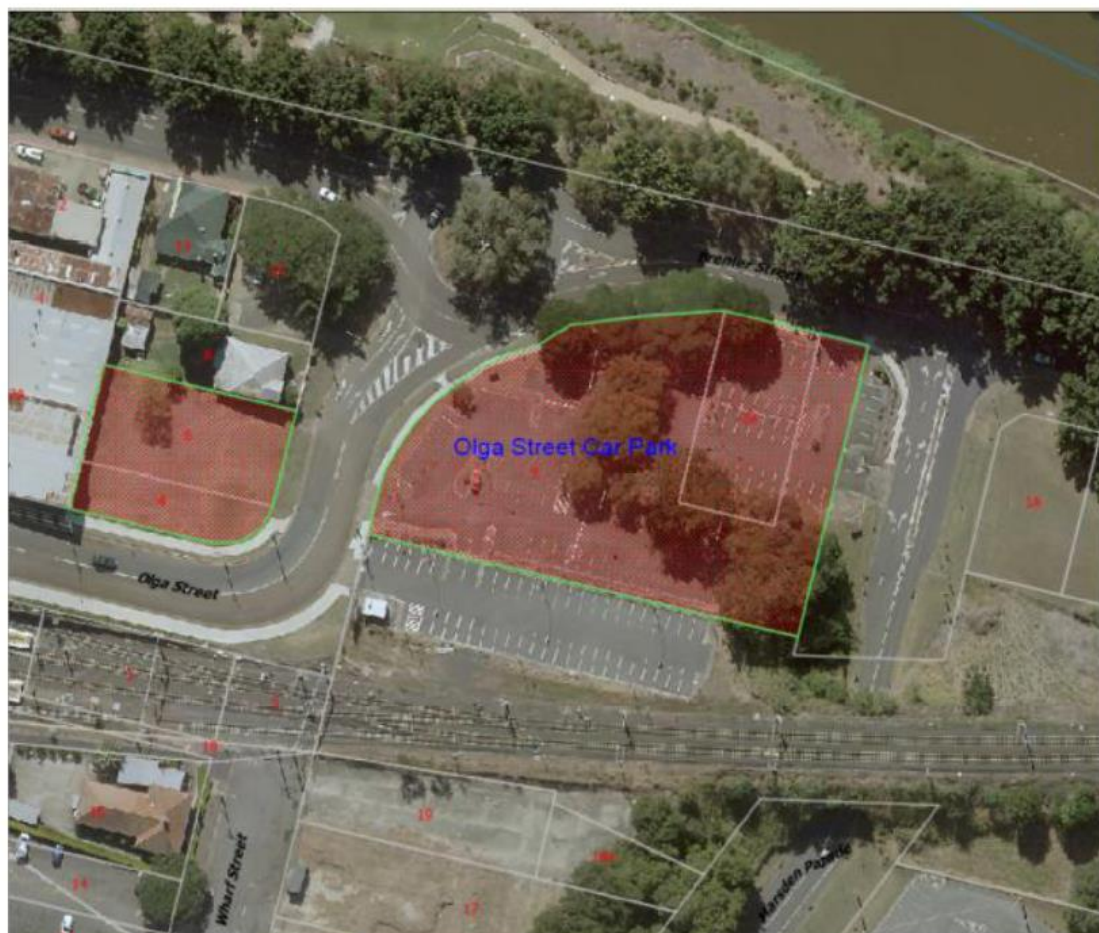
31
Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Map L – Queens Park, Ipswich



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Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Map M – Olga Street car park, Ipswich



33
Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Map N – Limestone Park – Salisbury Road car park



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Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 5.1 (Parking) 2019

Map O – Rosewood Library (15 Railway Street, Rosewood)



Doc ID No: A5570377

ITEM: 6

SUBJECT: ANIMAL MANAGEMENT - LOCAL LAW (AMENDING) LOCAL LAW NO.6 (ANIMAL MANAGEMENT) 2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.6.1 (ANIMAL MANAGEMENT) 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 30 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.6 (Animal Management) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. **That Council propose to make Local Law (Amending) Local Law No.6 (Animal Management) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.**
- B. **That it be noted that a review of the proposed Local Law (Amending) Local Law No.6 (Animal Management) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019 has been undertaken and has identified potential anti-competitive provisions.**
- C. **That Council approve to conduct a public interest test in relation to any potential anti-competitive provisions contained within the proposed amended laws as part of the public consultation process mentioned in Clause D below.**
- D. **That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.6 (Animal Management) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019, as detailed in Clause A above.**

- E. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.6 (Animal Management) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- F. That, following public consultations and the State Government interest check, as detailed in Clauses C, D and E above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy "Local Law Making Process" which is available on Council's website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council's Business Transformation Program a review of Council's existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren't included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.

- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).
- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - o Advertisement in Queensland Times
 - o Ipswich First articles
 - o Dedicated web page on Council's website
 - o Ability to lodge submissions online, via email and post
 - o Social media postings promoting the review and how to make a submission
 - o Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all	17/07/19	7/08/19	Ready to

proposed local laws for a minimum of 21 days (see policy for requirements)			commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No.6 (Animal Management) 2013* and *Subordinate Local Law No.6.1 (Animal Management) 2013 (Attachment 1 and 2)* whose objective is to regulate the keeping of animals—

- a) to protect the community against risk of injury and damage; and
- b) to ensure that animals do not create a nuisance or a risk to human health or safety; and
- c) to prevent environmental harm and environmental nuisance resulting from the keeping of animals and to protect the amenity of the local environment; and
- d) to ensure that animals are kept and used in a way that is consistent with the rights, expectations and enjoyment of the local community.

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.6 (Animal Management) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019 (Attachment 3 and 4)*. It is noted that there have been anti-competitive provisions identified in the amended subordinate local law and as such a public interest test will be conducted as part of the public consultation process.

A review has been conducted and drafting undertaken to:

- a. correct typographical errors and inconsistencies; and an improved layout and formatting to the law to assist with greater readability, especially when following seizure, impoundment, declaration and destruction processes;

- b. clearer requirements of owners responsibilities to have dogs under effective control in dog off-leash areas to ensure a dog is not engaging in any behaviour which could reasonably harass, cause damage or other injury to another person or animal in the off-leash area. Council receives many complaints about dog behaviour in these areas where the owner may not have effective control of their dog including having the dog under their supervision at all times to control the dog;
- c. inclusion of a civil remedy clause (new S32A in the local law) if a sale or disposal of an animal under section 32 does not realise a sufficient amount to pay any prescribed fee owing to the Council in relation to the animal, the Council *may* recover the shortfall as a debt.
- d. Other key changes in the subordinate local law as described in the table below:

Related Section	What is changing	Why is it changing	Enforcement expectations
Amendment of Section 11 (Dogs prohibited in certain public places)	<p>Inclusion of the following areas where dogs are prohibited:</p> <ul style="list-style-type: none"> • Flinders – Goolman Conservation Estate; • White Rock – Spring Mountain Conservation Estate; • Mt Grandchester Conservation Estate; • Purga Nature Reserve; • Kholo Enviroplan Reserve; • Sapling Pocket; • Stirling Road Reserve; and • Kholo Gardens. 	<p>Conservation estates and reserves are managed for the preservation of their unique natural environmental values (e.g. habitat for koalas). They contain vegetated areas which provide habitat for a wide variety of the City's biodiversity. The main reasons dogs are to be prohibited from these areas are:</p> <ul style="list-style-type: none"> • Barking and scents left by dogs can scare wildlife and attract other predatory animals. • The smell and sight of dogs may be enough to disturb wildlife, cause stress and even in some cases causing young to be abandoned. • Native animals are vulnerable to diseases, viruses and parasites that dogs may carry on them and in their fecal matter. • Their presence can limit Councils ability to undertake pest animal control, particularly on wild dogs. 	Council currently undertakes patrols in conservation estates and these will continue.

		<ul style="list-style-type: none"> Even the most docile dogs are predatory animals and are therefore a threat to protected wildlife. They may escape, chase after wildlife and not return. <p>There are a range of places and spaces that dogs can be taken whilst under effective control and Council has a large number of off leash areas available as well.</p>	
Change to minimum standards for animal keeping (Schedule 5, item 1)	<p>Current laws state that –</p> <p>Animal noise is considered excessive</p> <p>1. If:</p> <p>(i) it is made or can be heard within a residential area for more than a total of 6 minutes whether continually or intermittently in any hour from 7 a.m. to 10 p.m. on any day; and</p> <p>(ii) in the opinion of an authorised person it unreasonably disrupts or inhibits an activity ordinarily carried out on residential premises; or</p> <p>2. If:</p> <p>(i) it is made or can be heard in a residential area for more than a total of 3 minutes whether continually or intermittently in</p>	<p>Current laws make it difficult to for an effective resolution to be reached for both the complainant and animal owner. Investigations on impact to quality of life for complainants and for the owner to understand motivations for the animal to make excessive noise will drive a better outcome for all involved. Animal noise is subjective in that what may be a nuisance for one person may not be for the next. The proposed drafting is similar to other Councils across SEQ as most are moving away from prescriptive minutes in an hour type monitoring.</p>	No changes to current enforcement processes – on complaint.

	<p>any 30 minute period on any day after 10 p.m. but before 7 a.m.; and</p> <p>(ii) in the opinion of an authorised person it unreasonably disrupts or inhibits an activity ordinarily carried out on residential premises.</p> <p>The proposed laws state that –</p> <p>Animal noise is a nuisance if it—</p> <p>a) is made by a domestic animal; and</p> <p>b) occurs more than once; and</p> <p>c) in the opinion of an authorised officer unreasonably disrupts or inhibits an activity ordinarily carried out on a residential premises.</p> <p><i>Example for paragraph (c) – The barking of a dog, which disrupts a person –</i></p> <p>a) <i>holding a conversation; or</i></p> <p>b) <i>watching television; or</i></p> <p>c) <i>listening to a radio or recorded material; or</i></p> <p>d) <i>sleeping.</i></p>		
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FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;

- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation costs will be minimal for these amendments as they are administrative in nature.

RISK MANAGEMENT IMPLICATIONS

Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedules require amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)









COMMUNITY AND OTHER CONSULTATION

Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Local Law (Amending) Local Law No.6 (Animal Management) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.6 (Animal Management) 2013  
2.	Subordinate Local Law No.6 (Animal Management) 2013  
3.	Local Law (Amending) Local Law No.6 (Animal Management) 2019  
4.	Subordinate Local Law (Amending) Subordinate Local Law No.6.1 (Animal Management) 2019  

Barbara Dart
STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan
GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

Ipswich

City Council

Local Law No. 6 (Animal Management) 2013

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Ipswich City Council
Local Law No. 6 (Animal Management) 2013

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Ipswich City Council
Local Law No. 6 (Animal Management) 2013

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 6 (Animal Management) 2013*.

1A Commencement

This local law commences on 1 August 2013.

2 Object

The objects of this local law are to regulate the keeping of animals—

- (a) to protect the community against risk of injury and damage; and
- (b) to ensure that animals do not create a nuisance or a risk to human health or safety; and
- (c) to prevent environmental harm and environmental nuisance resulting from the keeping of animals and to protect the amenity of the local environment; and
- (d) to ensure that animals are kept and used in a way that is consistent with the rights, expectations and enjoyment of the local community.

3 Definitions—the dictionary

- (1) The dictionary in the Schedule (Dictionary) defines particular words used in this local law.
- (2) The dictionaries in *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

4 Relationship with other laws

This local law is in addition to, and does not derogate from—

- (a) the *Animal Management (Cats and Dogs) Act 2008*¹ and
- (b) the *Local Government Act 2009*; and
- (c) the *Sustainable Planning Act 2009*; and
- (d) the *Weapons Act 1990*; and
- (e) the *Health Act 1937*; and

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

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Ipswich City Council
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- (f) the *Nature Conservation Act 1992*; and
- (h) the *Apiaries Act 1982*; and
- (i) the *Food Act 2006*; and
- (j) the *Guide, Hearing and Assistance Dogs Act 2009*; and
- (k) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
- (l) other Acts (including subordinate legislation) about the keeping or control of an animal.

5 Requirement for a permit²

- (1) A person (other than a local government) must not undertake an activity which is a permit regulated activity³ unless authorised by a permit granted pursuant to this local law and *Local Law No.4 (Permits) 2013*⁴.

Maximum penalty for subsection (1) –

- (a) for first offence – 20 penalty units.
 - (b) for second offence within a 2 year period – 30 penalty units.
 - (c) for third or further offences within a 2 year period – 50 penalty units.
- (2) Notwithstanding section 5(1) (Requirement for a permit) of this local law, a permit is not required if—
 - (a) a local law or subordinate local law specifies that a permit is not required in respect of the undertaking of the permit regulated activity; or
 - (b) a local law or subordinate local law specifies circumstances under which a permit is not required in respect of the undertaking of the permit regulated activity; or
 - (c) the undertaking of the permit regulated activity is authorised by a Local Government Act.

² The circumstances in which the keeping of animals requires a permit is set out fully in *Subordinate Local Law 6.1 (Animal Management) 2013*

³ For the definition of *permit related activity* see the Schedule

⁴ *Local Law No. 4 (Permits) 2013* sets out the procedures for the application, granting, conditioning and enforcement of permits

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- (3) Notwithstanding section 5(1) (Requirement for a permit) of this local law, the holder of the permit must not undertake the permit regulated activity until all approvals required under legislation in respect of the permit regulated activity have been obtained.

Part 2 Keeping of animals

Division 1 Animal registration and identification

6 Requirement to register and identify

- (1) This section does not apply to any animals to which Chapter 3 of the *Animal Management (Cats & Dogs) Act 2008* applies.
- (2) The local government may, by subordinate local law prescribe—
- (a) by species or breed, animals which are required to be registered;
 - (c) the timeframes, within which persons keeping animals which are required to be registered, are to apply for registration;
 - (d) the registration period for an animal or a particular species or breed of animal; and
 - (e) registrations which will be automatically renewed or extended upon payment of the prescribed fee.
- (3) A person must not keep an animal for which registration is required unless the person holds a current certificate of registration for the animal from the local government.
- Maximum penalty – 20 penalty units.
- (4) A person who keeps a registered animal must ensure that the animal bears the identification prescribed by subordinate local law.

Maximum penalty – 20 penalty units.

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Ipswich City Council
Local Law No. 6 (Animal Management) 2013

7 Identification of registered cats and dogs

The local government may by subordinate local law, prescribe the identification required by the *Animal Management (Cats and Dogs) Act 2008*.⁵

8 Minimum standards

(1) The local government may by subordinate local law prescribe requirements (minimum standards) for the undertaking of the activity of animal keeping.

(2) A person who undertakes the activity of animal keeping must ensure any prescribed minimum standards are complied with.

Maximum penalty for subsection (2) – 20 penalty units

(3) If the animal keeping activity is also a permit regulated activity the obligation to comply with the prescribed minimum standards is in addition to any obligation to comply with the conditions imposed by any permit.

(4) The local government may give a person a compliance notice in relation to a minimum standard as if the minimum standard were a condition of a permit.

Division 2

Desexing animals

9 Requirement to desex an animal

(1) The local government may, by subordinate local law, require that an animal be desexed.

(2) The subordinate local law may—

(a) specify the particular species or breed of animals that must be desexed;

(b) specify that the requirement for desexing applies only when an animal reaches a certain age;

(c) specify that an animal must be desexed in certain circumstances; and

⁵ Section 45 of the *Animal Management (Cats and Dogs) Act 2008* requires a person who keeps a cat or dog at a place other than the address in a registration notice to ensure that the animal bears the identification prescribed by local law.

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Ipswich City Council
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Examples for paragraph (c) —

Desexing an animal kept in a small lot housing development might be required where 2 or more animals of the same species are being kept.

(d) exempt animals under particular circumstances.

Example for paragraph (d) —

Exemption might be provided for an animal that is owned by a member of a recognised breeders' association for the purposes of breeding or showing or an animal may be exempt for health reasons.

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

Maximum penalty - 20 penalty units.

Division 3 Prohibited animals

10 Prohibited animals

- (1) The local government may, by subordinate local law, prohibit the keeping of animals in particular circumstances.
- (2) The prohibition may be imposed by reference to one or more of the following factors—
- (a) species;
 - (b) breed;
 - (c) sex;
 - (d) age;
 - (e) number;
 - (f) whether the animal is a restricted dog⁶;
 - (g) the locality in which the animals are to be kept;
 - (h) the nature of the premises, including the size of enclosure, in which the animals are to be kept⁷; and

⁶ Section 72(3) of the *Animal Management (Cats and Dogs) Act 2008* provides: "A permit application may be made for more than 1 restricted dog for the same place only if the keeping of more than 1 restricted dog and more than 1 dog of any breed is permitted under a local law."

⁷ See the *Animal Management (Cats and Dogs) Act 2008*, chapter 4, regarding particular conditions on keeping

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Ipswich City Council
Local Law No. 6 (Animal Management) 2013

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

Maximum penalty – 50 penalty units.

Part 3 Control of animals

Division 1 Animals in public places

11 Exclusion of animals from public places

- (1) The local government may, by subordinate local law, specify public places where animals, or animals of a particular species or breed, are prohibited.
- (2) The owner or responsible person for an animal must ensure that an animal is not in a public place in contravention of a prohibition imposed under subsection (1).

Maximum penalty - 20 penalty units.

- (3) The local government must take reasonable steps to provide notice to members of the public regarding the animals that are prohibited in a particular public place.
- (4) In this section—

reasonable steps include the display of a notice at an entry point or such other prominent place within the particular public place, stating—

- (a) the animals that are prohibited in the place; and
- (b) in general terms, the provisions of subsection (2).

12 Off-leash areas

- (1) The local government may, by a subordinate local law, a recording in a register, or a sign exhibited on a local government controlled area, designate an area within a public place as an area where an animal, or an animal of a particular species or breed, is not required to be on a leash (***off-leash area***).

regulated dogs, including requirements about enclosures.

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- (2) The local government must take reasonable steps to provide notice to members of the public regarding the designation of an area as an off-leash area.
- (3) In this section—

reasonable steps include the display of a notice at an entry point or such other prominent place within the off-leash area indicating the extent of the area.

13 Animal to be under effective control

- (1) For the purpose of this section an animal is regarded as being under the effective control of someone when—
 - (a) a person who is physically able to control the animal—
 - (i) is holding the animal by a leash, halter, harness or rein;
 - (ii) has tethered the animal to a fixed object and continuously supervises the animal; or
 - (iii) has corralled the animal in a temporary enclosure adequate to wholly contain the animal and continuously supervises the animal; or
 - (b) the animal is tethered in, or on a vehicle, and no part of the animal is able to reach beyond the extremities of the vehicle;

Note -
For example, a horse cannot reach out of a horse float or a dog cannot bite a person walking past.
 - (c) the animal is in a designated off-leash area and under the supervision of a person who is in close proximity to the animal;
 - (d) the animal is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for the purpose of this section by the local government; or
 - (e) the animal is a working animal actually engaged in moving livestock and under the supervision of a person who is able to control the animal by voice command.
- (2) The owner or responsible person for an animal must ensure that an animal is not in a public place—

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- (a) unless the animal is under the effective control of someone;
and
- (b) if the animal is a declared dangerous animal, unless the
animal is securely restrained to prevent it from—
 - (i) attacking a person or animal;
 - (ii) acting in a way that causes fear to a person or
animal; or
 - (iii) causing damage to property.

Maximum penalty if the animal is a declared dangerous animal – 50
penalty units.

Maximum penalty if the animal is not a declared dangerous animal – 20
penalty units

- (3) The owner or responsible person for a dog that is on heat or that has an
infectious disease must ensure that the animal is not in a public place.

Maximum penalty – 20 penalty units.

14 Person in control of animal to clean up animal faeces

- (1) If any animal defecates in a public place, the person who has control of
the animal must immediately remove and dispose of the faeces in a
sanitary way.

Maximum penalty - 20 penalty units.

- (2) The person in control of an animal in a public place must carry
receptacles for removing and disposing of faeces while in or on a public
place.

Maximum penalty - 20 penalty units.

Division 2 Enclosure requirements

15 Requirements to provide an enclosure

- (1) A person who keeps an animal must provide and maintain a proper
enclosure to prevent the animal from wandering, or the animal or any

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part of the animal escaping, from the person's land on which the animal is kept⁸.

Maximum penalty - 30 penalty units.

- (2) The local government may by subordinate local law, prescribe requirements for a proper enclosure for an animal or species or breed of animal.
- (3) The owner of an animal must ensure it is not wandering.

Maximum penalty - 20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that—
 - (a) the defendant maintained a proper enclosure for the animal and could not, by the exercise of reasonable diligence, have prevented the escape of the animal; or
 - (b) the animal was wandering in circumstances authorised by the conditions of a permit granted under a local law.

Example for paragraph (b)—

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

Division 3 Aggressive animals (other than dogs)

16 Animal attacks

- (1) Unless otherwise indicated this division does not apply to aggressive behaviour by dogs.
- (2) A responsible person for an animal must take reasonable steps to ensure the animal does not engage in aggressive behaviour.

Maximum penalty for subsection (2)—

- (a) if the attack causes the death of or grievous bodily harm to a person—300 penalty units; or
- (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units; or

⁸ See also Animal Management (Cats and Dogs) Act 2008, schedule 1, sections 4 to 5, regarding the requirements about enclosures for declared dangerous dogs, declared menacing dogs and restricted dogs.

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- (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
 - (d) otherwise—20 penalty units.
- (3) A person must not allow or encourage an animal to engage in aggressive behaviour.

Maximum penalty for subsection (3)—

- (a) if the attack causes the death of or grievous bodily harm to a person—300 penalty units; or
 - (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units; or
 - (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
 - (d) otherwise—20 penalty units.
- (4) In this section—

aggressive behaviour means attacking or acting in a way that causes fear to someone else or another animal;

allow or encourage, without limiting the Criminal Code, sections 7 and 8, includes cause, to allow or encourage;

another animal does not include vermin which are not the property of anyone, provided that the vermin are not protected animals under the *Nature Conservation Act 1992*.

Examples of vermin which are someone's property—

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992*.

17 Defences for offences against section 16

It is a defence to a prosecution for an offence against section 16 (Animal Attacks) of this local law for the defendant to prove that the animal attacked, or acted in a way that caused fear to, the person or other animal—

- (a) as a result of the animal being attacked, mistreated, or provoked by the person or other animal, including a dog; or
- (b) to protect the responsible person in relation to –

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- (i) an attack or act by an animal that would be an offence under subsection 16(2) (Animal Attacks) of this local law;
- (ii) an act or omission by a person that would be an offence under subsection 16(3) (Animal Attacks) of this local law;
- (iii) a person accompanying the responsible person (the accompanying person); or
- (iv) the responsible person's property.

Division 4 Dangerous animals other than dogs

18 Declaration of dangerous animal other than a dog

- (1) A local government may by subordinate local law specify criteria for an authorised person to declare an animal, other than a dog, to be a declared dangerous animal.
- (2) An authorised person may declare an animal to be a declared dangerous animal if the animal meets the criteria prescribed by subordinate local law.
- (3) On declaration of an animal as a declared dangerous animal, the local government must give the responsible person for the animal an information notice about the declaration.

19 Power to require owner or responsible person for a dangerous animal to take specified action

- (1) An authorised person may give the owner or responsible person for a declared dangerous animal a compliance notice to take specified action—
 - (a) to warn persons who enter land on which the animal is kept of the presence of a declared dangerous animal on the land;
 - (b) to ensure that the animal remains in secure custody and is unable to attack or cause fear or injury to persons or other animals or cause damage to property; and
 - (c) any other action prescribed by subordinate local law.
- (2) A person must comply with a compliance notice under subsection 19(1).

Maximum penalty - 50 penalty units.

Division 5 Removal of animals

20 Power to remove an animal

- (1) An authorised person may issue a notice (a **removal notice**) to the owner or responsible person for an animal—
 - (a) who has not complied with a compliance notice which has been issued in relation to compliance with this local law; or
 - (b) who does not hold a current certificate of registration in accordance with section 6(3) (Requirement to register and identify) of this local law.
- (2) A removal notice may require the owner or responsible person for an animal, within the reasonable time stated in the notice, to—
 - (a) destroy the animal or have it destroyed; or
 - (b) permanently remove it from the area specified in the notice.
- (3) The recipient of a removal notice must comply with it.

Maximum penalty for subsection (3) - 50 penalty units.
- (4) If the owner or responsible person fails to comply with a removal notice, an authorised person may enter the land on which the animal is kept under the powers of entry given by the Act and seize the animal and dispose of the animal under Division 3 of Part 5 of this local law.

Part 4 Seizure and impounding of animals

Division 1 Seizure of animals

21 Seizure of an animal

- (1) An authorised person may seize an animal which is not a regulated dog⁹ that is on a public place if the animal is—
 - (a) found wandering; or
 - (b) a dangerous animal; or
 - (c) a declared dangerous animal; or

⁹ The seizure of a regulated dog on a public place is provided for in the *Animal Management Act*.

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- (d) a prohibited animal; or
 - (e) not under effective control; or
 - (f) a feral animal; or
 - (g) an animal which the authorised person reasonably believes has attacked or worried a person or another animal, or threatened to attack a person or another animal, or acted in a way that causes fear to a person or another animal; or
 - (h) of a class or type specified in a subordinate local law; or
 - (i) the owner or responsible person for the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law; or
 - (j) an animal that is causing a nuisance.
- (2) An authorised person may enter a private place¹⁰ to seize and impound an animal which is not a regulated dog¹¹—
- (a) if the animal is not under effective control in circumstances where it can gain ready access to a public place; or
 - (b) if the animal is a dangerous animal or a declared dangerous animal which is not under effective control on vacant land; or
 - (c) if the animal is a dog which an authorised person reasonably believes has attacked or worried a person, animal or thing; or
 - (d) if the owner in circumstances where there is no occupier of the premises or the occupier of the premises requests the local government to enter the premises and seize and impound an animal found on the premises; or
 - (e) if the keeper of the animal, who is not the owner of the premises or the occupier of the premises, requests the local government to enter the premises and seize and impound the animal; or
 - (f) in the circumstances specified in *Local Law No. 4 (Permits) 2013* section 17 (Performance of works) and *Local Law No. 4 (Permits) 2013* section 18 (Powers of entry and cost recovery).

¹⁰ The exercise of this power is subject to the powers of entry provisions of the *Local Government Act 2009*.

¹¹ The seizure of a regulated dog on a private place is provided for in the *Animal Management (Cats and Dogs) Act 2008*.

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- (g) if the owner or responsible person for the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law.
- (3) The local government may, for the purposes of seizing an animal which is not a regulated dog, use any reasonable method of capturing, trapping, controlling or sedating the animal including the use of mechanical devices and tranquillising devices.
- (4) The owner of premises, in circumstances where there is no occupier of the premises, or the occupier of premises may—
 - (a) seize an animal found on the premises; and
 - (b) deliver the animal to an authorised person to be impounded.
- (5) A person may seize an animal found wandering at large in a public place and deliver the animal to an authorised person to be impounded.
- (6) An authorised person is not obliged to accept the custody of an animal delivered under subsection (4) or subsection (5).

22 Immediate return of animal found wandering

- (1) This section applies where—
 - (a) an animal has been seized under section 21(1)(a) (Seizure of an animal); and
 - (b) the authorised person who seizes the animal knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person may return the animal to the owner or responsible person upon payment of the prescribed fee.

Division 2 Impounding of animals

23 Impounding of seized animal

An authorised person who seizes an animal under this local law or another law may impound the animal at a place of care for animals operated by—

- (a) the local government; or

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- (b) another organisation or local government prescribed by subordinate local law.

Example for paragraph(a) —
An animal pound.

Example for paragraph(b) —
A veterinary surgery or an animal refuge.

24 Dealing with animal seized and impounded for wandering

- (1) For the purpose of this section an ***impoundment notice*** means a written notice given to the owner or responsible person for an animal, stating that—

- (a) the animal has been impounded; and
- (b) the animal may be reclaimed within the prescribed period provided that—

- (i) the prescribed fee is paid; and

Example of prescribed fee—
The prescribed fee may include—

- the amount incurred by the local government in the seizure and impounding of the animal under Part 5 (Seizure and impounding of animals) of this local law; and
 - the amount properly and reasonably incurred by the local government in the care of the animal such as sustenance and veterinary fees.
- (ii) if a permit or registration is required for the keeping of the animal and the owner or responsible person does not have the permit or registration— the permit or registration is obtained; and
- (iii) if the animal has been seized under section 21(1)(i) (Seizure of an animal) or 21(2)(g) (Seizure of an animal) — the owner or responsible person has complied with the relevant compliance notice; and
- (iv) continued retention of the animal is not needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; and
- (v) the animal may be destroyed without further notice if the animal is not reclaimed within the prescribed period.

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- (2) The authorised person must give the owner or responsible person an impoundment notice where—
 - (a) an authorised person has impounded an animal seized under section 21(1)(a) (Seizure of an animal); and
 - (b) the animal was not a declared dangerous animal at the time of being seized; and
 - (c) the authorised person knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (3) Subsection (4) applies where—
 - (a) an authorised person has impounded a declared dangerous animal seized under section 21(1)(a) (Seizure of an animal); or
 - (b) an authorised person has impounded an animal that has been seized more than 3 times during a 12 month period.
- (4) The authorised person may—
 - (a) give the owner or responsible person for the animal an impoundment notice; or
 - (b) make a destruction order for the animal under section 34.

25 Dealing with animal seized and impounded for non-compliance with local law

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(i) (Seizure of an animal) or 21(2)(g) (Seizure of an animal).
- (2) The authorised person may—
 - (a) give the owner or responsible person for the animal an impoundment notice; or
 - (b) if the animal:
 - (i) was being kept in contravention of section 10 (Prohibited animals) of this local law; or

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- (ii) is an animal for which a permit cannot be granted under this local law; or
 - (iii) is an animal for which an application for a permit under a local law has been rejected.
- dispose of the animal under Part 6 (Destruction of animals).

26 Dealing with animal seized and impounded for attacking etc a person or another animal

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(g) (Seizure of animal) or section 21(2)(c) (Seizure of animal).
- (2) The authorised person may —
 - (a) make a destruction order for the animal under section 34; or
 - (b) give the owner or responsible person an impoundment notice under section 24(1) (Dealing with animal seized and impounded for wandering).

27 Reclaiming an impounded animal

- (1) This section applies where—
 - (a) the owner or responsible person for an animal has been given an impoundment notice; or
 - (b) an authorised person does not know, and cannot readily find out, the name and address of an owner or responsible person for the animal.
- (2) The animal may be reclaimed by an owner or responsible person if the owner or responsible person—
 - (a) reclaims the animal within the prescribed period; and
 - (b) pays the prescribed fee; and
 - (c) if a permit or registration is required for the keeping of the animal and the owner or responsible person does not have the permit or registration— obtains the permit or registration; and

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- (d) if the owner or responsible person has not complied with a current compliance notice that has been issued in relation to compliance with this local law—complies with the compliance notice.
- (3) However, the animal may not be reclaimed by an owner or responsible person if—
 - (a) continued retention of the animal is needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; or
 - (b) a destruction order has been made for the animal;
 - (c) the circumstances in which the animal is to be kept are prohibited under a local law.
- (4) The animal may be reclaimed by an owner or responsible person for the animal if an event as follows happens—
 - (a) if subsection (3)(a) applies—
 - (i) the animal's continued retention as evidence is no longer required; and
 - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d);
 - (b) if subsection (3)(b) applies—
 - (i) a review or appeal is made relating to the destruction order and, as a result of the review or appeal, the order is no longer in force; and
 - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d).

28 Register of impounded animals

- (1) The local government must ensure that a proper record of impounded animals (the **register of impounded animals**) is kept.
- (2) The register of impounded animals must contain the following information about each impounded animal—
 - (a) the species, breed and sex of the animal; and

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- (b) any brand on the animal; and
 - (c) colour, distinguishing markings and features of the animal; and
 - (d) if applicable—the registration number of the animal; and
 - (e) if known—the name and address of the responsible person; and
 - (f) the date and time of seizure and impounding; and
 - (g) the name of the authorised person who impounded the animal; and
 - (h) the reason for the impounding; and
 - (i) a note of any order made by an authorised person relating to the animal; and
 - (j) the date and details of whether the animal was sold, released or destroyed; and
 - (k) a note on the condition of the animal if the animal appeared, to the authorised person who impounded the animal, to be sick or injured at the time of impoundment.
- (3) The register of impounded animals must be kept available for public inspection at the place of care for animals or, if the place has no public office, at an office prescribed by subordinate local law.

29 Access to impounded animal

- (1) This section applies to an animal impounded under section 23 (Impounding of seized animal).
- (2) The local government must allow the owner of the animal to inspect it any reasonable time, from time to time.
- (3) Subsection (2) does not apply if it is impracticable or would be unreasonable to allow the inspection.
- (4) The inspection must be provided free of charge.

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30 Unlawful removal of seized or impounded animal

- (1) A person must not, without the authority of an authorised person, remove or attempt to remove—
- (a) a seized animal from the custody or control of an authorised person; or
 - (b) an impounded animal from the local government's facility for keeping impounded animals.

Maximum Penalty for subsection (1) —50 penalty units.

- (2) Any costs arising from damage or loss caused by a person contravening subsection (1) is recoverable by the local government as a debt.

Division 3 Sale or disposal of animals

31 Application of this division

This division applies where—

- (a) an impounded animal has not been reclaimed within the prescribed period under section 27(2) (Reclaiming an impounded animal);
- (b) if section 27(3) (Reclaiming an impounded animal) applies— the impounded animal has not been reclaimed within the prescribed period of an event mentioned in section 27(4) (Reclaiming an impounded animal); or
- (c) an impounded animal has not been reclaimed within the prescribed period of the events mentioned in section 33(7) (Destruction orders) occurring; or
- (d) an impounded animal has not been reclaimed within the prescribed period of the events mentioned in section 33(8) (Destruction orders) occurring; or
- (e) an authorised person has seized an animal under section 20(4) (Power to remove an animal); or
- (f) the owner of an animal has surrendered the animal to the local government.

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32 Sale or disposal of animals

- (1) The local government may—
- (a) offer the animal for sale by public auction or by tender; or
 - (b) unless the animal is of a species, breed or class to which a subordinate local law specifies this paragraph does not apply—
 - (i) sell the animal by private agreement; or
 - (ii) dispose of the animal in some other way.

Example of subparagraph (ii)—

The animal may be transferred to the RSPCA or other animal welfare organisation.

The animal may be destroyed.¹²

- (2) An animal may only be sold or disposed of under subsection (1) if the local government is satisfied that this will not result in the animal being kept in contravention of the requirements of this local law.

Examples—

- A pig that has been seized because it is being kept in a residential area in contravention of a prohibition under a subordinate local law could be sold to a person outside the urban area but not to another person in an urban area, unless satisfied that it will not be kept in an urban area.
- An animal which a subordinate local law has prohibited in any part of the local government area could not be sold to a person who resides within the local government area.
- A declared dangerous animal could be sold only to a person who has complied with any specified requirements for keeping such an animal.

- (3) If an animal is to be offered for sale at a public auction under this section, notice of the auction, stating the time and place of the auction, must be exhibited at the local government's public office for at least 2 days before the date of the auction and may also be exhibited on the local government's website.
- (4) An amount realised on sale of an impounded animal must be applied—
- (a) first, towards the reasonable expenses incurred in the selling of the animal; and

¹² See section 33(1)(b)(vi) (Destruction of an animal) of this local law.

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- (b) second, towards the prescribed fee for impounding the animal; and
 - (c) third, if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cwlth) — in payment of the amount owing under the security interest; and
 - (c) fourth, in payment of the remainder to the former owner of the animal, unless the owner had surrendered the animal to the local government.
- (5) The amount payable to the former owner of an impounded animal under section 32(3) (Sale or disposal of animals) of this local law is payable to the local government if—
 - (a) the identity of the former owner of the impounded animal is unknown to the local government from the local government's records; or
 - (b) no person establishes a valid claim to the amount to which the former owner of the impounded animal is entitled within six months of the date of the sale.
- (6) If an animal which is offered for sale by public auction or tender is not sold through the auction or tender process, the local government may dispose of the animal as it considers appropriate.

Examples—

- The local government may give the animal away.
- The local government may have the animal destroyed.

Part 5 Destruction of animals

Division 1 Destruction of animals

33 Destruction of an animal

- (1) The local government may destroy an animal which is not a regulated dog¹³, which—
 - (a) may be seized and impounded under this local law if—

¹³ The destruction of a regulated dog is provided for in the *Animal Management (Cats and Dogs) Act 2008*.

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- (i) an authorised person is satisfied that the animal is unable to be seized and impounded using the means reasonably available to the authorised person without undue risk to the health or safety of the authorised person or other person; or
 - (ii) the animal is a feral animal; or
 - (b) has been seized and impounded under this local law if—
 - (i) the animal has been seized and impounded more than three (3) times within a 12 month period; or
 - (ii) the animal is diseased, injured or emaciated; or
 - (iii) the animal is a feral animal; or
 - (iv) the animal is a dangerous animal; or
 - (v) the animal is of a type or breed the keeping of which is prohibited in a subordinate local law; or
 - (vi) the animal has not been reclaimed within a period specified in a subordinate local law; or
 - (vii) a written request is received from the owner of the animal; or
 - (viii) the animal cannot be sold.
- (2) If the local government is satisfied that an impounded animal may be destroyed under sections 23(1)(b)(i) or 23(1)(b)(iv) or 23(1)(b)(vi) (Destruction of an animal) of this local law, the local government is to—
 - (a) make a destruction order; and
 - (b) if the local government knows or can readily ascertain from the local government's records the name and address of the keeper of the impounded animal, serve on the keeper of the impounded animal a copy of the destruction order.
- (3) The destruction order must include or be accompanied by an information notice about the decision to make the destruction order.
- (4) If a destruction order is made for the animal, the local government may destroy the animal 10 business days after the order is served if no

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review application has been made relating to the decision to make the order.

- (5) If an application for review has been made against the decision to make the order, the local government may destroy the animal if—
 - (a) the review is finally decided or is otherwise ended; and
 - (b) no application for an appeal has been made against the order; and
 - (c) the order is still in force.
- (6) If an appeal is made relating to the decision to make the order, the local government may destroy the animal if—
 - (a) the appeal is finally decided or is otherwise ended; and
 - (b) the order is still in force.
- (7) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
 - (a) a review relating to the decision to make the order is finally decided or is otherwise ended; and
 - (b) no application for an appeal has been made against the order; and
 - (c) the order is no longer in force; and
 - (d) the owner or responsible person has satisfied section 27(2)(b)-(d) (Reclaiming an impounded animal).
- (8) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
 - (a) an appeal relating to the decision to make the order is finally decided or is otherwise ended; and
 - (b) the order is no longer in force; and
 - (c) the owner or responsible person has satisfied section 27(2)(b)-(d) (Reclaiming an impounded animal).
- (9) In this section—

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review means a review conducted under the process mentioned in part 6 of the *Local Law No. 1 (Administration) 2013*.

appeal means an appeal under Part 6 Division 2 of this local law.

Division 2 Appeals against destruction orders

34 Appealable decisions

- (1) A decision by an authorised person to destroy an animal or have it destroyed is an appealable decision.
- (2) However, a decision to destroy an animal is not appealable if the decision can be carried into effect without notice to the keeper of the animal.

35 Starting appeal

- (1) An owner or responsible person for an animal, the subject of a destruction order, may appeal to the Magistrates Court against the decision to make the destruction order.
- (2) An appeal must not be started unless a review of the decision to make the destruction order has been finally decided or otherwise ended.
- (3) An appeal is started by—
 - (a) filing notice of appeal with the Magistrates Court in which the owner or responsible person resides; and
 - (b) serving a copy of the notice of appeal on the local government within 14 days after the destruction order is served; and
 - (c) complying with rules of court applicable to the appeal.

36 Stay of destruction order

Upon filing the notice of appeal, the destruction order is stayed until the court decides the appeal.

37 Powers of Court on appeal

- (1) In deciding an appeal, the Magistrates Court may –
 - (a) confirm the destruction order with or without conditions; or

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- (b) quash the destruction order with or without conditions.
- (2) The Magistrates Court may only quash the destruction order if the Court is satisfied, on the balance of probabilities, that—
 - (a) the animal was unlawfully seized and impounded; or
 - (b) there was no legal basis for the making of the destruction order; or
 - (c) an alternative order agreed between the local government and the keeper of the impounded animal is consistent with the objects of this local law.
- (3) Where the Magistrates Court quashes the destruction order the Court may make an order for the costs of the appeal against the local government only if the court is satisfied that the animal was unlawfully seized or there was no reasonable basis for making the decision subject to the appeal.
- (4) Where the Magistrates Court confirms a destruction order the Court may order the keeper of the impounded animal to pay the local government's costs of the appeal and all costs relating to the seizure, impounding, care and destruction of the animal.

Part 6 Miscellaneous

38 Sale of animals

- (1) A subordinate local law may specify conditions to be complied with by persons who offer animals, or a particular species of animal, for sale.
- (2) A person must not offer or display animals for sale in the area unless the person complies with the conditions specified in the subordinate local law.

Maximum penalty— 50 penalty units.

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39 Prohibition of identifying tags designed to confuse

A person must not manufacture, sell, or have in possession for sale, identifying tags for animals designed to be confused with the identifying tags required for animals under this local law.

Maximum penalty— 20 penalty units.

Part 7 Subordinate laws

40 Subordinate local laws

- (1) The local government may make a subordinate local law with respect to—
 - (a) the circumstances in which keeping of animals is a permit regulated activity pursuant to the schedule (Dictionary – definition of permit regulated activity) of this local law; and
 - (b) when a permit is not required for undertaking a permit regulated activity pursuant to section 5 (Requirement for a permit) of this local law; and
 - (c) the circumstances in which registration of an animal is required pursuant to section 6 (Requirement to register and identify) of this local law; and
 - (d) the form of identification required for registered animals pursuant to section 7 (Identification of registered cats and dogs) of this local law; and
 - (e) the minimum standards for animal keeping pursuant to section 9 (Minimum standards) of this local law.
 - (f) the circumstances in which desexing of an animal is required pursuant to section 9 (Requirement to desex an animal) of this local law; and
 - (g) the circumstances in which the keeping of animals is prohibited pursuant to section 10 (Prohibited animals) of this local law; and
 - (h) the exclusion of animals, or animals of a specified species, from public places pursuant to section 11 (Exclusion of animals from public places) of this local law; and

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- (i) designated off-leash areas pursuant to section 12 (Off-leash areas) of this local law; and
- (j) proper enclosure requirements pursuant to section 15 (Requirements to provide an enclosure) of this local law; and
- (k) the criteria for declaring an animal to be a dangerous animal pursuant to section 18 (Declaration of a dangerous animal other than a dog) of this local law; and
- (l) the action that may be specified in a compliance notice given to the owner or responsible person for a dangerous animal pursuant to section 19 (Power to require owner or responsible person for a dangerous animal to take specified action) of this local law; and
- (m) the class or type of animal that may be seized pursuant to section 21 (Seizure of an animal) of this local law; and
- (n) the organisation or local government operating a place of care pursuant to section 23 (Impounding of Seized animals); and
- (o) the prescribed period pursuant to section 24 (Dealing with animal seized and impounded for wandering) of this local law; and
- (p) the office at which the register of impounded animals is available for public inspection pursuant to section 28 (Register of impounded animal) of this local law; and
- (q) circumstances in which an impounded animal may be sold pursuant to section 32 (Sale or disposal of animals) of this local law; and
- (r) the conditions to be complied with by an owner or responsible persons who offer animals, or a particular species of animal for sale pursuant to section 38 (Sale of animals) of this local law
- (s) the exclusion of animals of a particular species from the application of this local law pursuant to the schedule (Dictionary—definition of animal) of this local law; and
- (t) animals specified as dangerous animals pursuant to the Schedule (Dictionary— definition of dangerous animal) pursuant to this local law; and

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- (u) activities that are permit regulated activities pursuant to the Schedule (Dictionary— definition of permit regulated activity) of this local law; and
- (v) the period within which an impounded animal is to be reclaimed pursuant to the Schedule (Dictionary—prescribed period) of this local law; and
- (w) animals prescribed to be stock pursuant to the Schedule (Dictionary—definition of stock) of this local law.

Part 8 Transition, Savings and Repeals

41 Repeals

The following Local Laws are repealed —

- Local Law No. 3 (Impounding Animals) 1996, gazetted 22 March 1996
- Local Law No.4 (Keeping and Control of Animals (1998), gazetted 27 November 1998
- Local Law No.7 (Dogs) 2005, gazetted 18 February 2005

42 Existing Permits

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a permit regulated activity under this local law is taken to be a holder of a permit under this local law and *Local Law No. 4 (Permits) 2013* to operated that activity.

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Schedule

Dictionary

Section 3

animal includes any live mammal (other than a human being), reptile, amphibian, insect, bird, poultry and fish but does not include—

- (a) an animal excluded by a subordinate local law having regard to species, breed, sex, age, use or class of the animal; or
- (b) an animal in so far as the keeping of the animal is regulated by the State or Commonwealth laws.

Example of the keeping of an animal regulated by a State law are bees under the *Apiary Act 1982* which makes provision for prohibiting the keeping of bees on an apiary site which is detrimental to public interest.

animal keeping or **keeping an animal** means the custody or care of an animal by a person, including the keeping of animals for which an approval is required.

animal law means a local law of another local government or a law of the State government relating to the keeping of an animal.

approval has the meaning given in *Local Law No. 1 (Administration) 2013* and includes all conditions of consent, permission, permit, licence, authorisation or approval.

approved form means a form approved by the local government or the chief executive officer.

attack, by an animal, means—

- (a) aggressively rushing at or harassing any person or animal; or
- (b) biting, butting, kicking, or otherwise causing physical injury to, a person or an animal; or
- (c) tearing clothing on, or otherwise causing damage to the property in the immediate possession of, a person.

authorised person means a person authorised by the local government under *Local Law No. 1 (Administration) 2013* to exercise the powers of an authorised person under this local law.

chief executive officer means the chief executive officer as that term is defined in the Act of the local government.

compliance notice means a compliance notice given under—

- (a) section 14 in *Local Law No. 4 (Permits) 2013* or

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

cost-recovery fee means the fee fixed by the local government to cover the costs associated with impounding an animal¹⁴.

dangerous animal means an animal which is not a dog, that—

- (a) is acknowledged in writing to the local government by the keeper of the animal as a dangerous animal; or
- (b) is specified as a dangerous animal by a subordinate local law having regard to—
 - (i) the species, breed, sex, age, use or class of the animal; or
 - (ii) the size, location, nature, type or class of premises on which the animal is ordinarily kept; or
- (c) has been declared as a dangerous animal under an animal law; or
- (d) attacks or worries a person, an animal or a thing; or
- (e) behaves in a way that results in harm to human health or safety, personal injury or property damage; or
- (f) behaves in a way that gives rise to a reasonable cause for fear that the animal is likely to—
 - (i) attack or worry a person, an animal or a thing; or
 - (ii) be a risk of harm to human health or safety, personal injury or property damage.

declared dangerous animal means an animal that the local government has declared as a dangerous animal under section 18 (Declaration of a dangerous animal other than a dog) of this local law.

dog means an animal of the canine species and includes the male and female of the species.

effective control see section 13(1) (Animal to be under effective control).

grievous bodily harm see the Criminal Code.

horses includes donkeys and mules.

identifying tag means a mark or object to identify an animal including, for example —

¹⁴ See the Act, section 97 for the power of a local government to fix a cost recovery fee.

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- (a) a metal or plastic disc or plate; or
- (b) a collar; or
- (c) a tattoo or brand; or
- (d) an implant bearing an electronic code.

impoundment notice see section 24(1) (Dealing with animal seized and impounded for wandering)

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

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may apply for a review of the decision within 10 business days after the notice is given; and
- (d) how to apply for a review,

keeper of an animal means—

- (a) in the case of an animal which is registered under an animal law—
 - (i) the person in whose name the animal is registered under an animal law; or
 - (ii) the person other than an authorised person, who has the immediate custody and control of the animal; or
 - (iii) if the person who has the immediate custody and control of an animal is a minor, the minor's parent or guardian; or
- (b) in the case of an animal which is not registered under an animal law—
 - (i) the person other than an authorised person, who has the immediate custody and control of the animal; or
 - (ii) if the person who has the immediate custody and control of an animal is a minor, the minor's parent or guardian; or
- (c) in the case of an animal which is not registered under an animal law and which is not under the immediate custody or control of a person—
 - (i) the occupier of the premises on which the animal is ordinarily kept; and

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- (ii) 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.

leash means a length of strong, flexible, durable material (not longer than two metres) which may comprise of, or include chain, and which is designed and suitable, in the reasonable opinion of an authorised person, to be attached to the collar of an animal for the purpose of physically controlling, restraining or tethering the animal.

local government means Ipswich City Council.

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

local law has the meaning in the Act, section 26, and includes a subordinate local law.

off-leash area see section 12(1) (Off-leash areas).

owner of an animal means —

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

permit is an approval required for the lawful operation of a permit regulated activity referred to in section 5 of *Local Law No. 4 (Permits) 2013*.

permit regulated activity means—

- (a) an activity which is specified as a permit regulated activity in this local law; or
- (b) an activity specified as a permit regulated activity in a subordinate law of this local law the operation of which the local government is satisfied may give rise to a risk of —
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or

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- (iv) a nuisance
- (c) an activity which would ordinarily be prohibited by the local law or subordinate local law unless authorised by a permit, but for which a local law or subordinate local law specifies that a permit is not required.

prohibited animal means an animal the keeping of which has been prohibited by the local government under section 10(1).

prescribed fee means a cost-recovery fee fixed by the local government, by local law or by resolution under the Act¹⁵.

prescribed period means the period, fixed by subordinate local law, of not less than 3 days commencing on the day an impoundment notice is given to a person or, if no such notice is given to a person, on the day of the seizure.

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

registered owner, of an animal, means a person recorded as being the owner of the animal in a registry kept by a local government.

responsible person, for an animal, means—

- (a) the person, or the person's employee acting within the scope of the employment, who has immediate control or custody of the animal; or
- (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—
 - (i) a person who occupies the place at which the animal is usually kept, if an adult who lives at the place keeps the animal; or
 - (ii) 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.

stock means alpacas, buffalo, cattle, deer, donkeys, goats, horses, llamas, sheep and pigs and such other animals as the local government, may by subordinate local law, prescribe to be stock for the purpose of this definition.

the Act means the *Local Government Act 2009*.

¹⁵ See the Act, Section 97.

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wandering means—

- (a) the animal is not under the effective control of someone; and
- (b) the animal is in either—
 - (i) a public place; or
 - (ii) a private place without the consent of the occupier.

worry means the act of an animal holding any part of a person, an animal or a thing in its mouth whether or not—

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

Endnotes

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2 Date to which amendments incorporated

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 – no amendments

5 List of legislation

Original Local Law

Local Law No.6 (Animal Management) 2013

date of gazettal 5 July 2013

6 List of annotations

Ipswich

City Council

Subordinate Local Law No. 6.1 (Animal Management) 2013

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Subordinate Local Law No. 6.1 (Animal Management) 2013

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No 6.1 (Animal Management) 2013*.

2 Authorising local law

This subordinate local law is made under *Local Law No. 6 (Animal Management) 2013*.

3 Object

The object of this subordinate local law is to further the objects of Local Law No. 6 (Animal Management) 2013 by specifying details that are required to implement *Local Law No. 6 (Animal Management) 2013*.

4 Definitions — the dictionary

The dictionary in Schedule 1 (Dictionary) of this subordinate local law defines particular words used in this subordinate local law.

Part 2 Permit regulated activities

5 Requirement for a permit

- (1) For the purposes of section 5 (1) (Requirements for a permit) of the authorising law the keeping of the species or breed of animals specified in column 1 of schedule 2 is a permit regulated activity in the circumstances prescribed in column 2 of schedule 2.
- (2) For the purposes of section 5(2) (Requirements for a permit) of the authorising law a permit is not required for the permit regulated activities prescribed in column 1 of schedule 3 in the circumstances prescribed in column 2 of schedule 3

6 Information and material required for permit application

For the purposes of section 6(1)(c)(iv) (Application for a permit) of *Local Law No. 4 (Permits) 2013* an application for a permit to undertake a permit regulated activity specified in column 1 of schedule 4 (unless otherwise required by the local government) must be accompanied by the information, material and documents prescribed in column 2 of schedule 4.

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7 Conditions of permit

For the purposes of section 9(3) (Conditions of licence) of *Local Law No. 4 (Permits) 2013*, the conditions set out in column 3 of schedule 4 which relate to the activities specified in column 1 of schedule 4 will apply to any permit granted by the local government unless otherwise specified in the permit document.

Part 3 Keeping of animals

8 Minimum Standards

- (1) For the purposes of section 8 (Minimum standards) of the authorising law schedule 5 prescribes the minimum standards applicable to the activity of animal keeping.
- (2) The minimum standards referred to in section 8(1) do not apply if a standard or requirement is imposed in relation to animal keeping under the Planning Scheme or by virtue of a planning approval which is different from the standards in schedule 5 of this subordinate local law, in which case the planning scheme or planning approval requirements will apply.

9 Prohibited Animals

For the purposes of section 9 (Prohibited animals) of the authorising law the keeping of an animal prescribed in column 1 of schedule 6 is prohibited in the circumstances prescribed in column 2 of schedule 6.

10 Identification for cats and dogs

- (1) For purposes of section 7 (Identification of registered cats and dogs) of the authorising local law, the identification required for a cat or dog that is at a place other than the address stated in the registration notice for the cat or dog is an identification tag issued by the local government or its appointed agent:
 - (a) stating the registration number of the animal;
 - (b) indicating the identification tag has been issued by the local government; and
 - (c) containing such other information as the local government resolves is appropriate.
- (2) The identification tag must be attached to a collar worn by the dog or cat.

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10A Animal Registration

For the purposes of section 6 (Requirement to register and identify) of the authorising law the registration of an animal prescribed in column 1 of schedule 8 will apply with the obligations and conditions of registration prescribed in column 2 of schedule 8 and exemptions of registration in column 3 of schedule 8.

Part 4 Control of animals

11 Dogs prohibited in certain public places

- (1) For the purposes of section 11 (Exclusion of animals from public places)) of the authorising local law, dogs are prohibited in the following public places –
 - (a) the area within a 2 metre radius of the entrance to, any shop, office, or other professional or commercial establishment (other than the premises of a pet shop or veterinary establishment) while the shop, office, or other professional or commercial establishment is open for business and so as to be a hindrance, nuisance or annoyance to any person except for if dog is travelling past while under effective control;
 - (b) the area within a 15 metre radius of any apparatus provided or intended for children to play upon;
 - (c) the area within a 2 metre radius of any fireplace or heating apparatus designed or used for heating water or cooking food;
 - (d) the area within a 2 metre radius of any public toilets, washing or showering rooms, or changing rooms except for if dog is travelling past while under effective control; and
 - (e) within the whole of premises used as a public swimming pool.

12 Off-leash areas

For the purposes of section 12(1) (Off-leash areas) of the authorising local law, all areas within the local government's area that are included in the Register of Off-Leash Areas maintained by the local government are off-leash areas.

13 Enclosures for animal keeping (Dogs)

- (1) For the purposes section 15(2) (Requirements to provide an enclosure) of the authorising local law, a proper enclosures for a dog must meet the following requirements-

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- (a) an enclosure should be adequate in order to restrict the dog to the premises.

Example – a pool enclosure, tennis court, balcony, veranda or similar may not be considered suitable.

- (b) if the enclosure abuts public or private property, the fencing should not allow any part of the dog's body to cross the property boundary
Example – the fencing should be such that the dog's paw, snout or any other part of the dog cannot fit through the fence.

- (c) the enclosure must provide a sheltered area from the elements for the dog at all times.

Note:

A runner is not considered a suitable enclosure.
Enclosures for regulated dogs must comply with the requirements of the *Animal Management (Cats & Dogs) Act* section 4 schedule 1 and *Animal Management (Cats & Dogs) Regulation, Division 3*.

14 Criteria for declaring dangerous animals other than a dog

For section 18(1) (Declaration of dangerous animal other than a dog) of the authorising local law, the following are the criteria for declaring an animal (other than a dog) a declared dangerous animal—

- (a) there is a high likelihood of the animal causing injury to a person or animal or damage to property, taking into account—
- (i) its prior history of attacking or causing fear to persons or animals or damaging property; and
 - (ii) the extent of injury or damage that could potentially be inflicted by an animal of its size and species or breed;
 - (iii) the authorised person's first-hand assessment of the animal has indicated that the animal has demonstrated aggressive tendencies; or
 - (iv) a high level of concern about the danger posed by the animal has been expressed by neighbours or other persons who have come into contact with the animal.

Note:

The Criteria for Declared Dangerous Dogs is prescribed in the *Animal Management (Cats and Dogs) Act 2008*.

Part 5 Seizure and impounding of animals

15 Place of care for impounded animals

For the purposes of section 23 (Impounding of seized animals) of the authorising local law, the place of care for animals impounded by the local government will be operated by the local government or an agent appointed by the local government.

16 Register of impounded animals

For the purposes of section 28(3) (Register of impounded animals) of the authorising local law, the register of impounded animals will be kept at the local government's public office or at the office of an agent appointed by the local government.

17 Conditions for sale of animals

For the purposes of section 41(2) (Sale of animals) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 7 must comply with the conditions set out in column 2 of schedule 7.

18 Prescribed period for claiming animals

For the purposes of the definition of "***prescribed period***" in the schedule to the authorising local law and s 24(1)(b) (Dealing with animal seized and impounded for wandering) of the authorising local law, the period within which an animal may be reclaimed is—

- (a) if the animal is registered with the local government—5 days; or
- (b) if the animal is not registered with the local government—3 days.

Schedule 1 Dictionary

Section 3

animal keeping or keeping an animal means the custody or care of an animal by a person, including the keeping of animals for which an approval is required.

approval means a consent, permit, licence, authorisation, registration, membership or approval under a Local Government Act or a local law and includes all conditions of a consent, permit, licence, authorisation, registration, membership or approval.

attack, by an animal, means—

- (a) aggressively rushing at or harassing any person or animal; or
- (b) biting, butting, kicking, or otherwise causing physical injury to, a person or an animal;
or
- (c) tearing clothing on, or otherwise causing damage to the property in the immediate possession of, a person.

authorised person for this local law means a person authorised by the local government to exercise the powers of an authorised person under this local law.

cattery has the same meaning as in *Local Law No. 3 (Commercial Licensing) 2013*.

dangerous animal means an animal —

- (a) of a species classified by subordinate local law as a dangerous animal; or
- (b) declared under this local law to be a dangerous animal.

destruction order see section 34 of *Local Law No. 6 (Animal Management) 2013*.

development approval see Sustainable Planning Act 2009, schedule 3.

effective control see section 13(1) of *Local Law No. 6 (Animal Management) 2013*.

guarding and security purposes means a dog released on commercial premises without a handler for the purpose of acting as a deterrent to intruders.

horses includes donkeys and mules.

identifying tag means a mark or object to identify an animal including, for example —

- (a) a metal or plastic disc or plate; or
- (b) a collar; or

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- (c) a tattoo or brand; or
- (d) an implant bearing an electronic code.

impoundment notice see section 24(1) of *Local Law No. 6 (Animal Management) 2013*.

kennel has the same meaning as in *Local Law No. 3 (Commercial Licensing) 2013*

leash means a length of strong, flexible, durable material (not longer than two metres) which may comprise of, or include chain, and which is designed and suitable, in the reasonable opinion of an authorised person, to be attached to the collar of an animal for the purpose of physically controlling, restraining or tethering the animal.

Local Government Acts see the Act 2009, section 6 and schedule 4.

local law has the meaning in the Act, section 26, and includes a subordinate local law.

off-leash area see section 12(1) of *Local Law No. 6 (Animal Management) 2013*.

owner of an animal means —

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

permit has the same meaning as in *Local Law No. 4 (Permits) 2013*

Planning Scheme means the planning scheme for the Ipswich City Council .

residential area includes areas comprising predominantly residential development and land (other than *roads*), that is situated in one or more of the following zones or other similar designation under a *Structure Plan* under the Planning Scheme—

- (a) within the Urban Areas Locality—
 - (i) Large Lot Residential Zone;
 - (ii) Residential Low Density Zone;

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- (iii) Residential Medium Density Zone;
- (iv) Character Areas - Housing Zone;
- (v) Character Areas - Mixed Use Zone;
- (vi) Business Incubator Zone;
- (vii) Bundamba Racecourse Stables Area Zone;
- (viii) Special Uses Zone;
- (ix) Special Opportunity Zone;
- (b) within the Rosewood Locality—
 - (i) Character Areas - Housing Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Urban Investigation Zone;
 - (iv) Special Uses Zone;
- (c) within the City Centre Locality—
 - (i) Residential High Density Zone;
- (d) within the Township Locality—
 - (i) Township Residential Zone;
 - (ii) Township Character Housing Zone;
 - (iii) Township Character Mixed Use Zone;
 - (iv) Stables Residential Investigation Zone;
 - (v) Special Uses Zone.
- (e) within the Springfield Structure Plan—
 - (i) Community Residential Designation.

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and includes land approved for residential development pursuant to a development approval, including a development which is recorded on the Planning Scheme pursuant to section 3.5.27 *Integrated Planning Act* 1997 or section 391 of the *Sustainable Planning Act* 2009.

responsible person, for an animal, means—

- (a) the person, or the person's employee acting within the scope of the employment, who has immediate control or custody of the animal; or
- (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 an adult who 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.

road means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road.

stock means alpacas, buffalo, cattle, deer, donkeys, goats, horses, llamas, sheep and pigs and such other animals as the local government, may by subordinate local law, prescribe to be stock for the purpose of this definition.

the Act means the *Local Government Act 2009*.

Schedule 2 Permit regulated activities

Section 5)(1)

Column 1 Species or breed of animal	Column 2 Circumstances in which keeping of animal or animals is a permit regulated activity
Dog	(a) 3 or 4 dogs over the age of 3 months on land less than 2,000 m ² . (b) 5 or more dogs over the age of 3 months. (c) Dogs kept for guarding or security purposes.
Cat	(a) 3 or 4 cats over the age of 3 months on land less than 2,000 m ² . (b) 5 or more cats over the age of 3 months.
Horse	(a) 1 or more horses on land more than 2,000 m ² in a residential area. (b) 1 or more horses on land up between 2000 m ² and up to 4,000 m ² and designated rural or a similar designation to rural in the Planning Scheme.
Stock (other than horses)	(a) 1 or more head of stock on land more than 2000 m ² in a residential area. (b) 1 or more head of stock on land between 2000 m ² and up to 4000 m ² and designated rural or a similar designation to rural in the Planning Scheme.
Poultry	25 or more head of poultry on land in a residential area.
Birds, other than racing pigeons or poultry	25 or more birds other than racing pigeons or poultry on land in a residential area.
Pigeons	25 or more pigeons on land in a residential area.

Schedule 3 When permit is not required

Section 5(2)

Column 1 Permit Regulated Activities	Column 2 Activities that do not require a permit
Dog	
Keeping 3 or 4 dogs over the age of 3 months on land less than 2000m ²	A permit is not required if the dogs are being kept in a kennel which has all requisite approvals.
Keeping 5 or more dogs over the age of 3 months	A permit is not required if the dogs are being kept in a kennel which has all requisite approvals.
Keeping dogs for guarding and security purposes	A permit for keeping dogs for guarding and security purposes is not required for dogs owned and kept for guarding and security purposes by or on behalf of the local government, State or Commonwealth.
Cat	
Keeping 3 or 4 cats over the age of 3 months on land less than 2000 m ²	A permit is not required if the cats are being kept in a cattery which has all requisite approvals.
Keeping 5 or more cats over the age of 3 months	A permit is not required if the cats are being kept in a cattery which has all requisite approvals.

Schedule 4 Information for permits and conditions of permits

Sections 6 and 7

Column 1 Permit regulated activity	Column 2 Application requirements	Column 3 Conditions
Keeping 3 or 4 dogs over the age of 3 months on land less than 2000m ²	<p>(a) the address of where the dogs will be kept; and</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur- the name, postal address and contact phone number of the owner;</p> <p>the written consent of the owner or their authorised agent to the application.</p> <p>(c) the number of dogs proposed to be kept;</p> <p>(d) type and location of proposed accommodation or shelter for the dogs;</p> <p>(e) confirmation in writing that the property where the dogs are to be kept has appropriate fencing sufficient to keep the dogs contained, taking into account their breed and nature;</p> <p>(f) if any of the dogs proposed to be kept on the property is a regulated dog;</p> <p>(g) the breed and a description of the dogs to which the permit applies;</p> <p>(h) the name of the dogs to which the permit applies; and</p> <p>(i) a sketch plan to scale showing the design of the accommodation for the adequate housing of the dogs, and its location</p>	

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	<p>in relation to other buildings on the land, the property boundaries and all building on adjoining properties.</p> <p>(j) confirmation that the applicant has written to all occupants of properties within 100m of where the dogs are intended to be kept advising the following-</p> <p>the name and address of the applicant;</p> <p>the name and address of the owner of the property where the dogs are to be kept if different from (i);</p> <p>the street address and real property description of the property where the dogs are to be kept;</p> <p>the number and breed of dogs intended to be kept;</p> <p>a description of the type and location of dog housing provided for the dogs;</p> <p>that the person being notified of the application has 14 days from the date of the written objection to the local government stating in full the grounds of the objection.</p>	
Keeping 5 or more dogs over the age of 3 months	<p>(a) the address of where the dogs will be kept; and</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <p>the name, postal address and contact phone number of the owner;</p> <p>the written consent of the owner or their authorised agent to the application.</p> <p>(c) the number of dogs proposed to be kept;</p> <p>(d) type and location of proposed accommodation or shelter for the dogs;</p> <p>(e) confirmation in writing that the property where the dogs are to be kept has appropriate fencing</p>	

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	<p>sufficient to keep the cats contained, taking into account their breed and nature;</p> <p>(f) if any of the dogs proposed to be kept on the property is a regulated dog;</p> <p>(g) the breed and a description of the dogs to which the permit applies;</p> <p>(h) the name of the dogs to which the permit applies;</p> <p>(i) a sketch plan to scale showing the design of the accommodation for the adequate housing of the dogs, and its location in relation to other buildings on the land, the property boundaries and all building on adjoining properties.</p>	
Keeping dogs for guarding and security purposes	<p>a) the name, postal address and contact phone number of the owner of each guard dog, if the owner is not the applicant;</p> <p>(b) the address where the guard dogs will be kept;</p> <p>(c) the number of guard dogs to be kept on the premises;</p> <p>(d) the breed and a description of the dogs to which the permit applies;</p> <p>(e) proof that the dogs are registered;</p> <p>(f) the type and location of proposed dog accommodation or appropriate shelter for the dogs;</p> <p>(g) confirmation that the property where the dogs are to be kept has appropriate fencing sufficient to keep dogs of the specific breed contained; and</p> <p>(h) if any of the dogs proposed to be kept on the property is a regulated dog.</p>	<p>The permit holder must ensure that—</p> <p>(a) a warning sign, the size and lettering of which has been approved by the Chief Executive Officer is clearly displayed adjacent to each entrance to the property where a guard/security dog/s is being kept or used;</p> <p>(b) the wording on the warning sign is:</p> <p>(i) indelible and permanent (that is incapable of being washed off, rubbed off or otherwise removed);</p> <p>(ii) legible;</p> <p>(iii) black in colour; and</p> <p>(iv) at least 50mm in height;</p> <p>(c) the warning sign includes a 24 hour contact telephone number for a person responsible for the guard/security dog/s;</p> <p>(d) each guard/security dog is confined in an enclosure</p>

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		that is adequate and secure in the opinion of an authorised person, when the premises are open to the public or the public has lawful access to the premises; and (e) each guard/security dog wears a collar at all times that is strong enough to restrain the dog when being handled
Keeping 3 or 4 cats over the age of 3 months on land less than 2000 m ²	(a) the address of where the cats will be kept; and (b) if the applicant is not the owner of the land on which the activity is to occur- the name, postal address and contact phone number of the owner; the written consent of the owner or their authorised agent to the application. (c) the number of cats proposed to be kept; (d) type and location of proposed accommodation or shelter for the cats; (e) confirmation in writing that the property where the cats are to be kept has appropriate fencing sufficient to keep the cats contained, taking into account their breed and nature; (f) if any of the cats proposed to be kept on the property is a regulated cat; (g) the breed and a description of the cats to which the permit applies; (h) the name of the cats to which the permit applies; and (i) a sketch plan to scale showing the design of the accommodation for the adequate housing of the cats, and its location in relation to other buildings on the	The permit holder must ensure that — (a) all cats must be desexed; and (b) all cats must be kept in a manner so as not to cause a nuisance; and (c) all cats must be vaccinated as appropriate for the age of the animal; (d) the permit holder has the ability to confine the cats to their premises when required to do so by the council; and (e) all pet food must be stored in vermin proof containers.

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	<p>land, the property boundaries and all building on adjoining properties.</p> <p>(j) confirmation that the applicant has written to all occupants of properties within 100m of where the cats are intended to be kept advising the following-</p> <ul style="list-style-type: none"> • the name and address of the applicant; • the name and address of the owner of the property where the cats are to be kept if different from that of the applicant; • the street address and real property description of the property where the cats are to be kept; • the number and breed of cats intended to be kept; • a description of the type and location of cats housing provided for the cats; • that the person being notified of the application has 14 days from the date of the written objection to the local government stating in full the grounds of the objection. 	
Keeping 5 or more cats over the age of 3 months	<p>(a) the address of where the cats will be kept; and</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur- the name, postal address and contact phone number of the owner; the written consent of the owner or their authorised agent to the application.</p> <p>(c) the number of cats proposed to be kept;</p> <p>(d) type and location of proposed accommodation or shelter for the cats;</p> <p>(e) confirmation in writing that</p>	

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	<p>the property where the cats are to be kept has appropriate fencing sufficient to keep the cats contained, taking into account their breed and nature;</p> <p>(f) the breed and a description of the cats to which the permit applies;</p> <p>(g) the name of the cats to which the permit applies;</p> <p>(h) a sketch plan to scale showing the design of the accommodation for the adequate housing of the cats, and its location in relation to other buildings on the land, the property boundaries and all building on adjoining properties.</p>	
<p>Keeping 1 or more horses on land more than 2,000 m² in a residential area</p>	<p>(a) the address where the horses will be kept;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> the name, postal address and contact phone number of the owner; the written consent of the owner or their authorised agent to the application; <p>(c) the number of horses proposed to be kept;</p> <p>(d) the breed and a description of the horses proposed to be kept;</p> <p>(e) the name of the horses proposed to be kept;</p> <p>(f) the type of proposed shelter in which the horses will be housed giving consideration to the type, breed and number of horses it is to house and if not yet constructed proof of all required approvals for construction;</p> <p>(g) confirmation in writing that the property where the horses are to be kept has appropriate fencing sufficient to keep the horses</p>	

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	<p>contained; and</p> <p>(h) a sketch plan to scale showing the location of the horse shelter in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	
<p>Keeping 1 or more horses on land up between 2000 m² and up to 4,000 m² and designated rural or a similar designation to rural in the Planning Scheme.</p>	<p>the address where the horses will be kept;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> the name, postal address and contact phone number of the owner; the written consent of the owner or their authorised agent to the application; <p>(c) the number of horses proposed to be kept;</p> <p>(d) the breed and a description of the horses proposed to be kept;</p> <p>(e) the name of the horses proposed to be kept;</p> <p>(f) the type of proposed shelter in which the horses will be housed giving consideration to the type, breed and number of horses it is to house and if not yet constructed proof of all required approvals for construction;</p> <p>(g) confirmation in writing that the property where the horses are to be kept has appropriate fencing sufficient to keep the horses contained; and</p> <p>(h) a sketch plan to scale showing the location of the horse shelter in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	
<p>Keeping 1 or more head of stock (other than</p>	<p>(a) the address where the horses will be kept;</p>	

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horses) on land more than 2,000 m ² in a residential area	<p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> the name, postal address and contact phone number of the owner; the written consent of the owner or their authorised agent to the application; <p>(c) the number of horses proposed to be kept;</p> <p>(d) the breed and a description of the horses proposed to be kept;</p> <p>(e) the name of the horses proposed to be kept;</p> <p>(f) the type of proposed shelter in which the horses will be housed giving consideration to the type, breed and number of horses it is to house and if not yet constructed proof of all required approvals for construction;</p> <p>(g) confirmation in writing that the property where the horses are to be kept has appropriate fencing sufficient to keep the horses contained; and</p> <p>(h) a sketch plan to scale showing the location of the horse shelter in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	
Keeping 1 or more head of stock (other than horses) on land between 2000 m ² and up to 4,000 m ² on land designated rural or similar designation to rural in the Planning Scheme	<p>(a) the address where the stock will be kept;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> the name, postal address and contact phone number of the owner; the written consent of the owner or their authorised agent to the application; <p>(c) the number of stock</p>	

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	<p>proposed to be kept;</p> <p>(d) the breed and a description of the stock proposed to be kept;</p> <p>(e) the name of the stock proposed to be kept;</p> <p>(f) the type of proposed shelter in which the stock will be housed giving consideration to the type, breed and number of stock it is to house and if not yet constructed proof of all required approvals for construction;</p> <p>(g) confirmation in writing that the property where the cows or bulls are to be kept has appropriate fencing sufficient to keep the stock contained; and</p> <p>(h) a sketch plan to scale showing the location of the stock shelter in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	
Keeping 25 or more head of poultry on land in a residential area	<p>(a) the address where the poultry will be kept;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> • the name, postal address and contact phone number of the owner; • the written consent of the owner or their authorised agent to the application; <p>(c) the number of poultry proposed to be kept;</p> <p>(d) the type of proposed enclosure for the poultry and if not yet constructed proof of all required approvals for construction;</p> <p>(e) confirmation in writing that the property where the poultry are to be kept has appropriate fencing sufficient to keep the poultry contained; and</p>	

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	(f) a sketch plan to scale showing the location of the enclosures in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.	
Keeping 25 or more birds other than poultry or pigeons on land in a residential area	<p>(a) the address where the birds will be kept;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> • the name, postal address and contact phone number of the owner; • the written consent of the owner or their authorised agent to the application; <p>(c) the number of birds proposed to be kept;</p> <p>(d) the type of proposed enclosure in which the birds will be housed giving consideration to the species of birds it is to contain and if not yet constructed, proof of all required approvals for construction; and</p> <p>(e) a sketch plan to scale showing the location of the enclosure in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	
Keeping 25 or more pigeons on land in a residential area	<p>(a) the address where the pigeons will be kept;</p> <p>(b) if the applicant is not the owner of the land on which the activity is to occur-</p> <ul style="list-style-type: none"> • the name, postal address and contact phone number of the owner; • the written consent of the owner or their authorised agent to the application; <p>(c) the number of pigeons proposed to be kept;</p>	

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	<p>(d) the type of proposed enclosure in which the pigeons will be housed and if not yet constructed proof of all required approvals for construction; and</p> <p>(e) a sketch plan to scale showing the location of the pigeon enclosure in relation to other buildings on the land, the property boundaries and all buildings on adjoining properties.</p>	
Keeping animals in caravan parks	<p>a) if the applicant is not the owner of the animal the name and address of the owner of each animal;</p> <p>(b) proof of the consent of the manager of the caravan park to the keeping of the animals;</p> <p>(c) the breed/species and a description of each animal to which the permit applies;</p> <p>(d) the location of where the animal will be housed in the caravan park;</p> <p>(e) evidence that the applicant has advised the owners and the occupiers, if the occupiers are not the owners of all premises or properties adjoining the caravan park, that an application is intended to be made to the local government to keep an animal on the premises; and</p> <p>(f) a copy of any responses received from the owners and occupiers.</p>	

Schedule 5 Minimum Standards – Animal Keeping

Section 8

Column 1 Type of Activity	Column 2 Minimum standards
Keeping any type of animal	<p>The owner or responsible person must ensure that—</p> <ul style="list-style-type: none"> (a) the animal is adequately identified so that the keeper's name, address and telephone number are readily ascertainable; (b) an adequate supply of food and water is provided; (c) water containers are kept free of mosquitoes and flies; (d) all faeces, urine, food scraps, and other waste are disposed of so as not to cause a nuisance; (e) animals are kept in a manner so as not to be injurious to the health of a person; (f) animals are kept in a manner so as not to cause a nuisance including to the occupiers of adjoining premises or premises in the immediate vicinity of the place where the animal is kept; (g) all feed is kept in a vermin and fly proof container or facility; (h) the animal has adequate freedom to exercise having due regard to the species, breed, size and nature of the animal; (i) the animal is vaccinated and inoculated having regard to the age of the animal; (j) any animals offered for sale or given away are vaccinated and inoculated as appropriate having regard to the age of the animal; (k) any animal suffering from a transmissible or communicable disease is prevented from interacting with other vector animals; (l) an animal does not create excessive noise. <p>Animal noise is considered excessive</p> <ul style="list-style-type: none"> 1. If: <ul style="list-style-type: none"> (i) it is made or can be heard within a residential area for more than a total of 6 minutes whether continually or intermittently in any hour from 7 a.m. to 10 p.m. on any day; and (ii) in the opinion of an authorised person it unreasonably disrupts or inhibits an activity ordinarily carried out on residential premises. or 2. If: <ul style="list-style-type: none"> (i) it is made or can be heard in a residential area for

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	<p>more than a total of 3 minutes whether continually or intermittently in any 30 minute period on any day after 10 p.m. but before 7 a.m.; and</p> <p>(ii) in the opinion of an authorised person it unreasonably disrupts or inhibits an activity ordinarily carried out on residential premises.</p> <p>(m) the animal is provided with a suitable shelter from the elements having regard to the breed, size and nature of the animal;</p> <p>(n) any shelter is -</p> <p>(i) constructed and maintained so as to prevent the harbourage of vermin; and</p> <p>(ii) is maintained and kept at all times in a clean and sanitary condition.</p>
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Keeping Specific Types of Animals	<p>Note:</p> <p>Minimum Standards for <i>keeping Any Type of Animal</i> (listed above) must be complied with in addition to the Minimum Standards for <i>Keeping specific Types of Animals</i> (listed below).</p>																								
Keeping Poultry	<p>The owner or responsible person must ensure that —</p> <p>(a) the number of poultry, the corresponding land area of the property required to keep such number and the siting requirements for an enclosure are in accordance with the requirements in Table 1;</p> <p>Table 1</p> <table><tr><th>Number of Poultry</th><th>Minimum Land Area required</th><th>Minimum required distance of an enclosure from any residential building or premises</th><th>Minimum required distance of enclosure from any property boundary.</th></tr><tr><td>1- 2</td><td>350 m2</td><td>10 metres</td><td>1 metre</td></tr><tr><td>3-12</td><td>700 m2</td><td>15 metres</td><td>1 metre</td></tr><tr><td>13 - 20</td><td>1000 m2</td><td>20 metres</td><td>1 metre</td></tr><tr><td>21 - 25</td><td>1000 m2</td><td>25 metres</td><td>1 metre</td></tr><tr><td>More than 25</td><td>Conditions of permit (if applicable)</td><td>Conditions of permit (if applicable)</td><td>Conditions of permit (if applicable)</td></tr></table> <p>(b) the minimum distance of the enclosure from a property boundary to a road or public land is 5 metres unless a permit for the activity specifies a greater or lesser distance; and</p> <p>(c) the enclosure is thoroughly cleaned and effectively treated with an insecticide at least twice in every year or at such other</p>	Number of Poultry	Minimum Land Area required	Minimum required distance of an enclosure from any residential building or premises	Minimum required distance of enclosure from any property boundary.	1- 2	350 m2	10 metres	1 metre	3-12	700 m2	15 metres	1 metre	13 - 20	1000 m2	20 metres	1 metre	21 - 25	1000 m2	25 metres	1 metre	More than 25	Conditions of permit (if applicable)	Conditions of permit (if applicable)	Conditions of permit (if applicable)
Number of Poultry	Minimum Land Area required	Minimum required distance of an enclosure from any residential building or premises	Minimum required distance of enclosure from any property boundary.																						
1- 2	350 m2	10 metres	1 metre																						
3-12	700 m2	15 metres	1 metre																						
13 - 20	1000 m2	20 metres	1 metre																						
21 - 25	1000 m2	25 metres	1 metre																						
More than 25	Conditions of permit (if applicable)	Conditions of permit (if applicable)	Conditions of permit (if applicable)																						

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	intervals and in such other manner as an authorised person may require.																								
Keeping Pigeons	<p>The owner or responsible person must ensure that—</p> <p>(a) the pigeons are ordinarily contained within a suitable enclosure;</p> <p>(b) the number of pigeons, the corresponding land area of the property required to keep such number and the sitting requirements for an enclosure are in accordance with the requirements in Table 2;</p> <p>Table 2</p> <table><tr><th>Number of Pigeons</th><th>Minimum Land Area required</th><th>Minimum required distance of an enclosure from any residential building or premises</th><th>Minimum required distance of an enclosure from any property boundary.</th></tr><tr><td>1 - 2</td><td>Nil</td><td>Nil</td><td>1 metre</td></tr><tr><td>3 - 12</td><td>700 m2</td><td>10 metres</td><td>1 metre</td></tr><tr><td>13 - 20</td><td>1000 m2</td><td>20 metres</td><td>1 metre</td></tr><tr><td>21 - 25</td><td>1000 m2</td><td>25 metres</td><td>1 metre</td></tr><tr><td>More than 25</td><td>Conditions of permit (if applicable)</td><td>Conditions of permit (if applicable)</td><td>Conditions of permit (if applicable)</td></tr></table> <p>(c) the minimum distance of an enclosure from a property boundary to a road or public land is 5 metres unless a permit for the activity specifies a greater or lesser distance; and</p> <p>(d) the enclosure is thoroughly cleaned and effectively treated with an insecticide at least twice in every year or at such other intervals and in such other manner as an authorised person may require.</p>	Number of Pigeons	Minimum Land Area required	Minimum required distance of an enclosure from any residential building or premises	Minimum required distance of an enclosure from any property boundary.	1 - 2	Nil	Nil	1 metre	3 - 12	700 m2	10 metres	1 metre	13 - 20	1000 m2	20 metres	1 metre	21 - 25	1000 m2	25 metres	1 metre	More than 25	Conditions of permit (if applicable)	Conditions of permit (if applicable)	Conditions of permit (if applicable)
Number of Pigeons	Minimum Land Area required	Minimum required distance of an enclosure from any residential building or premises	Minimum required distance of an enclosure from any property boundary.																						
1 - 2	Nil	Nil	1 metre																						
3 - 12	700 m2	10 metres	1 metre																						
13 - 20	1000 m2	20 metres	1 metre																						
21 - 25	1000 m2	25 metres	1 metre																						
More than 25	Conditions of permit (if applicable)	Conditions of permit (if applicable)	Conditions of permit (if applicable)																						
Keeping Birds other than pigeons or poultry	<p>The owner or responsible person must ensure that—</p> <p>(a) all birds are effectively contained within a suitable enclosure;</p> <p>(b) the number of birds, the corresponding land area of the property required to keep such number and the sitting requirements for an enclosure are in accordance with the requirements in Table 3;</p> <p>Table 3</p> <table><tr><th>Number of Birds</th><th>Minimum Land Area required</th><th>Minimum required distance of an enclosure from any</th><th>Minimum required distance of an enclosure</th></tr></table>	Number of Birds	Minimum Land Area required	Minimum required distance of an enclosure from any	Minimum required distance of an enclosure																				
Number of Birds	Minimum Land Area required	Minimum required distance of an enclosure from any	Minimum required distance of an enclosure																						

	<table><tr><td></td><td></td><td>residential building or premises</td><td>from any property boundary</td></tr><tr><td>1 – 2</td><td>Nil</td><td>Nil</td><td>1 metre</td></tr><tr><td>3 – 12</td><td>700 m2</td><td>10 metres</td><td>1 metre</td></tr><tr><td>13 – 20</td><td>1000 m2</td><td>20 metres</td><td>1 metre</td></tr><tr><td>21 – 25</td><td>1000 m2</td><td>25 metres</td><td>1 metre</td></tr><tr><td>More than 25</td><td>Conditions of permit (if applicable)</td><td>Conditions of permit (if applicable)</td><td>Conditions of permit (if applicable)</td></tr></table>			residential building or premises	from any property boundary	1 – 2	Nil	Nil	1 metre	3 – 12	700 m2	10 metres	1 metre	13 – 20	1000 m2	20 metres	1 metre	21 – 25	1000 m2	25 metres	1 metre	More than 25	Conditions of permit (if applicable)	Conditions of permit (if applicable)	Conditions of permit (if applicable)
		residential building or premises	from any property boundary																						
1 – 2	Nil	Nil	1 metre																						
3 – 12	700 m2	10 metres	1 metre																						
13 – 20	1000 m2	20 metres	1 metre																						
21 – 25	1000 m2	25 metres	1 metre																						
More than 25	Conditions of permit (if applicable)	Conditions of permit (if applicable)	Conditions of permit (if applicable)																						
	<p>(c) In addition, the minimum distance of an enclosure from a property boundary to a road or public land is 5 metres unless a permit for the activity specifies a greater or lesser distance; and</p> <p>(d) the enclosure is thoroughly cleaned at least once in every week and effectively treated with an insecticide twice at least in every year or at such other intervals and in such other manner as an authorised person may require.</p>																								
Keeping Horses	<p>The owner or responsible person must ensure that—</p> <p>(a) a minimum of 800 m² of open land, unencumbered by buildings, is available for each horse kept on the premises, other than in the Bundamba Racecourse Stables Zone or the Stables Residential Investigation Zone in the Planning Scheme; and</p> <p>(b) where the grazing behaviour of a horse kept on land is causing or is likely to cause damage to a neighbouring property, the keeper takes all reasonable measures to effectively isolate the horse from the property at risk, to the satisfaction of an authorised person. "Reasonable measures" may include the construction of a fence to the satisfaction of an authorised person to achieve a 3 metre set-back from affected property boundaries.</p>																								
Keeping Pigs	<p>The owner or responsible person must ensure that—</p> <p>(a) all manure and other waste is managed in such a manner so as not to cause any odour, fly breeding or nuisance. Collection and removal of manure is to be undertaken to the satisfaction of an authorised person;</p> <p>(b) all pigs are kept within an enclosure suitably constructed for the purpose of restricting the movement of pigs; and an enclosure in which the pigs are kept is located:</p> <p>(i) not less than 60 metres from any dwelling house or road; and</p> <p>(ii) not less than 30 metres from any property boundary unless otherwise approved pursuant to an existing approval.</p>																								
Keeping Stock (other than horses and pigs)	<p>The owner or responsible person must ensure that—</p> <p>(a) a minimum of 800 m² of open land, unencumbered by buildings, is available for each animal kept on the premises;</p> <p>(b) where the grazing behaviour of stock kept on land is causing</p>																								

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	or is likely to cause damage to neighbouring property, the keeper must take all reasonable measures to effectively isolate the stock from the property at risk, to the satisfaction of an authorised person. "Reasonable measures" may include the construction of a fence to the satisfaction of an authorised person to achieve a 3 metre set-back from affected property boundaries.
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Schedule 6 Prohibitions on Animal Keeping

Section 9

Column 1 Animal	Column 2 Circumstances in which keeping of animal or animals is prohibited
Dog	<p>(a) Any of the following breeds or a dog of mixed breed with at least one element of the following breeds anywhere in the local government area-</p> <ul style="list-style-type: none"> (i) American pit bull terrier or pit bull terrier; (ii) Dogo Argentino; (iii) Filo Brasileiro; (iv) Japanese tosa; (v) Perro de Presa Canario or Presa Canario; and (vi) any other breed as may be determined by the local government by resolution, <p>unless the dog is registered with the local government and a restricted dog permit has been issued and is current under the <i>Animal Management (Cats & Dogs) Act 2008</i>.</p> <p>(b) Keeping more than 1 dog in multiple dwelling premises or premises in a caravan park unless with prior written permission of the owner and in the case of dwellings regulated under the <i>Body Corporate and Community Management Act 1997</i>, the Body Corporate.</p>
Horse	A horse on an allotment less than 2000m ² other than in the Bundamba Racecourse Stables Zone or the Stables Residential Investigation Zone in the Planning Scheme.
Stock (except for deer, pigs or horses)	Stock on an allotment less than 2000m ² .
Deer	<p>(a) The density of animals is greater than one animal per 1000 m².</p> <p>(b) in a residential area</p>
Pig	<p>(a) on an allotment less than 2000m²; or</p> <p>(b) in a residential area.</p>

Schedule 7 Conditions for sale of animals

Section 17

Column 1 Species or breed of animal	Column 2 Conditions that must be complied with when offering animal for sale
All Animals	<p>If a law requires registration of an animal then the person selling the animal must register the animal before offering it for sale or alternatively keep a register giving full details of:</p> <ul style="list-style-type: none">(i) all animals sold or otherwise disposed of including the name and address of the new keeper of the animal; and(ii) a full description of each animal sold or otherwise disposed of; and(iii) the date of sale or disposal of each animal. <p>A person who offers for sale any animal suffering from a transmissible or communicable disease must provide a person intending to buy the animal with a report from a qualified veterinarian indicating the animal's present condition.</p>

Schedule 8 Animal Registration

Section 10A

Column 1 Animal	Column 2 Obligations and conditions of registration	Column 3 Registration Exemptions
Cat	<p>Registration Obligations</p> <ol style="list-style-type: none"> 1. An owner of a cat must register the cat within 14 days after starting to keep the cat unless the person has a reasonable excuse. 2. A person who becomes an owner of a cat must register the cat within 14 days unless the person has a reasonable excuse. <p>Identification</p> <ol style="list-style-type: none"> 1. The person who keeps the cat must ensure it bears the identification prescribed under a local law unless the person has a reasonable excuse. <p>What owner must do</p> <ol style="list-style-type: none"> 1. To register a cat, the owner of the cat must— <ol style="list-style-type: none"> a. give the local government a prescribed registration form; and b. ensure the registration form is accompanied by— <ol style="list-style-type: none"> i. the registration fee for the cat; and ii. if it is desexed—a signed veterinary surgeon’s certificate stating, or other evidence that, it has been desexed; and c. The chief executive officer of the local government may, by notice, require the owner to give other information or documents reasonably 	<p>Registration does not apply to—</p> <ol style="list-style-type: none"> (a) the operator of a pound or shelter; or (b) the owner of a cat less than 12 weeks old.

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	<p>required to register the cat.</p> <p>d. The notice must state a reasonable period of at least 7 days to comply with the notice.</p> <p>Duration of registration</p> <p>1. Registration of a cat is for the period of one year . The registration period is from 1 July to 30 June.</p> <p>Amendment of Registration</p> <p>1. The owner of the cat must, within 7 days, give the local government notice of the changed information.</p> <p>2. The notice must be—</p> <p style="padding-left: 40px;">a. in the prescribed form; and</p> <p style="padding-left: 40px;">b. accompanied by other information or documents to enable the local government to record the changed information in the appropriate register.</p> <p>Registration Renewals – What the Owner must do</p> <p>1. This section applies to the owner of a cat whether or not the owner has been given a renewal notice.</p> <p>2. The owner of the cat must, before the period of registration for the cat expires—</p> <p style="padding-left: 40px;">a. if any information on the renewal notice has changed—give the local government notice of the change (the <i>changed information</i>); and</p> <p style="padding-left: 40px;">b. pay the registration fee for the cat; and</p> <p style="padding-left: 40px;">c. if it is desexed—ensure the fee is accompanied by a signed veterinary surgeon’s certificate stating, or other evidence</p>	
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	<p>that, it has been desexed.</p> <p>d. However, if a registration form for a cat has already been accompanied by the certificate or evidence for the cat, the certificate or evidence need not accompany the fee.</p>	
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Endnotes

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- 2 Date to which amendments incorporated
- 3 Key
- 4 Table of reprints
- 5 List of legislation
- 6 List of annotations

2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

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 – no amendments

5 List of legislation

Original Local Law

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date of gazettal 5 July 2013

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6 List of annotations

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Management) 2019

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Local Law (Amending) Local Law No. 6 (Animal Management) 2019

Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 6 (Animal Management) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 6 (Animal Management) 2013.

Part 2 Amendment of Local Law No. 6 (Animal Management) 2013

4 Replacement of s 2 (Object)

(1) Section 2 –
omit, insert –

2 Objects

(1) The purpose of this local law is to regulate and manage the keeping and control of animals in the local government's area in a way that—

- (a) balances community expectations with the rights of individuals; and

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- (b) protects the community against risks to health and safety; and
 - (c) prevents pollution and other environmental damage; and
 - (d) protects the amenity of the local community and environment.
- (2) The purpose is to be achieved by providing for—
- (a) the regulation of the keeping of animals in terms of how many, what type, how, and where animals can be kept; and
 - (b) the prescription of minimum standards for keeping animals; and
 - (c) the proper control of animals in public places and koala conservation areas; and
 - (d) the management of dangerous or aggressive animals other than dogs;¹ and
 - (e) the seizure and destruction of animals in certain circumstances; and
 - (f) the establishment and administration of animal pounds.

5 Amendment of s 4 (Relationship with other laws)

Section 4 –

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

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omit, insert –

This local law is—

- (a) in addition to and does not derogate from laws regulating² –
 - (i) the use or development of land; and
 - (ii) the keeping or control or welfare of animals; and
 - (iii) public health risks; and
 - (iv) the environment; and
- (b) any other local law or subordinate local law made by the local government; and
- (b) to be read with Local Law No. 1 (Administration) 2013 and Local Law No. 4 (Permits) 2013.

6 Amendment of s 5 (Requirement for a permit)

Section 5, subsection (3) –

omit.

7 Amendment of s 6 (Requirement to register and identify)

Section 6(2), subsections (c) to (e) –

renumber as subsections (b) to (d), respectively

8 Amendment of s 7 (identification of registered cats and dogs)

² This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or Commonwealth. See the Act, section 27.

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- (1) Section 7, heading, 'cats and dogs' –

omit, insert –

animals

- (2) Section 7, footnote 5, 'cat or' –

omit.

9 Amendment of s 8 (Minimum standards)

- (1) Section 8(1), 'undertaking of the activity of animal keeping' –

omit, insert –

keeping of animals or a particular species or breed of animal

- (2) Section 8(2), 'undertakes the activity of animal keeping' –

omit, insert –

keeps an animal

- (3) Section 8(3), 'If the animal keeping activity is also' –

omit, insert –

If the keeping of an animal is prescribed by subordinate local law to be

- (4) Section 8(4), after 'compliance notice' –

insert footnote –

See section 30 of Local Law No. 1 (Administration) 2013 in relation to compliance notices.

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10 Amendment of s 12 (Off-leash areas)

- (1) Section 12, heading –

omit, insert –

Dog off-leash areas

- (2) Section 12(1), 'an animal, or an animal of a particular species or breed,' –

omit, insert –

a dog

- (3) Section 12(1), before '**off-leash**' –

insert –

dog

- (4) Section 12(2), before 'off-leash' –

insert –

dog

- (5) Section 12(3), 'an off-leash' –

insert –

a dog off-leash

11 Amendment of s 13 (Animal to be under effective control)

- (1) Section 13, subsection (1) –

omit.

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(2) Section 13, after subsection (3) –

insert –

(3) In this section, effective control means, in relation to –

(a) a dog in a dog off-leash area, the dog –

- (i) is under the supervision of a person who is able to control the animal; and
- (ii) is not engaging in any behaviour which could reasonably harass, cause damage or other injury to another person or animal in the dog off-leash area; or

(b) any animal, other than a dog in a dog off-leash area –

- (i) a person who –
 - (A) is physically able to control the animal, whether on its own or in combination with any other animals under that person's control; and
 - (B) understands the responsibility of keeping the animal under control –
 - (I) by holding it by an appropriate leash, halter or rein; or
 - (II) has appropriately tethered it to an object fixed to a place from which the object cannot be moved by the animal and is continuously supervising the animal;

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- (III) has corralled it in a temporary enclosure
adequate to contain the animal and is
continuously supervising the animal; or
 - (ii) the animal is confined or tethered in, or on, a vehicle and
unable to reach beyond the vehicle's extremities; or
 - (iii) the animal is participating in, or being exhibited or
trained at, an exhibition, racing meet, racing trial or an
obedience trial, supervised by a body recognised by the
local government for this activity.
- (3) Section 13, subsections (2) and (3) –
renumber as subsections (1) and (2), respectively.

12 Insertion of new s 15A

Before section 16 –

insert –

15A Limited application of division to dogs

Unless otherwise indicated, this division does not apply to dogs.

13 Amendment of s 16 (Animal attacks)

- (1) Section 16, subsection (1) –
omit.
- (2) Section 16(4), definition allow or encourage, 'cause,' –
omit, insert –

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cause

- (3) Section 16(4) –

insert –

engage means to participate or become involved in, to partake or to act

- (4) Section 16, subsections (2) to (4) –

renumber as subsections (1) to (3), respectively.

14 Amendment of s 17 (Defences for offences against section 16)

Section 17, subsection (b) –

omit, insert –

- (b) to protect the responsible person or a person accompanying the responsible person (**accompanying person**) or the responsible person or accompanying person's property.

15 Amendment of s 18 (Declaration of dangerous animal other than a dog)

- (1) Section 18, subsection (1), 'A local government' –

omit, insert –

The local government

- (2) Section 18, subsection (1), 'for an authorised person' –

omit.

- (3) Section 18, subsection (2), 'An authorised person' –

omit, insert –

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The local government

- (4) Section 18, after subsection (3) –

insert –

- (4) A declaration under subsection (2) takes effect at the time the local government gives the responsible person for the animal an information notice under subsection (3).

16 Amendment of s 19 (Power to require owner or responsible person for a dangerous animal to take specified action)

- (1) Section 19, heading, before 'dangerous animal' –

insert –

declared

- (2) Section 19(1), subsection (b), 'secure custody' –

omit, insert –

an enclosure approved by an authorised person

17 Omission of pt 3, div 5 (Removal of animals)

Part 3, Division 5 –

omit.

18 Amendment of s 21 (Seizure of an animal)

- (1) Section 21, subsections (1) to (2) –

omit, insert –

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- (1) Subsection (2) applies only to the extent that section 125 of the Animal Management (Cats and Dogs) Act 2008 does not apply in relation to an animal that is a dog.
- (2) An authorised person may seize an animal in any 1 or more of the following circumstances –
 - (a) the animal is found wandering, including where –
 - (i) another person has found the animal wandering and delivered it to an authorised person;
 - (ii) an occupier of private land has found the animal wandering on the land and requested that an authorised person enter the land to seize it;
 - (b) the responsible person for the animal has not complied with a compliance notice or destruction order in relation to the animal;
 - (c) for an animal other than a dog – the animal has attacked a person or another animal or engaged in aggressive behaviour;
 - (d) the animal is a prohibited animal;
 - (e) the responsible person for the animal has surrendered it to the local government for rehoming or destruction; or
 - (f) the animal is not, in the authorised person's opinion, under effective control; or
 - (g) the animal is a declared dangerous animal.
- (2) Section 21(3), 'The local government' –

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omit, insert –

An authorised person

- (3) Section 21, subsections (4) and (5) –

omit.

- (4) Section 21(6), from 'subsection' –

omit, insert –

this section.

19 Amendment of s 22 (Immediate return of an animal found wandering)

- (1) Section 22(1)(b), from '.' –

omit, insert –

; and

- (c) the animal is not a prohibited animal.

20 Insertion of new s 23A

After section 23 –

insert –

23A What is an impoundment notice

- (1) An impoundment notice means a written notice given to the owner or responsible person for an animal, stating that –

- (a) the animal has been impounded; and

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(b) the animal may be reclaimed within the prescribed period provided that –

(i) the prescribed fee is paid; and

Example of prescribed fee –

The prescribed fee may include –

- ☐ the amount incurred by the local government in the seizure and impounding of the animal under Part 5 (Seizure and impounding of animals) of this local law; and
 - ☐ the amount properly and reasonable incurred by the local government in the care of the animal such as sustenance and veterinary fees.
- (ii) if a permit or registration is required for keeping the animal and the owner or responsible person does not have the permit or registration – the permit or registration is obtained; and
- (iii) if the animal has been seized under section 21(2)(b) (seizure of an animal) – the owner or responsible person has complied with the relevant compliance notice; and
- (iv) continued retention of the animal is not needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; and
- (v) the animal may be destroyed without further notice if the animals is not reclaimed within the prescribed period.

21 Amendment of s 24 (Dealing with animal seized and impounded for wandering)

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- (1) Section 24, subsection (1) –

omit.

- (2) Section 24(2)(a), 'An' –

omit, insert –

The

- (3) Section 24(2), after subsection (b) –

insert –

- (c) the animal is not a prohibited animal; and

- (4) Section 24(2), subsection (c) –

renumber as subsection (d)

- (5) Section 24, subsections (2) to (4) –

renumber as subsection (1) to (3), respectively

22 Amendment of s 25 (Dealing with animal seized and impounded for non-compliance with local law)

- (1) Section 25(1), after 'section' –

omit, insert –

21(2)(b) (Seizure of an animal).

- (2) Section 25(2), subsection (b), 'Part 6' –

omit, insert –

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Local Law (Amending) Local Law No. 6 (Animal Management) 2019

Part 5

23 Amendment of s 26 (Dealing with animal seized and impounded for attacking etc. a person or another animal)

(1) Section 26(1), after 'where' –

omit, insert –

–

- (a) an authorised person has impounded an animal under section 21(2)(c) (Seizure of an animal); and
- (b) the animal is not a prohibited animal.

(2) Section 26(2), from '24(1)' –

omit, insert –

23A (What is an impoundment notice).

24 Insertion of new s 26A

After section 26 –

insert –

26A Dealing with animal seized and impounded where keeping is prohibited

Where an authorised person has impounded an animal seized under section 21(2)(d) (Seizure of animal), the authorised person may make a destruction order for the animal under section 34.

25 Amendment of s 27 (Reclaiming an impounded animal)

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- (1) Section 27(3), subsection (b), after `;' –

insert –

or

- (2) Section 27(4) –

omit, insert –

- (4) Despite subsection (3), an owner or responsible person for the animal may reclaim the animal under subsection (2) if –

- (a) if subsection (3)(a) applies – in the local government's or an authorised person's opinion, the animal's continued retention as evidence is no longer required; or
- (b) if subsection (3)(b) applies – a review or appeal is made relating to the destruction order and, as a result of the review or appeal, the order is no longer in force; and
- (c) the owner or responsible person has satisfied subsections (2)(b) to (d).

26 Amendment of s 29 (Access to impounded animal)

Section 29(2), after 'it' –

insert –

at

27 Amendment of s 31 (Application of this division)

- (1) Section 31, subsections (a) to (e) –

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omit, insert –

- (a) an impounded animal has not been reclaimed within the prescribed period under sections 27 or 33; or

- (2) Section 31, subsection (f) –

renumber as subsection (b)

28 Amendment of s 32 (Sale or disposal of animals)

- (1) Section 32(4), subsection (c) –

omit.

- (2) Section 32(5), '32(3)' –

omit, insert –

32(4)(c)

- (3) Section 32, after subsection (6) –

insert –

- (7) If the local government sells, transfers or gives an animal under subsections (1)(a), (1)(b) or (6), the person who purchases or is transferred or given the animal will become the owner.

29 Insertion of new s 32A

After section 32 –

insert –

32A Civil remedy

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If a sale or disposal of an animal under section 32 does not realise a sufficient amount to pay any prescribed fee owing to the local government in relation to the animal, the local government may recover the shortfall as a debt.

30 Amendment of pt 5, div 1, hdg (Destruction of animals)

Part 5, Division 1, heading, after 'animals' –

insert –

following notice

31 Insertion of new s 32A

After Part 5, heading –

insert –

32A Application of Division

This division does not apply to a regulated dog.³

32 Amendment of s 33 (Destruction of animals)

(1) Section 33, heading –

omit, insert –

Destruction orders

(2) Section 33, subsections (1) to (3) –

omit, insert –

³ The destruction of a regulated dog is provided for in the Animal Management (Cats and Dogs) Act 2008.

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- (1) This section does not apply to a regulated dog under the Animal Management (Cats and Dogs) Act 2008.
- (2) The local government may make an order (a **destruction order**) stating the person proposes to destroy an animal on a date which is no earlier than 10 business days after the order is given.
- (3) A destruction order may only be made in 1 or more of the following circumstances –
 - (a) the animal has attacked, threatened to attack or engaged in aggressive behaviour; or
 - (b) the animal has been seized and impounded more than 3 times within a 12 months period; or
 - (c) the animal is a declared dangerous animal; or
 - (d) the animal has not been reclaimed within 10 business days or a prescribed period specified in this local law or a subordinate local law.
- (4) The destruction order must –
 - (a) be served on a person who owns, or is a responsible person for, the animal; and
 - (b) include, or be accompanied by, an information notice.
- (3) Section 33(5), after subsection (a) –

omit, insert –
 - (b) the order is still in force; and

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(c) no application has been made against the order.

(4) Section 33, subsections (4) to (6) –

renumber as subsections (5) to (7), respectively.

33 Insertion of new pt 5, div 1A

After section 33 –

insert –

Division 1A Destruction of animals without notice

33A Destruction of animals without notice

- (1) This section does not apply to a regulated dog under the Animal Management (Cats and Dogs) Act 2008.
- (2) This section applies where an authorised person has seized an animal under this local law or another law.
- (3) The authorised person may, without notice, immediately destroy the animal if –
 - (a) the authorised person reasonably believes the animal is dangerous and the authorised person cannot control it; or
 - (c) the animal is feral; or
 - (d) the animal is a prohibited animal; or
 - (e) a written request is received from the owner of the animal; or

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- (f) the animal is diseased, injured or emaciated; or
- (g) the animal cannot be sold.

34 Amendment of s 34 (Appealable decisions)

Section 34 –

omit, insert –

An owner or responsible person for an animal the subject of a destruction order may appeal to the Magistrates Court against the decision to make the destruction order.

35 Amendment of s 35 (Starting appeal)

- (1) Section 35, subsection (1) –

omit.

- (2) Section 35, after subsection (3) –

insert –

- (4) However, the court may, at any time, extend the time for filing the notice of appeal.
- (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

36 Insertion of new s 35A

After section 35 –

insert –

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35A Hearing procedures

- (1) In deciding an appeal, the Magistrates Court—
 - (a) has the same powers as the local government; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

37 Amendment of s 37 (Powers of Court on appeal)

- (1) Section 37(1), subsections (a) and (b) –
omit, insert –
 - (a) confirm the decision appealed against; or
 - (b) set aside the decision and substitute another decision.
- (2) Section 37(2), 'quash the destruction order' –
omit, insert –
set aside a decision to make a destruction order
- (3) Section 37, after subsection (2) –
insert –
 - (3) If the court substitutes another decision, the substituted decision is, for the purposes of this local law, other than this part, taken to be the decision of the local government.

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(4) Section 37(3), 'quashes' –

omit, insert –

sets aside

(5) Section 37(4), after 'confirms' –

insert –

a decision to make

(6) Section 37, subsections (3) to (4) –

renumber as subsections (4) and (5), respectively

38 Insertion of new s 37A

After section 37 –

insert –

37A Withdrawal of appeal

The owner or responsible person of an animal may withdraw an appeal against a decision to make a destruction order at any time prior to the hearing of the appeal.

39 Insertion of new s 37B

Before Part 6 –

insert –

37B Appeal to District Court

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An appeal lies to a District Court from a decision of the Magistrates Court,
but only on a question of law.

40 Amendment of s 38 (Sale of animals)

Section 38, after 'for sale.' –

insert footnote –

Any conditions specified in a subordinate local law are in addition to requirements
of the Animal Management (Cats and Dogs) Act 2008 in relation to the supply of
cats and dogs.

41 Amendment of s 40 (Subordinate local laws)

- (1) Section 40, subsection (e), 'section 9' –

omit, insert –

section 8

- (2) Section 40, subsection (k), before 'dangerous animal pursuant' –

insert –

declared

- (3) Section 40, subsection (l), before 'dangerous animal pursuant' –

insert –

declared

- (4) Section 40, subsection (l), before 'dangerous animal to take' –

insert –

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Local Law (Amending) Local Law No. 6 (Animal Management) 2019

declared

(5) Section 40, subsection (t) –

omit.

(6) Section 40, subsection (v), ‘; and; -

omit, insert –

.

(7) Section 40, subsection (w) –

omit.

42 Insertion of new s 42

Before Schedule –

insert –

42 Historical declaration by authorised person

Any declaration made by an authorised person under section 18(2) before the commencement of Local Law (Amending) Local Law No. 6 (Animal Management) 2019 is taken to be a declaration of the local government after commencement of that amending local law.

43 Amendment of Schedule (Dictionary)

(1) Schedule –

insert –

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

destruction order see section 33(1).

dog off-leash area see section 12(1).

- (2) Schedule, definition animal, 'Apiary Act 1982' –

omit, insert –

Biosecurity Act 2014

- (3) Schedule, definition approved form –

omit.

- (4) Schedule, definition compliance notice, subsection (a) –

omit, insert –

(a) section 30 of Local Law No. 1 (Administration) 2013; or

- (5) Schedule, definition dangerous animal –

omit.

- (6) Schedule, definition effective control, 'section 13(1)' –

omit, insert –

section 13(3)

- (7) Schedule, definition impoundment notice, '24(1)' –

omit, insert –

23A

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- (8) Schedule, definition off-leash area –
- omit.
- (9) Schedule, definition permit regulated activity, subsection (b), from 'the operation of which' to 'a nuisance' –
- omit.
- (10) Schedule, definition stock, after 'buffalo,' –
- insert –
- camels,
- (11) Schedule, definition worry –
- omit.

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Subordinate Local Law (Amending) Subordinate
Local Law No. 6.1 (Animal Management) 2019

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019.

2 Commencement

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

3 Subordinate local laws amended

This subordinate local law amends Subordinate Local Law No. 6.1 (Animal Management) 2013.

Part 2 Amendment of Subordinate Local Law No. 6.1 (Animal Management) 2013

4 Amendment of s 3 (Object)

Section 3, 'Local Law No. 6 (Animal Management) 2013' –

omit, insert –

Local Law No. 6 (Animal Management) 2013

5 Amendment of s 4 (Definitions – the dictionary)

Section 4 –

omit, insert –

Particular words used in this subordinate local law are defined in:

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

- (1) Schedule 1 (dictionary) of this subordinate local law; and
- (2) Local Law No. 6 (Animal Management) 2013.

6 Amendment of s 5 (Requirement for a permit)

- (1) Section 5(1), 'Requirements' –

omit, insert –

Requirement

- (2) Section 5(2), 'Requirements' –

omit, insert –

Requirement

7 Amendment of s 7 (Conditions of permit)

Section 7, 'of licence' –

omit, insert –

of a permit

8 Amendment of s 9 (Prohibited animals)

Section 9, 'section 9' –

omit, insert –

section 10

9 Amendment of s 10 (Identification for cats and dogs)

- (1) Section 10, heading –

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omit, insert –

Identification of registered animals

- (2) Section 10(1), '(Identification of registered cats and dogs)' –

omit, insert –

(Identification of registered animals)

- (3) Section 10(1), 'required for a cat or dog' –

omit, insert –

required for a dog

- (4) Section 10(1), 'registration notice for the cat or dog' –

omit, insert –

registration notice for the dog

- (5) Section 10(2), 'or cat' –

omit.

10 Omission of s 10A (Animal registration)

Section 10A –

omit.

11 Amendment of s 11 (Dogs prohibited in certain public places)

- (1) Section 11(1), 'places))' –

omit, insert –

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

places)

- (2) Section 11(1), subsection (a), after 'except for if' –

insert –

the

- (3) Section 11(1), subsection (b), after 'upon' –

insert –

except where that area or apparatus is entirely enclosed

- (4) Section 11(1), subsection (d), after 'except for if' –

insert –

the

- (5) Section 11 (1), subsection (d), 'and' –

omit.

- (6) Section 11(1), subsection (e), '.' –

omit, insert –

; and

- (7) Section 11(1), after subsection (e) –

insert –

(f) Flinders – Goolman Conservation Estate;

(g) White Rock – Spring Mountain Conservation Estate;

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

- (h) Mt Grandchester Conservation Estate;
- (i) Purga Nature Reserve;
- (j) Kholo Enviroplan Reserve;
- (k) Sapling Pocket;
- (l) Stirling Road Reserve; and
- (k) Kholo Gardens.

12 Amendment of s 12 (Off-leash areas)

- (1) Section 12, heading –

omit, insert –

Dog off-leash areas

- (2) Section 12, '(Off-leash areas) –

omit, insert –

(Dog off-leash areas)

- (3) Section 12, 'are off-leash areas' –

omit, insert –

are dog off-leash areas

- (4) Section 12(2), before 'off-leash' –

insert –

dog

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

- (5) Section 12, after 'maintained by the local government' –

insert –

and made available on the local government's website,

13 Amendment of s 13 (Enclosures for animal keeping (Dogs))

- (1) Section 13(1), 'enclosures' –

omit, insert –

enclosure

- (2) Section 13(1), subsection (b), 'boundar' –

omit, insert –

boundary.

- (3) Section 13(1), subsection (b), Example, 'dogs' –

omit, insert –

dog's.

- (4) Section 13(1), subsection (c), Note, after 'Act' –

insert –

2008

- (5) Section 13(1), subsection (c), Note, after 'Regulation' –

insert –

2009

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

- (6) Section 13(1), after subsection (c) –

insert –

- (d) The enclosure must provide a physical barrier between the animal and any adjoining premises.

Note – Invisible dog fences, wireless fences, electric dog collars and other similar devices are not considered suitable.

14 Amendment of s 15 (Place of care for impounded animals)

Section 15, 'the local government or' –

omit.

15 Amendment of s 17 (Conditions for sale of animals)

Section 17, 'section 41(2)' –

omit, insert –

section 38

16 Replacement of sch 1 (Dictionary)

Schedule 1 –

omit, insert –

cattery has the same meaning as in Local Law No. 3 (Commercial Licensing) 2013.

development approval see the Planning Act 2016 (Qld), section 49.

guarding and security purposes means a dog released on commercial premises without a handler for the purpose of acting as a deterrent to intruders.

kennel has the same meaning as in Local Law No. 3 (Commercial Licensing) 2013.

Planning Act means the Planning Act 2016 (Qld) and includes the predecessor legislation to that Act.

planning scheme means the planning scheme made or amended from time-to-time under the Planning Act.

residential area includes areas comprising predominantly residential development and land (other than roads), that is situated in one or more of the following zones or other similar designation under a Structure Plan under the planning scheme –

- (a) within the Urban Areas Area –
 - (i) Large Lot Residential Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Character Areas - Housing Zone;
 - (v) Character Areas - Mixed Use Zone;
 - (vi) Business Incubator Zone;
 - (vii) Bundamba Racecourse Stables Area Zone;
 - (viii) Special Uses Zone;

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

- (ix) Special Opportunity Zone;
- (b) within the Rosewood Area –
 - (i) Character Areas - Housing Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Urban Investigation Zone;
 - (iv) Special Uses Zone;
- (c) within the City Centre Area –
 - (i) Residential High Density Zone;
- (d) within the Township Area –
 - (i) Township Residential Zone;
 - (ii) Township Character Housing Zone;
 - (iii) Township Character Mixed Use Zone;
 - (iv) Special Uses Zone.
- (e) within the Springfield Structure Plan—
 - (i) Community Residential Designation.
- (f) within the Rural Area—
 - (i) Rural C (Rural Living) Zone.

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

and includes land approved for residential development pursuant to a development approval, including a development which is recorded on the Planning Scheme pursuant to section 3.5.27 Integrated Planning Act 1997, section 391 of the Sustainable Planning Act 2009 or section 89 of the Planning Act 2016.

road means –

- (a) a road as defined under the Act, section 59; and
- (b) a State-controlled road.

17 Amendment of sch 5 (Minimum standards – animal keeping)

- (1) Schedule 5, item 1, column 2, subsection (f), after 'kept;' –

insert –

Animal noise is a nuisance if it—

- (a) is made by a domestic animal; and
- (b) occurs more than once; and
- (c) in the opinion of an authorised person, unreasonably disrupts or inhibits an activity ordinarily carried out on a residential premises.

Example for paragraph (c) – The barking of a dog, which disrupts a person –

- (a) holding a conversation; or
- (b) watching television; or
- (c) listening to a radio or recorded material; or
- (d) sleeping.

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Subordinate Local Law (Amending) Subordinate Local Law No. 6.1 (Animal Management) 2019

- (2) Schedule 5, item 1, column 2, subsection (j) –

omit.

- (2) Schedule 5, item 1, column 2, subsection (l) –

omit.

- (3) Schedule 5, item 1, column 2, subsections (k) to (n) –

renumber as subsections (j) to (m), respectively.

18 Amendment of sch 6 (Prohibitions on animal keeping)

Schedule 6, item 1, column 2, subparagraph (iii), 'Filo' –

omit, insert –

Fila

19 Amendment of sch 7 (Conditions for sale of animals)

- (1) Schedule 7, column 2, before 'If a law' –

insert –

(a)

- (2) Schedule 7, column 2, before 'A person who offers' –

insert –

(b)

- (3) Schedule 7, column 2, after 'condition.' –

insert –

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- (3) Any animals offered for sale must be vaccinated and inoculated as appropriate having regard to the age of the animal.

20 Omission of sch 8 (Animal registration)

Schedule 8 –

omit.

Draft

Doc ID No: A5570385

ITEM: 7

SUBJECT: LOCAL GOVT CONTROLLED AREAS AND ROADS - LOCAL LAW (AMENDING)
LOCAL LAW NO.7 (LOCAL GOVERNMENT CONTROLLED AREAS AND ROADS)
2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW
NO.7.1 (LOCAL GOVERNMENT CONTROLLED AREAS AND ROADS) 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 30 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019 and Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.
- B. That it be noted that a review of the proposed Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019 and Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019 has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019 and Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019, as detailed in Clause A above.

- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019*, in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultations and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy "Local Law Making Process" which is available on Council's website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council's Business Transformation Program a review of Council's existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren't included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.

- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).
- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - o Advertisement in Queensland Times
 - o Ipswich First articles
 - o Dedicated web page on Council's website
 - o Ability to lodge submissions online, via email and post
 - o Social media postings promoting the review and how to make a submission
 - o Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all	17/07/19	7/08/19	Ready to

proposed local laws for a minimum of 21 days (see policy for requirements)			commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No.7 (Local Government Controlled Areas and Roads) 2013* and *Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2013 (Attachment 1 and 2)* whose objective is to:

- a) protect the health and safety of persons using local government controlled areas and roads;
- b) preserve the features and amenity of the natural and built environment under the local government's control;
- c) prescribe appropriate standards of conduct on local government controlled areas and roads;
- d) provide direction on use of and access to local government controlled areas and roads; and
- e) protect the assets of the local government.

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019 (Attachment 3 and 4)*. It is noted that there have been no anti-competitive provisions identified in the amended law.

A review has been conducted and drafting undertaken to:

- a. correct typographical errors and inconsistencies; and an improved layout and formatting to the law to assist with greater readability;
- b. inclusion of clearer and more detailed standard conditions on permits to assist applicants understand requirements of the activity;
- c. Inclusion of minimum standards for behavior and entry/use of local government controlled areas (Council buildings, libraries, public pools etc);
- d. Clearer instruction on the process for constructing, maintaining, repairing or removing vehicular crossings; and
- e. Key amendments to the subordinate local law as detailed in the below table:

Subordinate Local Law (Amending) Subordinate Local Law 7.1 (Local Government Controlled Areas and Roads) 2019

Related Section	What is changing	Why is it changing	Enforcement expectations
Schedule 2 – greater clarity on permit regulated activities	<p>Inclusion of new permit regulated activities:</p> <ul style="list-style-type: none"> • Carrying out works or interfering with a road or its operation • Personal Tributes* • Seasonal Sports Use • Personal Training • Accessing private property through, via or over a local government controlled area* 	Current laws are broad in terms of use and exclusive use of local government controlled areas. Some activities have been captured broadly previously in legislation but more defined permit regulated activities allow for more precision with standard conditions and assist the applicant understand what they need to apply for and how to comply. The activities marked with an asterisk (*) are brand new activities as a result of customer requests and allowing Council to ensure that its assets are protected and managed accordingly	On complaint or if witnessed by an authorised person (where the activity is occurring without an approval)
Inclusion of a new prohibited activity	Inclusion of: A ceremony or funeral service (other than within a cemetery) where human remains are to be displayed for viewing as part of the ceremony or service.	Council has received requests to hold funeral services in park and facility locations where the casket (with human remains) will be onsite during the service. There are a range of public health	On complaint or if witness by an authorised officer.

		<p>issues associated with human remains plus having human remains in a park or facility may impact on others use and enjoyment of the space. In reviewing this matter the whole of community needed to be considered. For this reason, given there are dedicated funeral premises available across the City from many different operators/businesses, is why this is being prohibited. It should be noted that this does not prohibited the use of parks or facilities for 'wakes' and remembrance services (where there are no human remains as part of the service). Appropriate bookings and approvals may be required depending on the site being required for such wakes etc.</p>	
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FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation and enforcement costs will be minimal for these amendments as they are administrative in nature and will require business process changes

RISK MANAGEMENT IMPLICATIONS

Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedules require amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this

report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)









COMMUNITY AND OTHER CONSULTATION

Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Amending Local Law No.7 (Local Government Controlled Areas and Roads) 2019* and *Amending Subordinate Local Law No.7.1 (Local Government Controlled Areas and Roads) 2019*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.7 (Local Government Controlled areas and roads) 2013  
2.	Subordinate Local Law No.7 (Local Government Controlled areas and roads) 2013  
3.	Local Law (Amending) Local Law No.7 (Local Government Controlled Areas and Roads) 2019  
4.	Subordinate Local Law (Amending) Subordinate Local Law No.7.1 (Local Government Controlled Areas and Roads) 2019  

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

Ipswich

City Council

Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

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Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 7 (Local Government Controlled Areas and Roads) 2013*.

1A Commencement

This local law commences on 1 August 2013.

2 Object

The purpose of this local law is to—

- (a) protect the health and safety of persons using local government controlled areas¹ and roads²;
- (b) preserve the features and amenity of the natural and built environment under the local government's control;
- (c) prescribe appropriate standards of conduct on local government controlled areas and roads; and
- (d) provide direction on use of and access to local government controlled areas and roads; and
- (e) protect the assets of the local government.

3 Definitions—the dictionary

- (1) The dictionary in the Schedule (Dictionary) defines particular words used in this local law.
- (2) The dictionaries in *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

4 Relationship to other laws

- (1) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
 - (a) the *Environmental Protection Act 1994*; and
 - (b) the *Sustainable Planning Act 2009*; and

¹ For the definition of *local government controlled area* see Schedule 1.

² For definition of *road* see Schedule 1.

- (c) the *Criminal Code Act 1899*; and
 - (d) the *Forestry Act 1959*; and
 - (e) the *Mineral Resources Act 1989*; and
 - (f) the *Nature Conservation Act 1992*; and
 - (g) the *Recreation Areas Management Act 2006*; and
 - (h) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
 - (i) the *Health Act 1937*; and
 - (j) the *Land Act 1994*; and
 - (k) the *Building Act 1975*; and
 - (l) the *Fisheries Act 1994*.
 - (m) the *Peaceful Assembly Act 1992*
- (2) The local government may only exercise its powers under this local law over—
- (a) trust land, if the proposed exercise of power is not inconsistent with—
 - (i) the terms and conditions of the trust; and
 - (ii) the *Land Act 1994*.
 - (b) a reserve, if the proposed exercise of power is not inconsistent with the legislation which has placed the reserve under the control of the local government; or
 - (c) a road, if the proposed exercise of power is—
 - (i) in the case of a State controlled road – approved in writing by the chief executive of the department which administers Chapter 6 (Road Transport Infrastructure) of the *Transport Infrastructure Act 1994*; and
 - (ii) in the case of a local government road – not inconsistent with the *Land Act 1994* and the *Local Government Act 2009*.

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Part 2 Administration of Local Government controlled areas

5 Management authority

- (1) The local government may by a subordinate local law—
 - (a) establish a management authority to manage a mall; and
 - (b) specify the pedestrian mall which the authority is to manage; and
 - (c) specify the membership and structure of a management authority;
 - (d) specify procedures governing the operation and use of the mall; and
 - (e) specify policies and guidelines governing the management of the mall by the management authority; and
 - (f) specify the powers given to the local government pursuant to this local law that may be exercised by a management authority on behalf of the local government.
- (2) A management authority may exercise the powers of the local government pursuant to this local law that are specified in a subordinate local law.

Part 3 Use of local government controlled areas

Division 1 Permits

6 Requirement for a permit

- (1) A person (other than a local government) must not undertake an activity which is a permit regulated activity³ —
 - (a) unless authorised by a permit granted pursuant to this local law and *Local Law No.4 (Permits) 2013*⁴; or
 - (b) unless authorised by an official sign exhibited in the local government controlled area or on the road.

³ For the definition of *permit regulated activity* see the Schedule 1.

⁴ *Local Law No. 4 (Permits) 2013* sets out the procedures for the application, granting, conditioning and enforcement of permits

Maximum penalty for subsection (1) –

- (a) for first offence – 20 penalty units.
- (b) for second offence within a 2 year period – 30 penalty units.
- (c) for third or further offences within a 2 year period – 50 penalty units.

(2) A person must not—

- (a) exhibit a sign which indicates that a permit regulated activity which does not comply with this local law does comply with this local law; or
- (b) in any manner or by any means indicate that a permit regulated activity which does not comply with this local law does comply with this local law.

Maximum penalty for subsection (2)

- (a) for first offence – 20 penalty units.
- (b) for second offence within a 2 year period – 30 penalty units.
- (c) for third or further offences within a 2 year period – 50 penalty units.

(3) Notwithstanding section 6(1) (Requirement for a permit) of this local law, a permit is not required if—

- (a) a local law or subordinate local law specifies that a permit is not required in respect of the undertaking of the permit regulated activity; or
- (b) a local law or subordinate local law specifies circumstances under which a permit is not required in respect of the undertaking of the permit regulated activity; or
- (c) the undertaking of the permit regulated activity is authorised by a Local Government Act.

(4) Notwithstanding section 6(1) (Requirement for a permit) of this local law, the holder of the permit must not undertake the permit regulated activity until all approvals required under legislation in respect of the permit regulated activity have been obtained.

- (5) For the purposes of section 6 (1) (Requirements for a permit) and the schedule (permit regulated activity) of the authorising law the activities specified in column 1 of schedule 2 are permit regulated activities.
- (6) For the purposes of section 6(3)(b) (Requirements for a permit) of this local law a permit is not required for the permit regulated activities specified in column 1 of schedule 2 in the circumstances prescribed in column 2 of schedule 2

Division 2 Regulation of local government controlled area

7 Regulation of local government controlled area

- (1) The local government may, by a subordinate local law, a resolution of the local government, or a sign exhibited on a local government controlled area—
 - (a) regulate the name of the local government controlled area; and
 - (b) regulate the exclusion or admission of persons or goods from the local government controlled area; and
 - (c) regulate the hours or days during which the local government controlled area or any part thereof is open; and
 - (d) prescribe a fee for the use or hire of local government controlled area; and
 - (e) regulate the ingress and egress to the local government controlled area to a designated access point; and
 - (f) regulate the driving, parking or use of a regulated vehicle on the local government controlled area; and
 - (g) regulate the bringing of an animal or a plant onto the local government controlled area; and
 - (h) regulate the bringing of a regulated object onto the local government controlled area; and
 - (i) regulate conduct on the local government controlled area; and
 - (j) regulate interference with the local government controlled area; and
 - (k) regulate the lighting and maintenance of fires and pyrotechnics on the local government controlled area; and

- (i) regulate the carrying out of permit regulated activities; and
 - (m) regulate the use by the public of the local government controlled area to ensure the protection of—
 - (i) the local government controlled area (including the amenity of the local government controlled area); or
 - (ii) any person using the local government controlled area; and
 - (n) designate land under local government control as a park or reserve.
- (2) A person (other than the local government) must not contravene a restriction imposed pursuant to section 7(1) (Regulation of local government controlled area) of this local law unless—
- (a) authorised by a permit; or
 - (b) authorised by the prior written approval of the local government or;
 - (c) authorised by a direction of an authorised person; or
 - (d) that person is a police officer acting in the performance of their duties.

Maximum penalty for subsection (2) – 20 penalty units unless the activity is a prohibited activity⁵ in which case the maximum penalty prescribed for offences in relation to such activities.

- (3) A sign exhibited under section 7(1) (Regulation of local government controlled area) of this local law –
- (a) must state –
 - (i) the regulation or fee imposed by the sign;
 - (ii) that the sign is an instrument under this local law; and
 - (iii) that the penalty under section 7(2) applies to contravention of the sign; and
 - (b) is effective only while the sign is conspicuously displayed on or at the entrance to the local government controlled area.

⁵ See section 8 (Prohibited activities)

- (4) An authorised person may make a direction in relation to a matter specified in section 7(1) (Regulation of local government controlled area) of this local law⁶.

8 Prohibited activities

- (1) The local government may declare an activity to be a prohibited in a local government controlled area or road (a **prohibited activity**).

Example for paragraph (1)—

The local government may declare that the riding of trail bikes is a prohibited activity in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

- (2) A person must not engage in a prohibited activity without local government approval in a local government controlled area or road.

Maximum penalty for subsection (2)—40 penalty units

9 Local government to exhibit a sign

- (1) The local government must exhibit a sign at the entrance of each local government controlled area or road specifying the subject matter of a prohibition or restriction pursuant to the following provisions of this local law—
- (a) section 7 (Regulation of government controlled area); or
- (b) section 8 (Prohibited activities)
- (2) However, section 9(1) (Local government to exhibit a sign) of this local law does not apply if the local government determines that a sign should not be exhibited in accordance with section 9(1) (Local government to exhibit a sign) of this local law.

Example—

The local government may determine not to erect a sign if the local government is of the opinion that—

- the sign would cause a visual nuisance;
- the sign would encourage vandalism;
- the sign would be contrary to the purpose for which the park is to be used;
- the sign would not be cost effective; or

⁶ See section 14 (Direction to leave local government controlled area)

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- the park does not have a designated entrance.

10 Power of closure of local government controlled areas

- (1) The local government may temporarily close a local government controlled area to public access—
 - (a) to carry out construction, maintenance, repair or restoration work;
 - (b) to protect the health and safety of a person or the security of a person's property;
 - (c) because of a fire or other natural disaster; or
 - (d) to conserve or protect the cultural or natural resources of the area or native wildlife; or
 - (e) to secure exclusive access for the purposes of a permit granted under section 11 (Use of a park, reserve or facility for ceremony, celebration, recreational or other activity) or under this local law.
- (2) The local government may, by subordinate local law, permanently close a local government controlled area to public access for any of the following reasons—
 - (a) the conservation of the cultural or natural resources of the area, including, for example—
 - (i) to protect significant cultural or natural resources;
 - (ii) to enable the restoration or rehabilitation of the area; or
 - (iii) to protect a breeding area for native wildlife;
 - (b) protection of the health and safety of members of the public;
 - (c) protection of a facility or service in the area, including, for example, infrastructure, water supply facilities or power generating equipment;
 - (d) protection of the amenity of an area adjacent to the area;
 - (e) the orderly or proper management of the area.

- (3) If the local government closes a local government controlled area under subsections (1) or (2), it must place at each public entrance to the area a notice of the closure, including a statement of the duration of the closure.

Example—

If the local government closes an area that is part of a wider local government controlled area, it must place notices at each public entrance to the closed area.

- (4) A person must not enter or remain in a local government controlled area while it is closed to public access under this section, unless the person is authorised to do so by an authorised person.

Maximum penalty for subsection (4) —20 penalty units.

Division 4 Use of parks

11 Use of a park, reserve or facility for ceremony, celebration, recreational or other activity

- (1) A person may apply to the local government pursuant to *Local Law No.4 (Permits) 2013* to—
- (a) use a park, reserve or a facility or control a park, reserve or a facility for the purpose of a ceremony, celebration, recreational or other activity and have exclusive access to a specified area of a park, reserve or facility not exceeding that which may be reasonably necessary for that activity; or
- (b) erect a facility or structure or install equipment in a specified area of a park or reserve.

Examples:

A permit might authorise a sporting association to:

- mark out a playing field in a specified location on the park or reserve;
- install specified equipment and facilities (such as goal posts and change rooms);
- exclude the public from the relevant part of the park or reserve either temporarily (e.g. during the playing of a game) or over the whole of the period of the licence.

- (2) A person must not use a park or a facility contrary to a permit or the conditions of a permit issued pursuant to section 11(1) (Use of a park or reserve for recreational activity) of this local law.

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

- (3) The local government may, notwithstanding the existence of a permit, limit the use of a facility to—
 - (a) ensure equal access by all sectors of the public; and
 - (b) protect a park or a facility from overuse or damage.
- (4) A person must not, unless authorised by a permit, use a park or a facility contrary to a limitation made pursuant to section 11(3) (Use of a park or reserve for recreational activity) of this local law.

Maximum penalty for subsection (4) – 50 penalty units

12 Permit regulated use of parks and reserves

The local government may by subordinate law, prescribe the circumstances under which a permit is required for a ceremony, celebration, recreational or other activity in a park, reserve or facility.

Part 4 General powers of direction

13 Direction to leave a local government controlled area

- (1) If an authorised person believes on reasonable grounds a person on a local government controlled area is contravening or has just contravened a provision of a local law, the authorised person may direct the person to—
 - (a) leave the a local government controlled area —
 - (i) within a stated reasonable time; or
 - (ii) immediately if the authorised person believes on reasonable grounds the contravention is serious; and
 - (b) not to re-enter the local government controlled area for a stated reasonable period of not more than 3 calendar days.
- (2) The person must comply with a direction given to the person under section 13(1) (Direction to leave a local government controlled area) of this local law, unless the person has a reasonable excuse for not complying with it.

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

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- (3) An approval held by a person who is directed to leave the a local government area under section 13(1) (Direction to leave a local government controlled area) of this local law is cancelled by force of section 13(2) (Direction to leave a local government controlled area) of this local law when the person is required to have left the local government area.
- (4) A person given a direction under section 13(1) (Direction to leave a local government controlled area) of this local law to leave a local government controlled area must not re-enter the local government controlled area unless the person has a reasonable excuse for the re-entry within the period stated in the direction.

Maximum penalty for subsection (4) – 20 penalty units.

Part 5 Roads

14 Power to require adjoining land owner to fence land or remove a fence

- (1) The local government may, by written notice to the owner of land adjacent to a road, require the owner of that land to construct, maintain, repair or remove a fence between the road and that land (**fencing notice**) if, in the opinion of an authorised person—
 - (a) the construction of a fence is necessary to prevent animals escaping from the land onto the road;
 - (b) the fence is not adequate or effective for its intended purpose; or
 - (c) the fence constitutes an actual or potential safety hazard.
- (2) A fencing notice must—
 - (a) fix the minimum standards with which the fence must comply; and
 - (b) state the time by which construction of the fence must be completed.
- (3) An owner of land to whom a fencing notice is given must comply with the notice.

Maximum penalty – 50 penalty units.

15 Works notice

- (1) The local government may give a works notice to the owner or occupier of premises adjoining or adjacent to a road to perform works on the premises where an authorised person is satisfied that the works should be performed to prevent a risk of—

- (a) harm to human health or safety or personal injury; or
 - (b) property damage or a loss of amenity; or
 - (c) environmental harm or environmental nuisance; or
 - (d) a nuisance; or
 - (e) interference with the safe movement of traffic or the safe use of a road; or
 - (f) damage to a road.
- (2) The works notice must specify—
- (a) the basis on which the works notice is given; and
 - (b) the work to be performed or the action to be taken; and
 - (c) the time for compliance with the works notice.
- (3) A person to whom a works notice is given must comply with the works notice.

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

16 Numbering of allotments adjoining a road

- (1) An owner of land must not adopt or exhibit a number for a building or allotment which is inconsistent with the numbering system adopted by the local government.

Maximum penalty - 10 penalty units.

- (2) An owner of land (other than vacant land) must display the number allocated by the local government for easy identification of the land from the adjoining road, being the road to which the allocated number relates, unless the local government exempts the owner from displaying the number.

Maximum penalty - 10 penalty units.

17 Prohibition on use of road

- (1) A person must not wash or clean, paint, repair, alter or maintain a vehicle on a road.

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Maximum penalty for subsection (1) – 10 penalty units

- (2) Subsection (1) does not apply if a vehicle is temporarily disabled with a minor fault and the driver of the vehicle stops for no longer than is necessary for the performance of maintenance work limited to the minimum necessary to allow the vehicle to be moved from the road.

Part 6 Cost Recovery

18 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, including a permit issued under a local law; or
 - (b) a structure has been erected or installed in, on, across, under or over a road in contravention of a local law, including a permit issued under a local law.
- (2) An authorised person may seize (by dismantling if necessary) and impound the structure or thing if its immediate removal is necessary—
- (a) in the interests of public health or safety; or
 - (b) to prevent environmental harm, property damage or loss of amenity.
- (3) Where subsection (1) 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 general compliance notice requiring the owner or person to remove it; and
 - (b) the time for making an application for review of the general compliance notice 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.

19 Damage cost recovery

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- (1) A person who, without the local government's authority, intentionally or negligently interferes with:
- (a) a local government controlled area or road; or
 - (b) a chattel or goods owned by the local government in or on a local government controlled area or road; or
 - (c) any chattel or goods owned or controlled by the local government wherever situated.

is liable to the local government for the amount properly and reasonably incurred by the local government in repairing the damage caused by the interference or replacing the chattel or goods.

- (2) The local government may recover the amount payable by the person under section 19(1) (Damage cost recovery) as a debt, together with interest on the amount, as if it were an amount of overdue rates payable, to the local government.

Part 7 Miscellaneous

20 Subordinate local laws

- (1) The local government may make a subordinate local law with respect to—
- (a) the establishment of a management authority and the membership, structure, procedures, policies, guidelines and powers of the management authority pursuant to section 5 (Management authority) of this local law; and
 - (b) when a permit is not required to undertake a permit regulated activity pursuant to section 6 (Requirement for a permit) of this local law; and
 - (c) the regulation or prescription of matters referred to in section 7 (Regulation of local government controlled area) of this local law; and
 - (d) an activity which is a prohibited activity pursuant to section 8 (Prohibited activities) of this local law; and; and
 - (e) the permanent closure of a local government controlled area pursuant to section 10 (Power of closure of local government controlled areas) of this local law; and

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- (f) the circumstances under which a permit is required for the holding of a celebration or ceremony in a park, reserve or facility pursuant to section 12 (Permit regulated use of parks and reserves); and
 - (g) a thing as a regulated object pursuant to the Schedule (Dictionary— definition of structure) of this local law; and
 - (h) activities that are permit regulated activities pursuant to the Schedule (Dictionary— definition of permit regulated activity) of this local law; and
 - (h) a thing as a vehicle pursuant to the Schedule (Dictionary— definition of vehicle)) of this local law; and
- (2) Without in any way limiting the scope of the power to make subordinate local laws set out elsewhere in this local law, the local government may make a subordinate local law which is necessary or convenient to give effect to this local law and its objects.

Part 8 Transition, Savings and Repeals

21 Repeals

The following Local Laws are repealed —

- Local Law No. 12 (Roads) 1999, gazetted 18 June 1999
- Local Law 17 (Parks an Reserves) 1997, gazetted 14 February 1997
- Local Law No. 24 (Gates and Grids) 1999, gazetted 18 June 1999
- Local Law No. 32 (Pedestrian Malls) 2000, gazetted 24 March 2000
- Local Law 35 (Visibility of Road Intersections and Road Junctions) 1999, gazetted 18 June 1999
- Local Law No. 42 (Libraries) 1998, gazetted 8 January 1999

22 Existing Permits

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a licence regulated activity under this local law is deemed to be a holder of a permit under this local law and *Local Law No. 4 (Permits) 2013* to operated that activity.

23 Signs

Any sign erected by the local government before the commencement of this local law which regulates a matter of the sort specified in section 7 (Regulation of local government controlled area) or prohibits an activity in a local government controlled area or road is deemed to be a sign under this local law and in particular under section 9 (Local government to exhibit a sign) of this local law.

Schedule 1 Dictionary

Section 3

alteration or improvement to local government controlled areas or 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,

but does not include an alteration or improvement—

- (c) that constitutes development under the *Sustainable Planning Act 2009*;⁷
- (d) for which a tree clearing permit is required under the *Vegetation Management Act 1999*;
- (e) that involves a network connection; or
- (f) for which written approval of the local government is required under section 75 of the Act.

approval has the meaning given in *Local Law No. 1 (Administration) 2013* and includes all conditions of consent, permission, permit, licence, authorisation or approval.

assistance animal see *Guide, Hearing and Assistance Dogs Act 2009*, schedule 4 Dictionary.

authorised person means a person authorised by the local government under *Local Law No. 1 (Administration) 2013* to exercise the powers of an authorised person under this local law.

authorised vehicle means a vehicle engaged for or used in conjunction with local government purposes by or on behalf of the local government, or any other vehicle as authorised in writing by the local government.

bicycle see the *Transport Operations (Road Use Management) Act 1995*, schedule 4, definitions.

facility means any building, structure, carparking 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 in or on a park or reserve.

⁷ See section 7, Sustainable Planning Act 2009.

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footpath see Transport Operations (Road Use Management) Act 1995, schedule 4, definitions.

goods does not include an animal.

guide dog means a dog trained to be an effective guide for a person with disability attributable to a vision impairment.

hearing dog means a dog trained to be used as an aid by a person with disability attributable to a hearing impairment.

interference or **interferes** includes damage, destruction, tampering, removal, alteration, defacement or change.

local government means Ipswich City Council.

local government controlled area—

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

Examples of local government controlled areas—

- *parks, reserves and recreational areas*
- *conservation parks*
- *cemeteries*
- *local government operated library, including mobile libraries*
- *local government Chambers and local government offices*
- *jetties.*
- *a mall*

- (b) includes part of a local government controlled area; and

- (c) includes any other road or area approved under chapter 6 of the *Transport Infrastructure Act 1994*.

mall means a mall established in accordance with the Act.

official sign means a sign erected pursuant to this local law.

park has the same meaning as in the Planning Scheme

permit regulated activity means—

- (a) an activity which is specified as a permit regulated activity in Schedule 2 of this local law; or
- (b) an activity which would ordinarily be prohibited by this local law or subordinate

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Ipswich City Council
Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

local law unless authorised by a permit, but for which a local law or subordinate local law specifies that a permit is not required.

planning scheme means the planning scheme for Ipswich City Council made pursuant to the superseded *Integrated Planning Act 1997*, as amended pursuant to the *Planning Act* from time to time.

power-assisted bicycle has the same meaning as in the TORUM Act

prohibited activity see section 8.

recreational activity includes sporting activity.

regulate includes the power to prohibit.

regulated object means a thing—

- (a) which in the opinion of the authorised person is dangerous; or
- (b) specified as a regulated object in a subordinate local law.

regulated vehicle means—

- (a) a vehicle; and
- (b) a wheeled recreational device; and
- (c) a bicycle, cycle and a tricycle; and
- (d) a power assisted cycle.

road means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road in respect of which the chief executive has given written agreement under the TORUM Act, section 66(5)(b) where that act requires such agreement.

structure has the meaning given in the *Local Government Act 2009* and includes a structure as defined under the *Building Act 1975* and any other thing specified in a subordinate local law.

the Act means the *Local Government Act 2009*.

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

vehicle means—

- (a) a vehicle as defined in the TORUM Act schedule 4, definitions; or
- (b) any other thing specified as a vehicle in a subordinate local law.

wheeled recreational device has the same meaning as in the TORUM Act

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Ipswich City Council
Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

Schedule 2 Permit regulated activities

Section 6

Column 1 Permit regulated activities	Column 2 Circumstances that do not require a permit under the Local Law
Alteration or improvement to local government controlled areas or roads ⁸	None.
Bringing or driving a motor vehicle onto a local government controlled area	<p>Accessing a local government controlled area by an authorised contractor for the purpose of repairing or maintaining a local government facility.</p> <p>Where there is an official sign permitting the bringing or driving of a motor vehicle onto the area.</p>
Bringing or riding a bicycle into a mall	Walking a bicycle from a road directly to a bicycle rack in a mall or from a bicycle rack in a mall directly to a road.
Bringing an animal into a pedestrian mall	<p>Bringing a hearing dog, guide dog or assistance animal into an outdoor pedestrian mall.</p> <p>The police, military or a member of State Emergency Services bringing an animal into the outdoor pedestrian mall in the course of official duties.</p> <p>Where approved by a management authority appointed for the purpose of managing the pedestrian mall.</p>
Entering or remaining in a local government controlled area outside of the opening hours.	None
Bringing an animal into a local government controlled cemetery.	None
Interfering with a grave, memorial or with flowers or tokens on a grave or memorial in a cemetery.	Where the grave, memorial flowers or tokens are being tended by a member of the deceased's family or persons authorised by the deceased's family or the operator of the

⁸ See the definition of *alteration or improvement to local government controlled areas and roads* in Schedule 1.

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Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

Column 1 Permit regulated activities	Column 2 Circumstances that do not require a permit under the Local Law
	cemetery.
Suffering, permitting or allowing any goods or materials or merchandise of any description to be placed in or upon a road.	Permitted only for such period as is necessary to house or remove the goods, materials or merchandise but in any event for not more than thirty (30) minutes.
Camping or residing on a local government controlled road or in a local government controlled area.	Where camping without a permit is permitted by signage
Bringing onto, being in possession of, or discharging a firearm in a local government controlled road or area	Permitted only where the firearm is being used as part of a performance in a theatre or where the firearm is in the possession of serving military personnel and being used in a memorial or military ceremony.
Seek or receive or indicate that a person wishes to receive a donation of money from any person	Permit is only required if the activity is to take place in a mall
Take part in any public assembly ⁹ or give any public address.	Permit is only required if the activity is to take place in a mall and in the case of a public assembly is not an authorised assembly under the <i>Peaceful Assembly Act 1992</i> .

⁹ Note also the requirements of the *Peaceful Assembly Act 1992*

Endnotes

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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

3 Key

Key to abbreviations in list of legislation and annotations

Key Explanation

amd = amended
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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 – no amendments

5 List of legislation

Original Local Law

Local Law No.7 (Local Government Controlled Areas and Roads) 2013

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Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

date of gazettal 5 July 2013

6 List of annotations

Ipswich

City Council

Subordinate Local Law No. 7.1 (Local Government Controlled Areas and Roads) 2013

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Ipswich City Council
Subordinate Local Law No. 7.1 (Local Government Controlled Areas and Roads) 2013

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 7.1 (Local Government Controlled Areas and Roads) 2013*.

2 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No.7 (Local Government Controlled Areas and Roads) 2013* (the authorising local law).

3 Object

The purpose of this subordinate local law is to supplement *Local Law No.7 (Local Government Areas and Roads) 2013* in order to protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads and to preserve features of the natural and built environment and the amenity of local government controlled areas and roads and to protect the assets of the local government.

4 Definitions

- (1) The dictionary in the Schedule (Dictionary) defines particular words used in this subordinate local law.
- (2) The dictionaries in the authorising law, *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

Part 2 Permit regulated activities

5 Information and material required for permit application

For the purposes of section 6(1)(c)(iv) (Application for a permit) of *Local Law No. 4 (Permits) 2013* an application for a permit to undertake a permit regulated activity specified in column 1 of schedule 2 (unless otherwise required by the local government) must be accompanied by the information, material and documents prescribed in column 2 of schedule 2.

6 Conditions of permit

For the purposes of section 9(3) (Conditions of licence) of *Local Law No. 4 (Permits) 2013*, the conditions set out in column 3 of schedule 2 which relate to the activities specified in column 1 of schedule 2 will apply to any permit granted by the local

government unless otherwise specified in the permit document.

7 Prohibited activities

For the purposes of section 8(1) (Prohibited activities) of the authorising local law, the activities prescribed in column 2 of schedule 3 are declared to be prohibited in the corresponding local government controlled area or road (or part thereof) mentioned in column 1 of schedule 3.

8 Permit regulated activity

For the purposes of section 12 (Permit regulated use of parks and reserves) of the authorising local law any organised event or gathering of 100 or more people in a park is a permit regulated activity.

Schedule 1 Dictionary

Section 4

council means the Ipswich City Council.

reserve means land which is placed under the control of the local government pursuant to legislation.

Example—

This would include a stock route placed under the control of the local government as well as protected areas placed under the control of the local government pursuant to the *Nature Conservation Act 1992*.

shared path is an area open to the public (except a separated footpath) that is designated for, or has as one of its main uses, use by both the riders of bicycles and pedestrians, and includes a length of path for use by both bicycles and pedestrians beginning at a shared path sign, or shared path road marking, and ending at the nearest of the following—

- (a) an end shared path sign or end shared path road marking;
- (b) a no bicycles sign or no bicycles road marking;
- (c) a bicycle path sign or bicycle path road marking;
- (d) a road (except a road-related area);
- (e) the end of the path.

shared path road marking means a road marking consisting of a pedestrian symbol above a bicycle symbol.

unregistered vehicle means a vehicle that is not registered or is not required to be registered under the Transport Operations (Road Use Management - Vehicle Registration) Regulation 1999.

vehicle see the Transport Operations (Road Use Management) Act 1995, schedule 4, definitions.

wheelchair see the Transport Operations (Road Use Management) Act 1995, schedule 4, definitions.

wheeled recreational device see the Transport Operations (Road Use Management) Act 1995, schedule 4, definitions.

Schedule 2 Information for applications and permit conditions

Sections 6 and 7

Column 1 Regulated Activity	Column 2 Documents, material or information required to accompany application for permit	Column 3 Standard Conditions
Alteration or Improvement to Local Government Controlled Areas and Roads ¹		<p>(a) No vehicles are to be driven onto the grassed areas of a park and/or reserves unless otherwise approved by Council.</p> <p>(b) All necessary actions shall be undertaken to ensure the safe passage of all road users with a minimum of delay and to ensure access to adjacent properties is maintained.</p> <p>(c) All residents, businesses, emergency service providers and public transport operators directly affected by the activity must be advised of the planned disruption at least 24 hours before the activity commences.</p> <p>(d) Provision must be made to protect the integrity of all public utility services during the works. A "Dial Before You Dig" search must be undertaken before works commence to assist with this task.</p> <p>(e) Any direction or instruction given by the Police or a Council officer relating to the construction of access is to be promptly obeyed.</p> <p>(f) In the case of works in cemeteries:</p> <ul style="list-style-type: none"> - The disturbance or exhumation must only be carried out by a recognised undertaker; - Conservation work on graves and headstones in historic cemeteries that are on local government land must comply with the principles, policies and guidelines as set out in the Conservation Management Plans for: Ipswich General Cemetery Talleghalla Cemetery

¹ See the definition of *alteration or improvement to local government controlled areas and roads* in schedule 1.

Column 1 Regulated Activity	Column 2 Documents, material or information required to accompany application for permit	Column 3 Standard Conditions
		Haigslea Lawn Cemetery Stone Quarry Cemetery
Depositing of goods or materials on a road (including a footpath);		(a) All necessary actions must be undertaken to protect the public from nuisance, injury and loss. (b) The site is to be left clean and tidy after the activity has been completed. (c) Council property must be left clean, tidy and undamaged. (d) Depositing of goods or material can only occur for the dates and times specified on the permit. (e) The permit must be produced for inspection by an authorised person upon demand.
Bringing or driving motor vehicle into local government controlled areas		(a) The permit holder must ensure the vehicle, the subject of the permit shall, whilst in or upon a local government controlled area is used strictly and only in accordance with the provisions of the permit. (b) Unless sooner revoked, this permit shall remain in force from the starting date up to and including the expiry date written on permit. (c) Upon breach of any or all of the conditions of this permit, the permit may be revoked by Council, or an authorised person. (d) This permit must be kept in the vehicle and displayed at all times so as to be visible from the outside. (e) The permit holder is required to hold or obtain public liability insurance and indemnifies the Council for any damages arising from permit activities.

Column 1 Regulated Activity	Column 2 Documents, material or information required to accompany application for permit	Column 3 Standard Conditions
Exclusive use of park, reserve or facility for ceremony, celebration, recreational or other activity – section 11 (Use of a park reserve or facility for ceremony, celebration, recreational or other activity) of the authorising law.		<ul style="list-style-type: none"> (a) The venue must not be re-hired to any other entity (b) Vehicles are not permitted other than on designated roads and car park areas (c) Council property must be left clean, tidy and undamaged (d) Activities must not cause nuisance to others (e) Nails or similar fixings must not be used on Council infrastructure or vegetation (f) Ipswich City Council must be notified as soon as practicable of any loss of or damage to Council property (g) Costs associated with Emergency Services, Security or Duty Officer callouts, cleaning or repairs will be the responsibility of the Permit Holder where an act or omission on their behalf has caused that to occur (h) Animals other than dogs are not permitted (i) Pegs or stakes must not be driven into the ground (j) All electrical equipment must be tested and tagged and in current test date before use (k) All portable electrical equipment being used during the event must be connected to a portable safety switch (l) All portable safety switches must be tested at the start of each day, or before every use, to ensure the power cuts if there is a power surge

Column 1 Regulated Activity	Column 2 Documents, material or information required to accompany application for permit	Column 3 Standard Conditions
Use of park reserve or facility for ceremony, celebration, recreational or other activity involving 100 or more people—section 9 (Permit regulated activity).		<p>(a) The venue must not be re-hired to any other entity</p> <p>(b) Vehicles are not permitted other than on designated roads and car park areas</p> <p>(c) Council property must be left clean, tidy and undamaged</p> <p>(d) Activities must not cause nuisance to others</p> <p>(e) Nails or similar fixings must not be used on Council infrastructure or vegetation</p> <p>(f) Ipswich City Council must be notified as soon as practicable of any loss of or damage to Council property</p> <p>(g) Costs associated with Emergency Services, Security or Duty Officer callouts, cleaning or repairs will be the responsibility of the Permit Holder where an act or omission on their behalf has caused that to occur</p> <p>(h) Animals other than dogs are not permitted</p> <p>(i) Pegs or stakes must not be driven into the ground</p> <p>(j) All electrical equipment must be tested and tagged and in current test date before use</p> <p>(k) All portable electrical equipment being used during the event must be connected to a portable safety switch</p> <p>(l) All portable safety switches must be tested at the start of each day, or before every use, to ensure the power cuts if there is a power surge</p>

Schedule 3 Prohibited activities

Section 7

Column 1 Local Government controlled area or road	Column 2 Prohibited Activity
All footpaths	Use of a motor vehicle (whether or not the motor is running) where it is travelling along the footpath, except for motorised scooters, wheelchairs, authorised vehicles and vehicles authorised by any Act.
All local government controlled areas and roads	Contravening an official sign.
All shared paths that are signed by the local government to be a shared path.	Use of a motor vehicle (whether the motor is running or not) where it is travelling along the shared path, except for motorised scooters, wheelchairs, authorised vehicles or vehicles authorised pursuant to any other law.
All jetties and boat ramps within the local government area	Fishing in such a manner as to obstruct or impede vessels or vehicular or pedestrian traffic accessing the jetty or boat ramp. Gutting, cleaning or washing fish. Extinguishing, diminishing or increasing any light illuminating the jetty or boat ramp.
All local government controlled areas	Use of cameras including mobile phones with camera interfacing at changing rooms or changing facilities and public toilets in all local government controlled areas

Column 1 Local Government controlled area or road	Column 2 Prohibited Activity
All local government controlled areas and roads	<ol style="list-style-type: none"> 1. Act in a way or do anything that unreasonably disturbs or is likely to disturb: <ol style="list-style-type: none"> (a) another person's enjoyment of the local government controlled area; or (b) the reasonable use or enjoyment of land adjacent to the local government controlled area. 2. Break in a horse. 3. Remove, alter, deface, damage or otherwise interfere with any advertisement exhibited by the local government. 4. Interfere with any structure, plant, turf, sand, clay, soil or other material; 5. Dispose of any rubbish of any kind other than in a waste container provided for that purpose; 6. Deposit, store or abandon any goods, spoil, garden refuse or materials of any kind; 7. Otherwise do any act or omit to do any act which pollutes, fouls, litters or interferes with a local government controlled area or road, including to graffiti the surface of any structure, concreted or paved area or vegetation within a park with paint or ink. 8. Play golf, other than on a designated golf course 9. Post or affix bills, posters or advertisements. 10. Cause, permit or allow a water tap to run water to waste; or 11. Remove from the park any timber or wood provided by the local government for use as firewood 12. Light or maintain a fire other than in a fireplace or barbeque constructed or provided by the local government

Endnotes

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4 Table of reprints

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Table of reprints of this local law – no amendments

5 List of legislation

Original Local Law

Subordinate Local Law No.7.1 (Local Government Controlled Areas and Roads) 2013

date of gazettal 5 July 2013

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Subordinate Local Law No. 7.1 (Local Government Controlled Areas and Roads) 2013

6 List of annotations

Ipswich

City Council

Local Law (Amending) Local Law No. 7 (Local
Government Controlled Areas and Roads) 2019

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Ipswich City Council
Local Law (Amending) Local Law No. 7 (Local Government Controlled Areas and Roads) 2019

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Draft

Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 7 (Local Government Controlled Areas and Roads) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 7 (Local Government Controlled Areas and Roads) 2013.

Part 2 Amendment of Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

4 Amendment of s 3 (Definitions – the dictionary)

Section 3, 'the Schedule' –

omit, insert –

Schedule 1

5 Replacement of s 4 (Relationship to other laws)

Section 4 –

omit, insert –

This local law is—

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Local Law (Amending) Local Law No. 7 (Local Government Controlled Areas and Roads) 2019

- (a) in addition to and does not derogate from laws regulating the use of trust land and roads;¹ and
- (b) to be read with Local Law No. 1 (Administration) 2013 and Local Law No. 4 (Permits) 2013.

6 Insertion of new s 5A

After section 5 –

insert –

5A Definition of permit regulated activity

A permit regulated activity means –

- (1) an activity which is specified as a permit regulated activity in Schedule 2 of this local law or a subordinate local law; or
- (2) an activity which would ordinarily be prohibited by this local law or subordinate local law unless authorised by a permit, but for which a local law or subordinate local law specifies that a permit is not required; or
- (3) an activity for which a Local Government Act authorises the local government to grant an approval but does not make any other provision, except provision that is consistent with this part, about the process for the local government to grant the approval.

7 Amendment of pt 3, hdg (Use of local government controlled areas)

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. Other legislation that may be relevant in the application of this local law includes the Land Act 1994, the Land Regulation 1995 and the Land Protection (Pest and Stock Route Management) Act 2002.

Part 3, heading, after 'areas' –

insert –

or roads

8 Amendment of s 6 (Requirement for a permit)

(1) Section 6(1), after 'permit regulated activity' –

insert –

on or in a local government controlled area or road

(2) Section 6(1), footnote 3, 'the Schedule 1' –

omit, insert –

section 5A

(3) Section 6(2), subsections (a) and (b) –

omit, insert –

in any manner or by any means indicate that a permit regulated activity which
does not comply with this local law does comply with this local law.

(4) Section 6(4) –

omit.

(5) Section 6(5), from 'and the schedule' to 'authorising law' –

omit, insert –

of this local law,

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Local Law (Amending) Local Law No. 7 (Local Government Controlled Areas and Roads) 2019

- (6) Section 6, subsection (5) to (6) –

renumber as subsections (4) and (5), respectively.

9 Amendment of pt 3, div 2, hdg (Regulation of local government controlled area)

Part 3, Division 2, heading, after 'area' –

insert –

or road

10 Amendment of s 7 (Regulation of local government controlled area)

- (1) Section 7, heading, after 'area' –

insert –

or road

- (2) Section 7(1), subsection (a), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (3) Section 7(1), subsection (b), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (4) Section 7(1), subsection (c), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (5) Section 7(1), subsection (d), after 'hire of' –

omit, insert –

a

- (6) Section 7(1), subsection (e), 'the local government controlled area' –

omit, insert –

a local government controlled area

- (7) Section 7(1), subsection (f), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (8) Section 7(1), subsection (g), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (9) Section 7(1), subsection (h), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (10) Section 7(1), subsection (i), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (11) Section 7(1), subsection (j), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (12) Section 7(1), subsection (k), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (13) Section 7(1), '(i) regulate the carrying out of permit regulated activities' –

omit, insert –

(l) regulate the carrying out of permit regulated activities on or in a local
government controlled area or road; and

- (14) Section 7(1), subsection (m), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (15) Section 7(1)(m), subsection (i) –

omit, insert –

(i) a local government controlled area or road (including the amenity of a
local government controlled area or road); or

- (16) Section 7(1)(m), subsection (i), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (17) Section 7(1), subsection (n), '.' –

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Ipswich City Council
Local Law (Amending) Local Law No. 7 (Local Government Controlled Areas and Roads) 2019

omit, insert –

; and

(18) Section 7(1), after subsection (n) –

insert –

(o) regulate the admission of patrons to a local government controlled area;
and

(p) provide standards of conduct for patrons in a local government controlled area.

(19) Section 7(3) –

omit, insert –

(3) It is immaterial to the commission of an offence under subsection (2) that a person was not aware of a sign exhibited under section 7(1) or whether the sign had been removed or defaced.

(20) Section 7(4) –

omit.

11 Amendment of s 8 (Prohibited activities)

(1) Section 8(1), after 'may' –

insert –

, by subordinate local law,

(2) Section 8(1), after 'to be a prohibited' –

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insert –

activity

(3) Section 8(1), '(a **prohibited activity**)' –

omit, insert –

(a **prohibited activity**)

(4) Section 8(2), from 'without' to 'road' –

omit, insert –

in or on a local government controlled area or road, without a relevant permit

12 Amendment of s 9 (Local government to exhibit a sign)

Section 9, after subsection (2) –

insert –

(3) A sign exhibited under subsection (1) –

(a) must state –

- (i) the prohibition or restriction imposed by the sign;
- (ii) the area to which the prohibition or restriction applies;
- (iii) that a penalty may apply for failure to comply with the sign; and
- (iv) that the sign is an instrument under this local law.

13 Amendment of s 10 (Power of closure of local government controlled areas)

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Ipswich City Council
Local Law (Amending) Local Law No. 7 (Local Government Controlled Areas and Roads) 2019

- (1) Section 10(1), after 'may' –

insert –

, by resolution,

- (2) Section 10(2)(a), after subsection (iii) –

insert –

(iv) to manage a significant Aboriginal area in the area in a way that is consistent with Aboriginal tradition; or

(v) to manage a significant Torres Strait Islander area in the area in a way that is consistent with Island custom;

- (3) Section 10, after subsection (4) –

insert –

- (5) In this section—

significant Aboriginal area see the Aboriginal Cultural Heritage Act 2003, section 9.

significant Torres Strait Islander area see the Torres Strait Islander Cultural Heritage Act 2003, section 9.

14 Insertion of new s 10A

Before section 11 –

insert –

10A Permit regulated use of parks and reserves

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- (1) The local government may, by subordinate local law, prescribe the circumstances under which a permit is required for a ceremony, celebration, recreational or other activity in a local government controlled area including a park, reserve or facility (**permit regulated activity**).

15 Insertion of new div 3

After section 10A –

insert –

Division 3 Removal, storage, sale or disposal of vehicles and other articles from local government controlled areas and roads

10B Protection from liability

No liability for damage caused by any action taken pursuant to this division in good faith and without negligence attaches to the local government or any other person taking such action at the direction of the local government.

10C Removal of vehicle obstructing local government works

- (1) This section applies if the local government or an authorised person considers on reasonable grounds that any vehicle—
- (a) has been left unattended on a road, whether temporarily or otherwise; and

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- (b) in circumstances where its continued presence obstructs works being carried out by the local government on that road.
- (2) If there is a person apparently in charge of the vehicle present at the time, the local government or the authorised person may give that person an oral direction to move the vehicle to a location where it does not obstruct the works.
- (3) If the person does not comply with the direction, or there is no person apparently in charge of the vehicle present at the time, in addition to any other action provided for by this local law, the local government or the authorised person may remove the vehicle, or cause it to be removed, to the nearest practicable location where it may be lawfully parked and does not obstruct those works.
- (4) The local government or the authorised person must give notice of the removal in the way stated in subsection (5).
- (5) The notice—
 - (a) must state contact details to enable a person claiming a right to possession of any vehicle so removed to ascertain the whereabouts of the vehicle; and

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- (b) may be by temporary sign left on the verge adjacent to where the vehicle was parked prior to removal by the local government; and
- (c) must be published on the local government's website as soon as practicable after the date of removal, and for at least 14 days.

10D Unregistered vehicles on roads

- (1) This section applies if an unregistered vehicle is parked on a road.
- (2) If there is a person apparently in charge of the vehicle present at the time, an authorised person may give the person an oral direction to cause the vehicle to be removed from the road.
- (3) If there is no person apparently in charge of the vehicle present at the time, or the person mentioned in subsection (2) does not remove the vehicle immediately, the authorised person may confiscate and remove the vehicle, or cause it to be removed, into the possession of the local government.

10E Removal of other vehicles on roads

- (1) This section applies if the local government or an authorised person considers on reasonable grounds that any vehicle has been—
 - (a) abandoned; or

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(b) left in circumstances where its presence is hazardous.

(2) If there is a person apparently in charge of the vehicle present at the time, an authorised person may give the person an oral direction to cause the vehicle to be removed from the road.

(3) If there is no person apparently in charge of the vehicle present at the time, or the person mentioned in subsection (2) does not remove the vehicle immediately, the local government or the authorised person may confiscate and remove the vehicle, or cause it to be removed, into the possession of the local government.

10F Vehicles on local government controlled areas

(1) This section applies to vehicles on local government controlled areas (other than roads), unless authorised to be there under this or another law.

(2) If there is a person apparently in charge of the vehicle present at the time, an authorised person may give the person an oral direction to remove the vehicle from the local government controlled area.

(3) If there is no person apparently in charge of the vehicle present at the time, or the person mentioned in subsection (2) does not remove the vehicle immediately, in addition to any other action provided for by this local law, the local government or the authorised person may

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remove the vehicle, or cause it to be removed, to the nearest road where it can lawfully be left.

(4) The local government or the authorised person must give notice of the removal as set out in subsection (5).

(5) The notice must—

(a) state contact details to enable a person claiming a right to possession of any vehicle so removed to ascertain the whereabouts of the vehicle; and

(b) if the identity of the registered owner of the vehicle can be readily ascertained, be given to the registered owner of the vehicle as soon as practicable after the date of removal; or

(c) if the identify of the registered owner of the vehicle cannot be readily ascertained:

(i) be erected on a corflute sign at the place where the vehicle was removed as soon as practicable after the date of removal; or

(ii) be published on the local government's website as soon as practicable after the date of removal, and for at least 14 days.

10G Confiscation of vehicle

- (1) This section applies where the local government or an authorised person has removed and confiscated a vehicle under this division.
- (2) The local government or authorised person must, as soon as practicable after confiscating the vehicle, give notice of the confiscation to the registered owner of the vehicle.
- (3) The notice must:
 - (a) include a description of the vehicle confiscated;
 - (b) state the date, time and reason the vehicle was confiscated; and
 - (b) state what a person needs to do to have the vehicle released.

10H Release of confiscated vehicle

- (1) Subject to subsection (2), within 28 days after the confiscation, the local government will release any vehicle confiscated under this local law to a person claiming a right to possession of it provided that the person—
 - (a) proves their ownership or right to possession of the article to the local government's satisfaction; and

(b) pays the applicable cost-recovery fee;
and

(c) signs a receipt for the delivery of the
vehicle.

(3) If, for whatever reason, it is not possible to
return the vehicle to its owner or other person
entitled to its possession, then the local
government may dispose of the vehicle under
section 10I.

10I Disposal of confiscated vehicle

(1) If a confiscated vehicle is not released under
section 10H, then the local government may offer
the vehicle for sale by private treaty, tender,
expression of interest or auction.²

(2) If there is no purchaser for a confiscated vehicle
offered for sale, the local government may
dispose of the vehicle in any way it sees fit.

(3) If upon the disposal of a vehicle in accordance
with this section, the costs and expenses
incurred by the local government in connection
with its removal, detention, storage and sale or
disposal are not fully recovered, the local
government may recover the outstanding
balance as if it were a debt.

² Section 38A of the Local Government Act 2009 (Qld) applies to the disposition of the proceeds of sale.

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16 Amendment of div 4, hdg (Use of parks)

Division 4, heading, after 'use of' –

omit, insert –

local government controlled areas

17 Amendment of s 11 (Use of a park, reserve or facility for ceremony, celebration, recreational or other activity)

Section 11(1), after 'Local Law No. 4 (Permits) 2013' –

insert footnote –

Local Law No. 4 (Permits) 2013 applies to any permit issued under this local law.

18 Replacement of s 12 (Permit regulated use of parks and reserves)

Section 12 –

omit, insert –

12 Damage of local government controlled areas

A person must not wilfully or unlawfully damage a local government controlled area, including any structure, object, fixture, vegetation, object or thing located in or on a local government controlled area.

Maximum penalty – 50 penalty units.

19 Amendment of s 13 (Direction to leave a local government controlled area)

(1) Section 13(1), subsection (a), 'the a' –

omit, insert –

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a

(2) Section 13(3) –

omit, insert –

(3) If a person who is given a direction under subsection (1) holds a permit under this or another local law, the permit is cancelled from the time the person is required to have left the local government controlled area.

(3) Section 13(4), from 'unless' to 'direction' –

omit, insert –

within the period stated in the direction, unless the person has a reasonable excuse.

20 Amendment of s 15 (Works notice)

(1) Section 15, after subsection (1) –

insert –

(2) The local government may give a works notice to an owner or occupier of premises adjoining a road to –

(a) construct a vehicular crossing to provide vehicle access between the premises and the road to a standard specified by the local government in the works notice; or

(b) maintain, repair or remove a vehicular crossing which provides vehicle access between the premises and the road to a standard specified by the local government in the works notice if the vehicular crossing –

(i) is not effective for its intended purpose; or

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- (ii) is causing or may cause a nuisance; or
 - (iii) is causing or may cause harm to human health or safety or personal injury; or
 - (iv) is no longer required; or
- (c) alter a vehicular crossing which provides vehicle access between the premises and the road in accordance with a standard specified by the local government in the work notice if the vehicular crossing is no longer adequate having regard to –
- (i) the volume or nature of vehicles using the vehicular crossing; or
 - (ii) the manner in which the vehicular crossing is used by vehicles; or
 - (iii) changes in the use of the premises to which the vehicular crossing provides access; or
 - (iv) changes in the usual or expected standard of vehicular crossing in the immediate vicinity of the vehicular crossing the subject of the works notice.
- Note: For the avoidance of doubt all maintenance of vehicular crossovers is the responsibility of the owner or occupier of the relevant adjoining premises.
- (3) The local government may give a works notice to an owner or occupier of premises adjoining a local government controlled area or road to –
- (a) maintain, repair or remove private infrastructure that encroaches onto a local government controlled area or road to a standard

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specified by the local government in the works notice if the
private infrastructure –

- (i) is damaged or broken; or
- (ii) is not effective for its intended purpose; or
- (iii) is causing or may cause a nuisance; or
- (iv) is causing or may cause harm to human health or safety
or personal injury; or
- (v) is no longer required.

Note: For the avoidance of doubt all maintenance of private infrastructure that encroaches onto
a local government controlled area or road is the responsibility of the owner or occupier of
the relevant adjoining premises.

- (2) Section 15(2)
renumber as subsection (4)

21 Amendment of s 18 (Power to remove and cost recovery)

- (1) Section 18(1), subsection (b), '.' –

omit, insert –

; or

- (c) oil, minerals, sediment or other substances or materials have
been brought onto a local government controlled area or road in
contravention of a local law, including a permit issued under a
local law; or

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- (d) private infrastructure has been installed or constructed on a local government controlled area or road, or has been installed or constructed such that it encroaches onto a local government controlled area or road.

- (2) Section 18(2), after 'thing' –

insert –

, or remove or clean the material or substance,

- (3) Section 18(3) –

omit.

- (4) Section 18(4), after '(1)' –

insert –

, including any cost incurred by the local government in repairing any part of, or replacing a thing located in, the local government controlled area or road, as a result of the activity.

- (5) Section 18(5) –

renumber as subsection (6).

22 Amendment of s 19 (Damage cost recovery)

- (1) Section 19(1), subsection (a), after 'road' –

insert –

, including vegetation located on or adjacent to a local government controlled area or road

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- (2) Section 19(2), from ', together' to 'payable,' –

omit, insert –

payable

- (3) Section 19, after subsection (2) –

insert –

- (3) Interest is payable on the debt at the same rate that interest is payable
on overdue rates levied by the local government under the Act.

23 Amendment of s 20 (Subordinate local laws)

- (1) Section 20, subsection (f), after 'ceremony' –

insert –

or other activity

- (2) Section 20, subsection (f), 'section 12' –

omit, insert –

section 10A

24 Amendment of s 22 (Existing permits)

- (1) Section 22, 'licence regulated activity' –

omit, insert –

permit regulated activity

- (2) Section 22, 'operated' –

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Local Law (Amending) Local Law No. 7 (Local Government Controlled Areas and Roads) 2019

omit, insert –

operate

25 Amendment of sch 1 (Dictionary)

(1) Schedule 1 –

insert –

Carrying out works on a road or interfering with a road or its operation

see the Act, section 75(2).

landscaping means the alteration of the design of land by planting trees, shrubs or other plants or constructing garden beds.

nature strip means the area of land owned by the local government and located between the front boundary of freehold land and a road.

Planning Act means the Planning Act 2016 (Qld) and includes the predecessor legislation to that Act.

(2) Schedule 1, definition alteration or improvement to local government controlled areas or roads, after subsection (b) –

insert –

- (c) installing or constructing private infrastructure in a local government controlled area or on a road, or that encroaches onto a local government controlled area or road.

(3) Schedule 1, definition alteration or improvement to local government controlled areas or roads, 'Sustainable Planning Act 2009' –

omit, insert –

Planning Act 2016

- (4) Schedule 1, definition alteration or improvement to local government controlled areas or roads, footnote 7, after 'See' –

omit, insert –

Schedule 2, Planning Act 2016

- (5) Schedule 1, definition alteration or improvement to local government controlled areas or roads, subsection (c) to (f) –

renumber as subsections (d) to (g), respectively

- (6) Schedule 1, definition guide dog –

omit, insert –

guide dog see Guide, Hearing and Assistance Dogs Act 2009, Schedule 4.

- (7) Schedule 1, definition hearing dog –

omit, insert –

hearing dog see Guide, Hearing and Assistance Dogs Act 2009, Schedule 4.

- (8) Schedule 1, definition permit regulated activity –

omit, insert –

permit regulated activity see section 5A.

- (9) Schedule 1, definition planning scheme –

omit, insert –

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planning scheme means the planning scheme made or amended from time-to-time under a Planning Act

26 Amendment of sch 2 (Permit regulated activities)

(1) Schedule 2 –

insert –

Carrying out works on a road or interfering with a road or its operation	None.
Landscaping of a nature strip	Nature strip adjoining residential properties only - where complying with the Standard Conditions of the local government's Landscape Areas on Nature Strips Policy.
Personal tributes in a local government area or on a road	None.

(2) Schedule 2, item 8 (Suffering, permitting or allowing any goods or materials or merchandise of any description to be placed in or upon a road), column 1 –

omit, insert –

Depositing, permitting or allowing any goods or materials or merchandise of any description to be placed or left on a road.

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Local Law No. 7.1 (Local Government Controlled
Areas and Roads) 2019

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and Roads) 2019

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Subordinate Local Law (Amending) Subordinate Local Law No. 7.1 (Local Government Controlled Areas
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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law (Amending) Subordinate Local Law No. 7.1 (Local Government Controlled Areas and Roads) 2019.

2 Commencement

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

3 Subordinate local laws amended

This subordinate local law amends Subordinate Local Law No. 7.1 (Local Government Controlled Areas and Roads) 2013.

Part 2 Amendment of Subordinate Local Law No. 7.1 (Local Government Controlled Areas and Roads) 2013

4 Amendment of s 2 (Authorising local law)

Section 2, after 'by' –

omit, insert –

:

(1) Local Law No. 4 (Permits) 2013; and

(2) Local Law No. 7 (Local Government Controlled Areas and Roads) 2013,

(the authorising local laws).

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Subordinate Local Law (Amending) Subordinate Local Law No. 7.1 (Local Government Controlled Areas
and Roads) 2019

5 Amendment of s 4 (Definitions)

- (1) Section 4, 'authorising law' –

omit, insert –

authorising local laws

- (2) Section 4, 'and Local Law No. 4 (Permits) 2013' –

omit.

6 Amendment of s 6 (Conditions of permit)

- (1) Section 6, '(Conditions of licence)' –

omit, insert –

(Conditions of a permit)

7 Amendment of s 7 (Prohibited activities)

Section 7, 'the authorising local law' –

omit, insert –

Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

8 Amendment of s 8 (Permit regulated activity)

- (1) Section 8, 'section 12' –

omit, insert –

Section 10A

- (2) Section 8, 'the authorising local law' –

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Subordinate Local Law (Amending) Subordinate Local Law No. 7.1 (Local Government Controlled Areas
and Roads) 2019

omit, insert –

Local Law No. 7 (Local Government Controlled Areas and Roads) 2013

9 Insertion of new pt 3

After section 8 –

insert –

Part 3 Use of local government controlled areas

9 Use of local government controlled areas

For the purposes of sections 7(1)(o) and (p) of Local Law No. 7 (Local Government Controlled Areas and Roads) the standards prescribed in column 2 of schedule 4 are required to be complied with by a person entering or attending a local government controlled area specified in column 1 of schedule 4.

10 Amendment of sch 1 (Dictionary)

Schedule 1, definition unregistered vehicle, '1999'–

omit, insert –

2010

11 Amendment of sch 2 (Information for applications and permit conditions)

- (1) Schedule 2, item 1 (Alteration or improvement to Local Government Controlled Areas and Roads), column 1, footnote 1, after 'schedule 1' –

insert –

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Subordinate Local Law (Amending) Subordinate Local Law No. 7.1 (Local Government Controlled Areas
and Roads) 2019

of Local Law No. 7 (Local Government Controlled Areas and Roads).

- (2) Schedule 2, item 2 (Depositing of goods or materials on a road (including a footpath)),
column 1 –

omit, insert –

Depositing, permitting or allowing any goods or materials or merchandise of any
description to be placed or left on a road (including a footpath)

- (3) Schedule 2, item 3 (Bringing or driving motor vehicle into local government controlled
areas), column 3, subparagraph (a), 'is' –

omit, insert –

be

- (4) Schedule 2, item 3 (Bringing or driving motor vehicle into local government controlled
areas), column 3, subparagraph (b), after 'on' –

insert –

the

- (5) Schedule 2, item 4 (Exclusive use of park, reserve or facility for ceremony, celebration,
recreational or other activity – section 11 (Use of a park reserve or facility for ceremony,
celebration, recreational or other activity) of the authorising law), column 1, 'authorising
law' –

omit, insert –

Local Law No. 7 (Local Government Controlled Areas or Roads) 2013

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and Roads) 2019

- (6) Schedule 2, item 4 (Exclusive use of park, reserve or facility for ceremony, celebration, recreational or other activity – section 11 (Use of a park reserve or facility for ceremony, celebration, recreational or other activity) of the authorising law), column 3 –
- omit, insert –
- (a) The permit holder must comply with liquor licencing requirements set out by the Office of Liquor and Gaming Regulation (OLGR) for the duration of the event.
 - (b) The permit holder must hold current Public Liability Insurance for the duration of the event with a minimum cover of \$20 Million. The insurance company must be licensed to operate in Australia.
 - (c) All electrical equipment must be tested and tagged and in current test date before use.
 - (d) All portable electrical equipment being used during the event must be connected to a portable safety switch.
 - (e) All portable safety switches must be tested at the start of each day, or before every use, to ensure the power cuts if there is power surge.
 - (f) The permit holder may not transfer, assign or otherwise dispose of the permit to any other person or entity unless specifically authorised or approved by the local government.
 - (g) Animals, not under effective control are not permitted unless otherwise signed.
 - (h) Fireworks or naked flame are not permitted.
 - (i) Smoking (including smoke machines) is not permitted inside the area.

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and Roads) 2019

- (j) No seating is to be brought into the area unless approved by the local government.
- (k) Vehicles are not permitted other than on designated roads, car park areas or nominated pathways.
- (l) Nails, barriers, ropes or similar fixings must not be erected, attached or used on the local government's infrastructure (e.g. walls, equipment) or vegetation.
- (m) Any local government property in the area must be left clean, tidy and undamaged.
- (n) Activities must not cause a nuisance (e.g. dust) to neighbouring facilities, properties or other users of the area.
- (o) The local government must be notified as soon as practicable of any loss of or damage to local government property.
- (p) Costs associated with Emergency Services, Security or Duty Officer callouts, cleaning or repairs will be the responsibility of the permit holder where an act or omission on their behalf has caused that to occur.
- (q) The permit holder is responsible for its members and all patrons onsite associated with the permit or event.
- (r) The approved permit must be kept on site at all times and must be produced when required.
- (s) The local government reserves the right to change the terms and conditions at any time or withdraw the permit if the local government is

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made aware of any concerns by the community or other means in regards to the conduct or holding of the activity.

- (t) A key bond deposit must be paid before keys to the facility will be issued.
- (u) Keys are to be collected from the Ipswich City Council Customer Service Centre and will not be available until the business day prior to the event. The keys must be returned to the Ipswich City Council Customer Service Centre between 10am and 4:30pm on the first business day following the event.
- (v) The Exclusion Zones within The Circle Zone at Robelle Domain must be kept clear to ensure access is not restricted for emergency services.
- (w) Any noise created by the event (ie use of amplifier equipment; music) must not cause any impact or nuisance to neighbouring facilities, properties or other uses of the location/facility.
- (x) All tents, marquees, structures and rides (such as jumping castles) are to be secured at all times with sandbags.
- (y) Dragging of tyres and heavy weights within area is not permitted at any time.
- (z) Advertising signage is not permitted (including A-Frame types) and promotional or handout material is not to be distributed within any local government controlled area or road.
- (aa) Confetti (including petals and rice) are not permitted.
- (ab) No events are to be held on boardwalks/walkways or any other part of the area that would restrict pedestrian traffic.

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(7) Schedule 2, item 5 –

omit.

(8) Schedule 2 –

insert –

Column 1 Regulated Activity	Column 2 Documents, material or information required to accompany application for permit	Column 3 Standard Condition
All permit regulated activities	<p>(a) the name, address, telephone number and email address of the applicant for the permit;</p> <p>(b) details of the activity to be carried out;</p> <p>(c) the grounds relied upon or the reason for the issue of a permit;</p> <p>(d) the period of time for which the permit is sought;</p> <p>(e) if the permit relates to a vehicle, the details of the vehicle, including make, model, year and vehicle registration, etc.</p> <p>(f) if the permit relates to a particular area or facility, the details of the area or facility the activity relates to, including whether the activity is proposed in relation to all or part of the area or facility;</p> <p>(g) if relevant, the anticipated number of attendees for the activity;</p> <p>(h) the prescribed fee;</p> <p>(i) any other relevant information.</p>	

Landscaping of a nature strip	<p>(a) the location of the nature strip;</p> <p>(b) a landscaping plan detailing the design of the landscaping proposed to be carried out;</p> <p>(c) details in relation to the type of plants to be used and their suitability.</p>	<p>(a) The landscape area must be no wider than [INSERT] and adjacent to the property boundary.</p> <p>(b) The landscape area must not be wider than [INSERT] adjacent to the road.</p> <p>(c) No constructed edging is permitted.</p> <p>(d) No irrigation is permitted.</p> <p>(e) The landscape area, including during construction, must not adversely impact:</p> <p>(i) The safety of pedestrians or cyclists in their normal use of a nature strip or bikeway;</p> <p>(ii) The visibility for motorists using the road or entering or exiting a residential driveway;</p> <p>(iii) Access to Council's or Statutory Authorities services;</p> <p>(iv) Nature strips or bikeway pavements; and</p> <p>(v) Safe passage of all road users.</p> <p>(f) No landscape areas are permitted:</p> <p>(i) On nature strips less than 3 metres in width;</p> <p>(ii) Along unformed roads; and</p> <p>(iii) Within table drains or overland flow paths.</p> <p>(g) A 'Dial Before You Dig' search (ph 1100) must be undertaken before construction commences.</p> <p>NOTE: The property owner is responsible for locating and protecting underground public utility services such as gas, telecommunications, water, sewer and electricity.</p> <p>(h) Service fittings such as fire hydrants, water supply valves, water meters, junction boxes etc. must not be covered.</p> <p>(i) Any damage caused to public utility services as part of the landscaping must be reported to the relevant service authority as soon as possible and will be repaired at the property owner's expense.</p> <p>(j) Clearances between the edge of the landscape area and public utility service fittings must comply with the Minimum Clearance Distance outlined in the table below:</p>
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		<table><tr><th>Service fittings</th><th>Maximum clearance (M) distance</th></tr><tr><td>Electricity service (pits and power poles)</td><td>0.8</td></tr><tr><td>Telstra junction box</td><td>1.0</td></tr><tr><td>Water meter</td><td>0.6</td></tr><tr><td>Water supply valve</td><td>1.0</td></tr><tr><td>Hydrant point</td><td>1.0</td></tr><tr><td>Sewerage main</td><td>0.6</td></tr><tr><td>Underground cables</td><td>1.0</td></tr></table>	Service fittings	Maximum clearance (M) distance	Electricity service (pits and power poles)	0.8	Telstra junction box	1.0	Water meter	0.6	Water supply valve	1.0	Hydrant point	1.0	Sewerage main	0.6	Underground cables	1.0
Service fittings	Maximum clearance (M) distance																	
Electricity service (pits and power poles)	0.8																	
Telstra junction box	1.0																	
Water meter	0.6																	
Water supply valve	1.0																	
Hydrant point	1.0																	
Sewerage main	0.6																	
Underground cables	1.0																	
		<p>(k) Obstruction of public infrastructure such as traffic signs, power poles and parking bays is not permitted.</p> <p>(l) Any damage caused to public infrastructure as part of the landscaping:</p> <p>(i) Must be reported to Council as soon as possible; and</p> <p>(ii) Must be repaired at the property owner’s expense.</p> <p>(m) The removal of Council maintained street trees or shrubs from the nature strip is not permitted.</p> <p>(n) Any landscaping shall be maintained by the resident to the following standards:</p> <p>(i) A maximum height of [INSERT];</p> <p>(ii) All weeds above 200mm must be removed;</p> <p>(iii) Must be free draining; and</p> <p>(iv) Any litter must be removed.</p> <p>(o) The property owner is responsible for all costs associated with:</p> <p>(i) The construction and maintenance of the landscaping; and</p> <p>(ii) Complying with the conditions.</p>																
Carrying out works or interfering with a road or its operation	<p>(a) Full details of the proposed works or interference including plans and specifications.</p> <p>(b) Details of all building work and other work to be carried out under the permit.</p> <p>(c) Details of the time and place at which the prescribed activity will be undertaken.</p>	<p>The conditions of an approval may—</p> <p>(a) require compliance with specified safety requirements; and</p> <p>(b) regulate the time within which the prescribed activity must be carried out; and</p> <p>(c) specify standards with which the prescribed activity must comply; and require the approval holder to—</p> <p>(i) carry out specified additional work such as earthwork and drainage work; and</p> <p>(ii) take out and maintain public liability insurance as specified by</p>																

	<p>(d) The proposed term of the approval.</p> <p>(e) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.</p> <p>(f) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.</p> <p>(g) Plans and specifications detailing—</p> <p>(i) the relevant part of the road that is to be used for the undertaking of the prescribed activity; and</p> <p>(ii) the proposed location of each structure and item of equipment to be used in the undertaking of the prescribed activity; and</p> <p>(iii) the type and location of any utility, service or infrastructure to be used in the undertaking of the prescribed activity.</p> <p>(h) If requested— a traffic management plan which details—</p> <p>(i) anticipated pedestrian</p>	<p>the local government and produce documentary evidence of the insurance to the local government before commencement of the prescribed activity; and</p> <p>(iii) give the local government specified indemnities; and</p> <p>(iv) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and</p> <p>(v) remove a structure erected or installed, under the approval, at the end of a stated period; and</p> <p>(vi) exhibit specified signage warning about the conduct of the prescribed activity; and</p> <p>(vii) if the undertaking of the prescribed activity results in damage or loss of amenity to a local government controlled area or a road — promptly rectify the damage or loss of amenity.</p> <p>(d) The conditions of an approval may require the approval holder to take specified measures to—</p> <p>(i) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and</p> <p>(ii) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and</p> <p>(iii) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic.</p>
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	<p>(ii) and vehicular traffic which will be created by the undertaking of the prescribed activity; and anticipated impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken; and</p> <p>(iii) how the applicant will minimise the impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken.</p>	
	<p>(i) If requested — a report, study or</p>	

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	<p>certification from a suitably qualified person about —</p> <p>(i) the undertaking of the prescribed activity generally; or</p> <p>(ii) a specific aspect of the undertaking of the prescribed activity.</p> <p>Examples—</p> <p><input type="checkbox"/> A certificate of a registered professional engineer about the structural adequacy of a structure, improvement or building to be used in the undertaking of the prescribed activity.</p> <p><input type="checkbox"/> A certificate of a registered professional engineer about the extent to which the undertaking of the prescribed activity will comply with relevant requirements of the Department of Transport and Main Roads' Manual of Uniform Traffic Control Devices.</p>	
Personal tributes	<p>(a) the location and real property description of where the personal tribute is to be placed;</p> <p>(b) details of the personal tribute, including a map or diagram which clearly shows the location of the facility for which the personal tribute is being proposed;</p> <p>(c) the period for which the personal tribute is to be placed;</p> <p>(d) details of the proposed</p>	<p>(a) The personal tribute will be designed, constructed or placed as approved by Council.</p> <p>(b) The applicant is responsible for any repair or maintenance of the tribute.</p> <p>(c) The tribute must be maintained in a clean, tidy and satisfactory condition and any damage, including graffiti, must be removed by the applicant promptly.</p> <p>(d) Council retains the right to use the land adjacent to the tribute as it deems appropriate, up to and including the moving of the tribute to another location where fixed to Council infrastructure. Every attempt will be made to ensure infrastructure is relocated as close to the original location as feasible.</p>

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	<p>maintenance of the tribute.</p> <p>(e) Council maintains the right to remove or relocate the tribute should the site be redeveloped for an alternative use or significantly changed in character. Council does not guarantee the retention of any personal tribute beyond the life of the infrastructure to which it is affixed.</p> <p>(f) All plaques surrendered to Council shall be disposed of in accordance with the relevant Council policy.</p> <p>(g) Personal tributes which have been placed in any location without authorisation, or which do not comply with the conditions of a permit may be removed by the local government.</p>
Seasonal Sports Use	<p>1. Definitions</p> <p>Claims – liabilities, losses, penalties, payments, costs, charges, expenses including in negligence, trespass, some other tort, contract, under statute or otherwise and whether direct, indirect or consequential in relation to:</p> <p>(a) the use or occupation of the Site by you or Your People; or</p> <p>(b) any personal injury to, death of or property damage suffered by, any of Your People when on the Site; or</p> <p>(c) your breach of this permit.</p> <p>Consumables – payments for facilities and services listed in the Permit Details.</p> <p>Council – Ipswich City Council.</p> <p>Delegate – a staff member from Council with the authority to discuss and approve your permit/licence</p> <p>Local Laws – Ipswich City Council Local Laws</p> <p>Priority Use Hours – the Hours of Use during the Periods Covered during the Term if any Hours of Use are specified in the Permit Details, or otherwise all hours during the Term.</p> <p>Schedule of Fees and Charges – the schedule of fees and charges forming part of Council's adopted budget from time to time.</p> <p>Term – the period from the Start Time on the Start Date until the Finish Time on the Finish Date or the earlier date on which this permit is revoked or cancelled.</p> <p>You/your – the Permittee.</p> <p>Your People – your employees, members and volunteers, and any other person who comes to the Site at your express or implied invitation.</p> <p>2. Overview</p> <p>2.1 Council gives you the right to use the Premises during the Term on the terms and conditions of this permit.</p>

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		<p>2.2 Council retains possession of the Premises. This permit does not give you any interest in, nor does it give you exclusive possession of, the Premises. You cannot exclude Council or its employees or agents from the Premises at any time.</p> <p>2.3 The rights given to you by this permit are personal to you. You cannot transfer or mortgage those rights to any other person.</p> <p>3. Payments</p> <p>3.1 At the start of each Permit Fee Period, you must pay the Permit Fee Amount to Council. Each of these payments is the Permit Fee in advance for that Permit Fee Period.</p> <p>3.2 You are not entitled to any refund of a Permit Fee paid in advance for a Permit Fee Period, even if this permit is revoked or cancelled or ends before the end of that Permit Fee Period, unless Council in its discretion decides to give you a refund.</p> <p>3.3 You must pay for Consumables for the Premises during the Term. If a Consumable for the Premises during the Term covers a period during which the Premises were used by you and by someone else, Council will apportion the amount of the Consumable on a fair basis decided by Council and you must pay your share as apportioned by Council.</p> <p>4. Bond Amount</p> <p>4.1 You must pay the Bond Amount to Council before the Start Date. Council may deny you and Your People the exercise of any rights under this permit until you do so.</p> <p>4.2 Council may use the Bond Amount to:</p> <ul style="list-style-type: none"> (a) satisfy your obligation to make a payment under this permit that you have not paid on time; or (b) compensate Council for any cost, loss or expense paid or incurred by Council due to a breach by you of this permit; or
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		<p>(c) deduct an amount payable by you to Council and referred to in subclause 7.5; or</p> <p>(d) satisfy any Claims against Council which are covered by your release or indemnity under subclause 8.2.</p> <p>4.3 If Council uses any of the Bond Amount under subclause 4.2 and gives you notice requiring you to do so, you must restore the Bond Amount by paying to Council the amount used. Council may deny you and Your People the exercise of any rights under this permit until you do so.</p> <p>4.4 Council will refund the Bond Amount to you if and to the extent that:</p> <p>(a) there is a Bond Amount; and</p> <p>(b) you have paid the Bond Amount to Council; and</p> <p>(c) the End Date has arrived; and</p> <p>(d) the inspection referred to in subclause 7.2 has occurred; and</p> <p>(e) Council has not used and is not entitled to use the Bond Amount under subclause 4.2; and</p> <p>(f) Council does not have a legal obligation to pay the Bond Amount to anyone else.</p> <p>4.5 You agree with Council to contract out of sections 95 (to the extent it would require Council to give a notice to the Applicant), 96, 117, 118 (to the extent it allows Council to give a notice to you), 120, 121(4), 123, 125, 126, 128, 129, 130 (to the extent it allows Council to give a notice to you), 132(3)(d), 132(4), 134(1), 135, 142, 143 and 157(1) of the Personal Property Securities Act 2009 so that those sections will not apply in respect of the Bond Amount or any security interest in the Bond Amount held by Council.</p> <p>4.6 Council may, on its own initiative and at any time, lodge and register a financing statement or a financing change statement under the Personal Property Securities Act 2009 in relation to any security interest created by this permit.</p> <p>5. Use of the Premises</p>
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		<p>5.1 Subject to clause 10, you and Your People may use the Premises during the Priority Use Hours for the conduct of Permitted Activities. During the Priority Use Hours, you and Your People may use the other parts of the Site that are set apart for access to the Premises, to access the Premises.</p> <p>5.2 You must not use the Premises at any time:</p> <ul style="list-style-type: none"> (a) for a purpose other than the conduct of Permitted Activities; or (b) outside the Priority Use Hours (except under clause 11). <p>5.3 You must not obstruct public access to and use of the Site.</p> <p>5.4 You must ensure that:</p> <ul style="list-style-type: none"> (a) any electrical equipment that you or Your People use on the Premises is regularly inspected (at three-monthly intervals at a minimum) and is safe and fit for its purpose; and (b) any extension cord that you or Your People use on the Premises does not exceed 25 metres in length; and (c) you and Your People do not use any double adaptors or "piggy back" plugs on the Premises; and (d) any generator that you or Your People use on the Premises is fitted with a working residual-current device (RCD). <p>5.5 All fixtures to the Site (buildings and things that are fixed to the land or a building, such as light towers, lights, coldrooms, gas control units and pipes, bars, carpets and so on) become the property of Council as soon as they become fixtures.</p> <p>5.6 In accordance with Council's smoke free environment policy, smoking is prohibited within all buildings owned by or under the trusteeship of Council. You must not allow, and must do your best to prevent or stop, smoking by any of Your People in any building on the Site.</p> <p>5.7 You must not apply for, or change (including by extending the hours of operation), a liquor licence or liquor permit for the Site unless you have the approval of the Delegate to do so.</p>
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		<p>5.8 You must not carry out any gaming or gambling activities on the Site.</p> <p>5.9 Unless you have the approval of the Delegate to do so, you must not:</p> <ul style="list-style-type: none"> (a) construct anything, or install a fixture, on the Site; or (b) alter or fence the Site; or (c) display any signs on the Site; or (d) carry out any earthworks or building work on, or modify, the Site; or (e) destroy, damage or remove any trees, shrubs or landscaping on the Site. <p>5.10 You must comply with all laws (including Council's local laws and subordinate local laws) in relation to the use of the Premises, for example:</p> <ul style="list-style-type: none"> (a) you must comply with the Environmental Protection Act 1994 and the Environmental Protection (Noise) Policy 2008 in relation to noise levels, operating hours and other matters concerning the use of sound amplification equipment; and (b) you must comply with the Food Act 2006 and the Food Regulation 2006 in relation to the sale of food; and (c) you must comply with the Electrical Safety Act 2002 and the Electrical Safety Regulation 2002. <p>5.11 You must not use the Site in a way that causes unreasonable annoyance, disturbance or nuisance to other users of the Site, neighbours of the Site, Council or the community.</p> <p>5.12 If Council has set aside any part of the Premises for the use of another person or organisation for the storage of goods, you must not use or access that part of the Premises or move or interfere with any goods stored there.</p> <p>6. Maintenance and Management</p> <p>6.1 You must ensure that:</p> <ul style="list-style-type: none"> (a) during the Term you keep, and at the end of the Term you leave, the Premises (and any part of the Site used or accessed by Your People) clean and tidy
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		<p>and in the same condition as at the start of the Term; and</p> <p>(b) you fix any damage done to the Premises (and any part of the Site used or accessed by Your People) during the Term, except to the extent that the damage was due to fair wear and tear or was done by someone other than Your People.</p> <p>6.2 In addition to your general obligations under subclause 6.1, if there is a maintenance schedule attached to this permit which sets out specific maintenance obligations, you must comply with the obligations set out in the maintenance schedule.</p> <p>6.3 You must not perform any other maintenance at the Site unless you have the approval of the Delegate, or you are obliged by this permit, to do so. If you perform any maintenance at the Site:</p> <p>(a) you must perform the maintenance to a standard satisfactory to Council; and</p> <p>(b) Council may recover from you, as a debt, any expense incurred by Council in rectifying any maintenance that was not performed to that standard.</p> <p>6.4 At the end of the Term, you must remove all of your goods, and those of Your People, from the Site. If any of those goods remain on the Site:</p> <p>(a) Council may remove, store, sell or deal with the goods and treat them as Council's property; and</p> <p>(b) Council may recover from you, as a debt, any expense incurred by Council in doing so; and</p> <p>(c) you will be liable for any Claims made against Council for doing so; and</p> <p>(d) Council does not have to give you any proceeds from selling or dealing with the goods.</p> <p>6.5 You must ensure that no glass containers are used by you or Your</p>
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		<p>People on the Site and that all cans and ring tops are disposed of properly.</p> <p>7. Condition Reports</p> <p>7.1 On or about on the Start Date, representatives of yours and Council are to jointly prepare and sign a condition report that describes the condition of the Premises, lists any goods belonging to Council which are included with the Premises and describes the condition of those goods. If a representative of yours does not jointly prepare the condition report with Council or does not sign it, Council may itself prepare and sign the condition report and give it to you. The condition report referred to here is called the Entry Condition Report.</p> <p>7.2 At the Finish Date, you must arrange for a representative of yours to carry out an inspection of the Premises with a representative of Council. The purpose of the inspection is to:</p> <ul style="list-style-type: none"> (a) compare the current condition of the Premises with their condition as documented in the Entry Condition Report; and (b) ascertain whether any goods listed in the Entry Condition Report are still in the Premises and compare their current condition with their condition as documented in the Entry Condition Report; and (c) jointly prepare a condition report documenting those matters and recording any points of disagreement. <p>7.3 If at the time of the inspection the condition of the Premises is not the same as their condition as documented in the Entry Condition Report, you must pay for any repairs required by Council to restore the Premises to that condition.</p> <p>7.4 If at the time of the inspection:</p> <ul style="list-style-type: none"> (a) any goods listed in the Entry Condition Report are missing from the Premises, you must pay Council to replace them; or (b) the condition of any goods is not the same as their condition as documented in the Entry Condition Report, you must pay for any repairs required by Council to restore the goods to
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		<p>that condition (or to replace the goods if, in Council's reasonable opinion, the goods can't be economically repaired).</p> <p>7.5 The amounts payable by you under subclause 7.3 or 7.4 are the amounts reasonably estimated by Council as the cost of the repairs or replacement.</p> <p>8. Your Liabilities and Insurance</p> <p>8.1 You are responsible for the acts, omissions and conduct of Your People. For the purposes of this permit, an act, omission or conduct of any of Your People has the same effect as if it was your own act, omission or conduct.</p> <p>8.2 Both during the Term and after the end of the Term:</p> <ul style="list-style-type: none"> (a) you release Council and its employees and agents from all Claims, except to the extent that the Claims arise from their negligence; and (b) you indemnify Council and its employees and agents from and against all Claims, except to the extent that the Claims arise from their negligence. <p>8.3 You must hold, and maintain throughout the Term, public liability insurance:</p> <ul style="list-style-type: none"> (a) in your name and with Council's interest noted; and (b) which covers you per claim in at least the amount of the Minimum Public Liability Insurance Cover; and (c) which covers you for claims made against you in relation to all activities comprised in the Permitted Activities; and (d) which is held with an insurer on the register of insurers authorised to conduct new or renewal insurance business in Australia kept by APRA under the Insurance Act 1973 or else is approved by Council; and (e) which is on terms that are usual for the type of insurance concerned in the Australian market or else are approved by Council. <p>8.4 Before the Start Date, you must give Council evidence satisfactory to Council</p>
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		<p>of the currency of the insurance required by subclause 8.3 as at the Start Date. Council may deny you and Your People the exercise of any rights under this permit until you do so.</p> <p>8.5 If required (both during the Term and after the end of the Term), you must give Council evidence satisfactory to Council of the currency of the insurance required by subclause 8.3 as at any date during the Term. Council may deny you and Your People the exercise of any rights under this permit during any period of the Term for which Council is not satisfied that you hold the insurance required by subclause 8.3.</p> <p>8.6 Any goods that you or Your People store on the Premises or at the Site are there entirely at your risk and:</p> <p>(a) both during the Term and after the end of the Term, you must release and indemnify Council and its employees and agents from all Claims relating to the goods or their storage, except to the extent that the Claims arise from their negligence; and</p> <p>(b) it is your responsibility to insure the goods against the risk of any loss, damage or destruction while they are on the Premises or at the Site.</p> <p>9. Keys</p> <p>9.1 Council will lend you a maximum of the Number of Key Sets for accessing the Premises, when you pay the key deposit specified in the Schedule of Fees and Charges for each key.</p> <p>9.2 Council may lend you a replacement key or extra keys if you make a written request to the Delegate. Council may do so on the condition that you forfeit a key deposit, pay another key deposit or both.</p> <p>9.3 You must keep the keys under your control and tell Council immediately if you lose a key.</p> <p>9.4 You must return to Council all keys that Council has lent to you, within 14 days after the end of the Term. If you do not return a key, you forfeit the key deposit for it. If you return a key, Council will refund the key deposit for it.</p>
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		<p>10. When you cannot use the Premises during the Priority Use Hours</p> <p>10.1 Council may require you and Your People not to use the Premises during specified hours on a specified date or dates during the Priority Use Hours.</p> <p>10.2 Council will exercise this right only if Council requires:</p> <ul style="list-style-type: none"> (a) the use of the Premises to conduct an event; or (b) exclusive access to the Premises to conduct maintenance or other work; or (c) to allow another person or group to use the Premises to conduct an event. <p>10.3 For any hours during which Council requires you not to use the Premises under subclause 10.1, you and Your People must not use the Premises other than for:</p> <ul style="list-style-type: none"> (a) storing goods in any part of the Premises or on the Site that Council has set aside for your exclusive use for the storage of goods; or (b) accessing that part of the Premises or Site to put away, collect or check on the goods stored there without disrupting any event or work being conducted at the Premises. <p>11. When you can use the Premises outside the Priority Use Hours</p> <p>11.1 You and Your People may use the Premises during the Term outside the Priority Use Hours for Permitted Activities with Council's permission during specified hours on a specified date or dates.</p> <p>11.2 The terms of this permit apply to any such use of the Premises as if the specified hours were part of the Priority Use Hours.</p> <p>12. Your Obligation to Comply with Council Policies</p> <p>12.1 You must comply with the Council Policies during the Term.</p> <p>12.2 It is intended that copies of the Council Policies will be attached to this permit. If a copy of a Council Policy is not attached to this permit, you must nevertheless comply with it and</p>
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		<p>therefore you should ask Council for a copy before signing this permit.</p> <p>12.3 If there is any inconsistency between the Council Policies and this permit, this permit prevails to the extent of the inconsistency.</p> <p>13. Administration of Permit</p> <p>13.1 You must nominate a contact person for the purposes of this permit. You may change the nomination of the contact person by giving notice to Council. The contact person is taken to have your authority to deal with Council for the purposes of this permit (including receiving notices to you). Until and unless you notify Council otherwise, the contact person is the Nominated Contact Person. You must notify Council if the contact person you have nominated ceases to be an officeholder, employee or nominee of yours or otherwise associated with the conduct of your activities.</p> <p>13.2 You must maintain a post office box during the Term and notify Council of the post office box number and any changes. Council may give you a notice under this permit by sending it by mail to the post office box.</p> <p>13.3 Council may conduct an audit about your use of the Premises at any time. If Council requires you to give information to Council or to allow Council to access, review and copy any records for the purpose of such an audit, you must comply with Council's requirement.</p> <p>13.4 If this permit provides for Council or the Delegate to give an approval:</p> <ul style="list-style-type: none"> (a) if you want the approval, you must apply in writing for it; and (b) the approval is given only if it is in writing; and (c) Council or the Delegate (as the case requires) may give or refuse the approval, or give it conditionally, in their discretion; and (d) if the approval is given conditionally, you must comply with the conditions. <p>14. Revocation and Cancellation of Permit</p>
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		<p>14.1 Council may revoke this permit without giving you any prior notice if:</p> <ul style="list-style-type: none"> (a) you cease to be incorporated under the law under which you were incorporated when you entered into this permit; or (b) you become subject to any form of external administration (such as liquidation or the appointment of a receiver of any of your property); or (c) you are insolvent; or (d) you cease to be an entity whose primary object is not directed at making a profit; or (e) you fail to comply with Council's local laws. <p>14.2 On the revocation or cancellation of this permit, Council can still enforce your obligations under this permit:</p> <ul style="list-style-type: none"> (a) to pay money to Council; or (b) that accrued before the end of the Term; or (c) that are expressed to apply after the end of the Term. <p>15. Other Provisions</p> <p>15.1 If the Site is freehold land:</p> <ul style="list-style-type: none"> (a) Council may, by written notice to you, revoke this permit for contravention of a condition of this permit; and (b) before revoking this permit, Council must written notice inviting you to make written representations about the proposed revocation within a reasonable time fixed in the notice and, if you make written representations within the time allowed in the notice, take the representations into account. <p>15.2 If the Site is a reserve or trust land:</p> <ul style="list-style-type: none"> (a) this permit is a trustee permit under section 60 of the Land Act 1994; and (b) section 65 of the Land Act 1994 provides that Council or the Minister administering the Land Act 1994 may cancel this permit if you do not comply with the provisions of this permit, and that the Minister may cancel this permit if satisfied cancellation would be in the public interest; and
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		<p>(c) Council or the Minister must give you 28 days' notice of their intention to cancel this permit and under section 65 of the Land Act 1994 no person has a right to a claim for compensation for the cancellation; and</p> <p>(d) you may not construct any structural improvements on the Site; and</p> <p>(e) you must hold this permit so that the Site may be used for the community purpose for which it was reserved or granted in trust without undue interruption or obstruction; and</p> <p>(f) you do not have any right to renew this permit or to be given a more secure tenure over the Site.</p> <p>15.3 Headings in the Permit Conditions are for reference purposes only and must be ignored in the interpretation of this permit.</p> <p>15.4 Any Special Conditions prevail over anything inconsistent in the Permit Conditions, but only to the extent of the inconsistency.</p>
Accessing Ipswich City Mall by vehicle		<p>(a) The vehicle, the subject of this approval must, whilst in or upon the Ipswich City Mall, be used strictly and only in accordance with the provisions of Local Law 7 (Local Government Controlled Areas and Roads)</p> <p>(b) Vehicles no larger than four tonnes (gross vehicle mass – loaded weight) and 3.5m in height are permitted. However emergency vehicles are permitted at all times.</p> <p>(c) Unless sooner revoked, this approval shall remain in force from the starting date up to and including the expiry date written on the face of this approval.</p> <p>(d) Upon breach of any or all of the conditions of this permit, the permit may be revoked by Council, or an authorised person.</p> <p>(e) This permit must be kept in the vehicle and displayed at all times so as to be visible from the outside.</p> <p>(f) The permit holder is required to hold or obtain public liability insurance of \$20 million and shall indemnify the Ipswich</p>

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		<p>City Council for any damages arising from permit activities.</p> <p>(g) Vehicle hazard lights are to be flashing whenever the vehicle is moving within the Mall</p> <p>(h) The special purpose vehicle permit must be presented to authorised persons and/or the police upon request, failure to do so will result in your vehicle being escorted from the mall area and/or the issue of an offence notice.</p>
Personal training		<p>(a) Personal training must not take place on sporting grounds, including but not limited to, ovals, cricket pitches and netball courts. All activity must take place outside of the sporting area perimeter.</p> <p>(b) Large and / or heavy structures (e.g. marquees, sound system, lights, weight benches, exercise bikes) are not permitted within the area.</p>
Accessing private property through, via or over a local government controlled area		<p>(a) Vehicle access is for the purpose stated in the permit and not for any other purpose.</p> <p>(b) The permit holder must take all reasonable measures to ensure the safety of other park users.</p> <p>(c) No more than one vehicle may access the permitted area at any one time.</p> <p>(d) Vehicle speed in the permitted area may not exceed 5km per hour.</p> <p>(e) Vehicle travel must be restricted to the most safe and direct route from the access gate to the property boundary.</p> <p>(f) Vehicles must not be driven closer than 10 metres to any constructed recreational facility within the local government controlled area.</p>

12 Amendment of sch 3 (Prohibited activities)

Schedule 3 –

insert –

All local government controlled areas or roads	A ceremony or funeral service (other than within a cemetery), where human remains are to be displayed for viewing as part of the ceremony or service.
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13 Insertion of new sch 4

After Schedule 3 –

insert –

Schedule 4 Use of local government controlled areas

Local government controlled area	Standard condition
All local government controlled areas	<p>A person must not—</p> <ul style="list-style-type: none"> (a) use indecent, obscene, insulting or threatening language in a Public Place/Council Facility; or (b) behave in an offensive, threatening or indecent manner in a Public Place/Council Facility; or (c) by disorderly conduct cause serious alarm or affront to a person in a Public Place/Council Facility; or (d) obstruct a council officer in the performance of that council officer's work or duties in a Public Place/Council Facility; or (e) cause annoyance or inconvenience to any other person in a Public Place/Council Facility; or (f) stand or loiter to the inconvenience, annoyance or obstruction of any person in a Public Place/Council Facility; or (g) carry or convey any article or substance of an offensive or indecent character or any article of any length or dimension as to be an inconvenience, obstruction, danger or hazard to any person in a Public Place/Council Facility; or (h) place or cause or permit to be placed in a Public Place/Council Facility anything whatsoever so as to be an inconvenience, obstruction, danger or hazard to any person in a Public Place/Council Facility; or (i) deface, mark or damage a building, structure, fitting or fixture in a Public Place/Council Facility; or (j) obstruct, hinder or prevent the free passage of any person or vehicle in a Public Place/Council Facility; or

	<ul style="list-style-type: none"> (k) do or say anything to hinder or interfere with the proper progress or conduct of an authorised activity in a Public Place/Council Facility; or (l) contravene any restriction to which the person's entry to a Public Place/Council Facility; or (m) enter any part of a Public Place/Council Facility when excluded or banned by the direction of an authorised person; or (n) if the person is more than five years of age, enter into any part of a Public Place/Council Facility which is set apart for the exclusive use of the opposite sex, other than for the purpose of rendering emergency assistance; or (o) enter into a Public Place/Council Facility if the person is intoxicated or under the influence of a dangerous drug; or (p) carry into a Public Place/Council Facility or otherwise possess any alcohol or dangerous drug; or (q) expose to view any obscene book, print, picture, drawing or painting in a Public Place/Council Facility; or (r) wilfully expose his or her person in a Public Place/Council Facility; or (s) create or take part in any disturbance in a Public Place/Council Facility.
Local government swimming pools	<p>A person must not—</p> <ul style="list-style-type: none"> (a) if the person is more than five years of age, enter into any part of a public swimming pool complex which is set apart for the exclusive use of the opposite sex, other than for the purpose of rendering emergency assistance; or (b) be under the influence or in possession of alcohol or drugs will not be permitted into the a public swimming pool complex; or (c) carry into a public swimming pool complex or otherwise possess any alcohol or dangerous drug; or (d) deposit any litter, scraps, waste material or rubbish of any kind in a public swimming pool complex other than in a waste receptacle provided by the local government; or (e) expectorate in a public swimming pool complex; or (f) carry out regulated conduct in a public swimming pool complex; or (g) deface, mark or damage a building, structure, fitting or fixture in a public swimming pool complex; or

	<p>(h) foul or pollute the water in a swimming pool in a public swimming pool complex; or</p> <p>(i) foul or soil a shower room, dressing room or other facility in a public swimming pool complex; or</p> <p>(j) enter into a swimming pool in a public swimming pool complex unless the person has thoroughly washed using a shower facility in the public swimming pool complex; or</p> <p>(k) enter into a swimming pool in a public swimming pool complex if the person has an infectious, contagious or offensive disease, illness or skin complaint; or</p> <p>(l) enter into or depart from a swimming pool in a public swimming pool complex or a public swimming pool complex other than by means of a designated entrance or exit; or</p> <p>(m) dunk another person under the water in a swimming pool in a public swimming pool complex; or</p> <p>(n) throw another person into a swimming pool in a public swimming pool complex; or</p> <p>(o) enter into a dressing room cubicle or a shower room cubicle which is being used by another person in a public swimming pool complex without the consent of the other person; or</p> <p>(p) interfere with any towel, clothing or other thing belonging to another person in a public swimming pool complex; or</p> <p>(q) use soap or any other substance in a swimming pool in a public swimming pool complex which causes or may cause the water in the swimming pool to become turbid or otherwise unfit for the purpose of swimming; or</p> <p>(r) throw a stone or other article into a swimming pool in a public swimming pool complex; or</p> <p>(s) lead, carry or otherwise allow an animal to enter a public swimming pool complex; or</p> <p>(t) enter into a public swimming pool complex unless the person has paid the entry fee specified by the local government from time to time or is the holder of a season ticket issued by the local government; or</p> <p>(u) dress, undress or otherwise remove or disarrange any part of the person's bathing costume in a public swimming pool complex, other than in a dressing room, shower room or toilet; or</p> <p>(v) incorrectly state their age or the age of another person for the purpose of purchasing a season ticket for the public swimming pool complex; or</p>
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	<p>(w) expose to view any obscene book, print, picture, drawing or painting in a public swimming pool complex; or</p> <p>(x) wilfully expose his or her person in a public swimming pool complex; or</p> <p>(y) use any profane, indecent or obscene language in a public swimming pool complex; or</p> <p>(z) behave in a threatening, abusive or insulting manner to another person in a public swimming pool complex; or</p> <p>(aa) by disorderly conduct cause serious alarm or affront to a person in an aquatic centre; or</p> <p>(bb) cause annoyance or inconvenience to any other person in an aquatic centre; or</p> <p>(cc) stand or loiter to the inconvenience, annoyance or obstruction of any person in an aquatic centre; or</p> <p>(dd) run around or dive into a swimming pool in an aquatic centre; or</p> <p>(ee) create or take part in any disturbance in an aquatic centre; or</p> <p>(ff) obstruct a council officer in the performance of that council officer's work or duties in an aquatic centre; or</p> <p>(gg) carry or convey into an aquatic centre or otherwise possess within an aquatic centre a glass receptacle; or</p> <p>(hh) teach, train or coach any other person or persons in any aquatic sports for a fee or reward within an aquatic centre, without first obtaining the permission of the local government; or</p> <p>(ii) if a person holds a swim pass issued in their name, allow another person to use the swim pass to gain access to an aquatic centre; or</p> <p>(jj) use a swim pass issued in the name of another person to gain or attempt to gain access to an aquatic centre; or</p> <p>(kk) use unapproved floatation devices for small children without security strap/bottom support seat; or</p> <p>(ll) use video cameras, still camera and mobile cameras in change rooms/shower rooms/toilet facilities; or</p> <p>(mm) take an infant into the water without a swim nappy; or</p> <p>(nn) dress in a manner that causes offense to another person in an aquatic centre; or</p> <p>(oo) leave children under the age of 13 unattended, with all children under 5 and non/weak swimmers keep in arms reach at all times; or</p> <p>(pp) disobey directives from venue staff, Council officers and or signage at the public swimming pool complex.</p>
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Ipswich City Council
Subordinate Local Law (Amending) Subordinate Local Law No. 7.1 (Local Government Controlled Areas
and Roads) 2019

Draft

Doc ID No: A5570396

ITEM: 8

SUBJECT: NUISANCES AND COMMUNITY HEALTH AND SAFETY - LOCAL LAW (AMENDING) LOCAL LAW NO.8 (NUISANCES AND COMMUNITY HEALTH AND SAFETY) 2019 AND SUBORDINATE LOCAL LAW (AMENDING) SUBORDINATE LOCAL LAW NO.8.1 (NUISANCES AND COMMUNITY HEALTH AND SAFETY) 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 30 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019* and *Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. **That Council propose to make Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.**
- B. **That it be noted that a review of the proposed Amending Local Law No.8 (Nuisances And Community Health And Safety) 2019 and Amending Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019 has been undertaken and no anti-competitive provisions have been identified.**
- C. **That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019, as detailed in Clause A above.**

- D. That Council approve to proceed to the State Government interest check on *Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019*, in accordance with section 29A of the *Local Government Act 2009*.**
- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council’s *Local Law Making Process Policy*.**

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy “Local Law Making Process” which is available on Council’s website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council’s Business Transformation Program a review of Council’s existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren’t included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.

- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).
- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - o Advertisement in Queensland Times
 - o Ipswich First articles
 - o Dedicated web page on Council's website
 - o Ability to lodge submissions online, via email and post
 - o Social media postings promoting the review and how to make a submission
 - o Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all	17/07/19	7/08/19	Ready to

proposed local laws for a minimum of 21 days (see policy for requirements)			commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No.8 (Nuisances and Community Health and Safety) 2013 (Attachment 1)* and *Subordinate Local Law No.8.1 (Nuisances and Community Health and Safety) 2013 (Attachment 2)* whose objective is to protect the community and its environment and amenity by eliminating or reducing nuisances and risks to the community's health and safety.

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.8 (Nuisances And Community Health And Safety) 2019 (Attachment 5)* and *Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019 (Attachment 4)*. It is noted that there have been no anti-competitive provisions identified in the amended law.

Key amendments to both the local law and subordinate local law are included below.

Amending Local Law No.8 (Nuisances and Community Health and Safety) 2019

A review has been conducted and drafting undertaken to:

- update legislative references;
- correct typographical errors and inconsistencies, and an improved layout and formatting to the local law to assist with greater readability;
- clearer clarification of enforcement issues through updating wording and formatting
- key operational changes as indicated in the table below

Related Section	What is changing	Why is it changing	Enforcement expectations
New clause in section 7 – commission of nuisance (See page 9 of Amended Local Law)	A person places, throws or otherwise discharges a stone, bottle or other object onto or over a road or other premises;	Council doesn't currently have any powers to regulate this type of behaviour and has been seen as an omission in our laws. The purpose is to protect public safety. Council currently receives complaints of this nature.	On complaint or if witnessed by an authorised officer
New clause in section 7 – commission of nuisance	A person paints, repairs, alters or maintains a vehicle on a road, except for minor maintenance in the event of an emergency.	Council doesn't currently have any powers to regulate this type of offence on a public road and has been seen as omission in our laws. The purpose is to protect public health and safety and to reduce environment nuisance. Council currently receives complaints of this nature.	On complaint or if witnessed by an authorised officer
New clause in section 9 – Placement of waste containers outside property boundaries	Not place any waste containers in a matter that is likely, in the opinion of an authorised person's opinion, to cause: <ul style="list-style-type: none"> • Harm to human health or safety, or personal injury; • Property damage or loss of amenity; or • A traffic nuisance 	Provisions apply in other local government areas. Included for consistency and issues that have arisen where waste container placement has been a nuisance and safety concern.	On complaint or if witnessed by an authorised officer
New Section 11 A (Leaving or taking trolleys outside retail premises) in Part 5 (Shopping Trolleys)	A person must not take a shopping trolley from retail premises or leave a shopping trolley at a place outside the retail premises unless: The person takes or leaves the trolley with the consent of the owner of that trolley; or The person has a reasonable excuse	Current provisions in the local law focus on the retailer and requirements they must comply with. This addition allows for an offence on the person taking a trolley from the premises. Abandoned shopping trolleys can be a safety concern, nuisance and end up in the city's	On complaint or if witnessed by an authorised officer

		waterways creating environmental nuisance.	
New Section 16A (No Smoking Signs) in Part 6 – Smoke free areas	<ol style="list-style-type: none"> 1) The local government may place and maintain no smoking signs at the main entrance to smoke free places. 2) It is not material to the commission of an offence under sections 17 or 18 that a person was not aware of the sign in subsection (1) or whether the sign had been removed or defaced. 	Provides for a consistent documented approach for the no smoking symbol. See subordinate for more details. The symbol may appear on signs, thermally adhered to footpaths and other locations to make it clear that a person is entering a smoke free area.	N/A - Relates to signage design. Audits will be undertaken periodically.
Insertion of new Part 6A – Graffiti	<p>18A Graffiti</p> <p>(1) This section shall not apply to —</p> <p>(a) public art commissioned on a commercial basis by or with the consent of the owner of the premises; or</p> <p>(b) public art on a wall or structure in a public place designated for its legal application.</p> <p>(2) If any building or other structure is marked with graffiti an authorised person may give a written notice (“graffiti removal notice”) to the owner or occupier of the land on which the building or structure is erected requiring the owner or occupier to remove the graffiti within 14 days of the notice being given.</p> <p>(3) If the graffiti is marked on a construction site hoarding erected beyond the boundary of the property on which the construction site is located, the graffiti removal notice may be given to the owner or occupier of the land on which the construction site is located.</p>	<p>Council currently doesn’t have any powers to assist with graffiti removal and clean-up. The provisions provided are the same as other local government areas eg Brisbane.</p> <p>Rapid removal is the most effective way to prevent graffiti reappearing because it reduces the recognition that graffitiists crave. It also shows that the affected area is being monitored and looked after.</p>	A process will be developed where Council will work with the owner/occupier in the first instance to provide suggestions, techniques and methods on how to remove the graffiti and prevent re-occurrence. This notification and advice process will occur before any formal graffiti removal notices are issued. Initially this may be an ‘on complaint’ process but Council may consider a transition over time to proactive patrols and more education dependant on community need, resourcing and

	<p>(4) If the graffiti is marked on a billboard or billboard structure, the graffiti removal notice may be given to the owner of the billboard requiring the billboard owner to remove the graffiti within 14 days of the notice being given.</p> <p>(5) A graffiti removal notice may be given by post or by personal service.</p> <p>(6) The recipient of a graffiti removal notice must comply with the notice unless the person has a reasonable excuse.</p> <p>Maximum penalty—50 penalty units.</p>		budgeting.
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Amending Subordinate Local Law No.8 (Nuisances and Community Health and Safety) 2019

A review has been conducted and drafting undertaken to:

- a. update legislative references;
- b. correct typographical errors and inconsistencies;
- c. clearer clarification of enforcement issues through updating wording and formatting
- d. key operational changes as indicated in the table below

Related Section	What is changing	Why is it changing	Enforcement expectations
Insertion of a new Part 2 (No Smoking Signs) in Schedule 5 (Smoke Free Areas)	<p>No smoking signs placed by the local government must contain a symbol similar to the one below and may also contain additional words describing the extent of the smoke free area and any other conditions to which it applies.</p> 	Provides for a consistent documented approach for the no smoking symbol. The symbol may appear on signs, thermally adhered to footpaths and other locations to make it clear that a person is entering a smoke free area.	N/A - Relates to signage design. Audits will be undertaken periodically.

FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation and enforcement costs will be minimal for these amendments as most will be managed on a reactive basis. New business processes and some promotion will be required for the graffiti removal inclusions.

RISK MANAGEMENT IMPLICATIONS

The Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedule requires amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)

COMMUNITY AND OTHER CONSULTATION









Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Local Law (Amending) Local Law No.8 (Nuisances And Community Health*

And Safety) 2019 and Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances And Community Health And Safety) 2019.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.8 (Nuisances and Community Health and Safety) 2013  
2.	Subordinate Local Law No.8.1 (Nuisances and Community Health and Safety) 2013  
3.	Local Law (Amending) Local Law No.8 (Nuisances and Community Health and Safety) 2019  
4.	Subordinate Local Law (Amending) Subordinate Local Law No.8.1 (Nuisances and Community Health and Safety) 2019  

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

Ipswich

City Council

Local Law No. 8 (Nuisances and Community Health and Safety) 2013

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Ipswich City Council
Local Law No. 8 (Nuisances and Community Health and Safety) 2013

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Ipswich City Council
Local Law No. 8 (Nuisances and Community Health and Safety) 2013

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 8 (Nuisances and Community Health and Safety) 2013*

1A Commencement

- (1) Section 11(3) of this local law commences on 1 July 2014.
- (2) The remaining provisions of this local law commence on 1 August 2013

2 Object

The object of this local law is to protect the community and its environment and amenity by eliminating or reducing nuisances and risks to the community's health and safety and in particular those resulting from —

- (a) inadequate protection against animal and plant pests; and
- (b) vegetation overgrowth; and
- (c) visual pollution resulting from accumulation of objects and materials or from waste; and
- (d) diminution of amenity by the emission of light;
- (e) containers remaining kerbside for extended periods of time; and
- (f) fires and fire hazards not regulated by State law; and
- (g) safety hazards; and
- (h) release of odours, smoke and waste water; and
- (i) damaged, abandoned and unregistered vehicles; and
- (j) unreasonable noise; and
- (k) abandoned shopping trolleys; and
- (l) smoking in public places.

3 Definitions—the dictionary

- (1) The dictionary in the Schedule (Dictionary) defines particular words used in this local law.
- (2) The dictionaries in *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

4 Relationship to other laws

- (1) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
 - (a) the *Environmental Protection Act 1994*; and
 - (b) the *Fire and Rescue Service Act 1990*; and
 - (c) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
 - (d) the *Transport Operations (Road Use Management) Act 1995*; and
 - (e) the *Public Health Act 2005*;
 - (f) the *Land Act 1994*; and
 - (g) the *Police Powers and Responsibilities Act 2000*; and
 - (h) the *Plumbing and Drainage Act 2002*; and
 - (i) the *Building Act 1975*; and
 - (j) the *Sustainable Planning Act 2009*; and
 - (k) the *Work Health and Safety Act 2011*; and
 - (l) the *Food Production (Safety) Act 2000*.

Part 2 Permits and prohibited activities

5 Requirement for a permit

- (1) A person (other than a local government) must not undertake an activity which is a permit regulated activity¹

¹ For the definition of *permit related activity* see the Schedule

- (a) unless authorised by a permit granted pursuant to this local law and *Local Law No.4 (Permits) 2013*²; or
- (b) unless authorised by an official sign exhibited on a local government controlled area or on a road.

Maximum penalty for subsection (1) –

- (a) for first offence – 20 penalty units.
- (b) for second offence within a 2 year period – 30 penalty units.
- (c) for third or further offences within a 2 year period – 50 penalty units.

unless the activity is an activity referred to in section 7 (Commission of nuisance) in which case the penalty is that prescribed in section 6 (Prohibition of a nuisance).

(2) A person must not—

- (a) exhibit a sign which indicates that a permit regulated activity which does not comply with this local law does comply with this local law; or
- (b) in any manner or by any means indicate that a permit regulated activity which does not comply with this local law does comply with this local law.

Maximum penalty for subsection (2) –

- (a) for first offence – 20 penalty units.
- (b) for second offence within a 2 year period – 30 penalty units.
- (c) for third or further offences within a 2 year period – 50 penalty units.

(3) Notwithstanding section 5(1) (Requirement for a permit and prohibited activities) of this local law, a permit is not required if—

- (a) a local law or subordinate local law specifies that a permit is not required in respect of the undertaking of the permit regulated activity; or

² *Local Law No. 4 (Permits) 2013* sets out the procedures for the application, granting, conditioning and enforcement of permits

- (b) a local law or subordinate local law specifies circumstances under which a permit is not required in respect of the undertaking of the permit regulated activity; or
 - (c) the undertaking of the permit regulated activity is authorised by a Local Government Act.
- (4) Notwithstanding section 5(1) (Requirement for a permit and prohibited activities) of this local law, the holder of the permit must not undertake the permit regulated activity until all approvals required under legislation in respect of the permit regulated activity have been obtained.
- (5) For the purposes of section 5(1) (Requirements for a permit and prohibited activities) and the schedule (permit regulated activity) of this local law the activities specified in column 1 of schedule 2 are permit regulated activities.
- (6) For the purposes of section 5(3)(b) (Requirements for a permit and prohibited activities) of this local law a permit is not required for the permit regulated activities specified in column 1 of schedule 2 in the circumstances prescribed in column 2 of schedule 2.

5A Prohibited activities

- (1) A person must not engage in a prohibited activity.
- Maximum penalty for subsection (1) — 50 penalty units
- (2) For the purposes of section 5A(1) (Prohibited activities) of this local law the activities listed in column 1 schedule 3 are prohibited activities other than in the circumstances listed in column 2 of schedule 3.

Part 3 Nuisances

6 Prohibition of a nuisance

- (1) A person must not do any act or omit to do any act which causes a nuisance.
- Maximum penalty for subsection (1)—
- (a) for first offence —10 penalty units.
 - (b) for second offence within a 2 year period —30 penalty units.
 - (c) for third or further offences within a 2 year period —50 penalty units.

- (2) Notwithstanding subsection (1), where the assessment of whether a nuisance exists is dependent on the opinion of an authorised person, the local government must issue a compliance notice before taking any other action.

7 Commission of a nuisance

For the purposes of section 6 (Prohibition of a nuisance) of this local law, a nuisance shall be deemed to exist if—

- (1) an object or material on premises—
- (a) has been carried away by the wind and has caused—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (b) is likely in an authorised person's opinion to—
 - (i) be carried away by the wind; and
 - (ii) give rise to a risk of—
 - (A) harm to human health or safety or personal injury; or
 - (B) property damage or a loss of amenity; or
 - (C) environmental harm or environmental nuisance; or
- (2) the spillage of light from artificial illumination from a residential premises in a residential area onto a residential premises in a residential area exceeds the relevant light emission standards specified in a subordinate local law; or
- (3) a plant on premises—
- (a) is dangerous or otherwise hazardous; or
 - (b) attracts vermin; or
 - (c) is a fire hazard; or

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- (d) has caused personal injury or serious property damage (damage as a result of leaf matter, flower petals, twigs and sap does not constitute serious property damage); or
- (e) is likely in the authorised person's opinion to—
 - (i) be dangerous or otherwise hazardous; or
 - (ii) attract vermin; or
 - (iii) be a fire hazard; or
 - (iv) give rise to a risk of harm to human health or safety, personal injury or serious property damage (damage as a result of leaf matter, flower petals, twigs and sap does not constitute serious property damage); or
- (4) an act or omission on premises—
 - (a) has caused the breeding or harbouring of flies or vermin; or
 - (b) is likely in an authorised person's opinion to give rise to the breeding or harbouring of flies or vermin; or
- (5) a plant or animal on a premises is a declared pest; or
- (6) a declared pest has been sold, displayed or offered for sale or supplied; or
- (7) a release on residential premises of odours, gas, fumes, smoke, dust, particles or aerosols in the authorised person's opinion—
 - (a) has caused—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (b) is likely to give rise to a risk of—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or

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- (8) fencing on premises—
 - (a) is dangerous fencing; or
 - (b) has caused personal injury or property damage; or
 - (c) is likely in the authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (9) a dead animal remains on premises—
 - (a) has caused harm to human health or safety or personal injury; or
 - (b) is likely in an authorised person's opinion to give rise to a risk of harm to human health or safety or personal injury; or
- (10) a fire hazard exists on premises; or
- (11) the driving, standing, wheeling or riding of a vehicle on, footpath, water channel or gutter—
 - (a) has caused personal injury or property damage; or
 - (b) is likely in the authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (12) an vehicle has been abandoned on premises or a road by the person who last drove or used it;
- (13) a vehicle has been left unattended on premises or a road where—
 - (a) the driver of the vehicle cannot be readily located or has failed to immediately remove the vehicle when required by an authorised person to do so and the vehicle has caused in an authorised person's opinion, or, is likely to cause in an authorised persons opinion—
 - (i) danger, hindrance or obstruction to traffic or hindrance or obstruction to the use of a road for a lawful purpose; or
 - (ii) harm to human health or safety or personal injury; or
 - (iii) property damage or loss of amenity.
- (14) a wasp nest, bee hive (other than a bee hive to which the *Apiaries Act 1982* applies) or other insect nest on premises—

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- (a) has caused personal injury or property damage; or
 - (b) is likely in the authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (15) a fire has been lit and maintained in the open air on premises in a residential area except where the fire—
- (a) has been lit to cook food in or on a gas, wood or coal fire, barbeque or hangi and does not cause a nuisance pursuant to subsection (7); or
 - (b) has been authorised under the *Fire and Rescue Service Act 2004*; or
 - (c) only involves the lighting of a match, cigarette lighter, candle, lamp, blow torch or other such device or the use of a bee smoker.
- (16) there exists on premises a hole, well, excavation or other place which—
- (a) has caused personal injury or property damage; or
 - (b) is likely in the authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (17) the aggregation or accumulation of any object or material on premises is in the reasonable opinion of an authorised person unsightly when viewed from any point outside the premises; or
- Example of paragraph (18)—*
Unsightly objects or materials include discarded or disused machinery, rusted or broken down cars, bottles, containers, general rubbish or similar objects or materials.
- (18) vegetation on a premises is overgrown to the extent that -
- (a) in the reasonable opinion of an authorised person it has seriously affected the visual amenity of a premises or surrounding area; or
 - (b) in the reasonable opinion of an authorised person is likely to harbour reptiles or vermin;
- (19) a person parks or stores an unregistered or damaged vehicle or allows an unregistered or damaged vehicle to be parked or stored in a residential area;
- (20) a person discharges, deposits or allows the escape any waste water or other fluid onto any adjoining or proximate land or road;

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- (21) a person offers or exposes goods for sale on a local government controlled area or road ;
- (22) a person does an act or omission specified in a subordinate local law that will give rise to a risk of—
 - (a) harm to human health or safety or personal injury; or
 - (b) property damage or a loss of amenity; or
 - (c) environmental harm or environmental nuisance.
- (23) in the opinion of an authorised person or the local government—
 - (a) a person does an act or makes an omission with the intention of causing a loss of amenity for neighbouring premises; and
 - (b) the act or omission results in a loss of amenity for neighbouring premises.

8 Exclusion from liability

A person does not commit an offence against section 5 (Prohibition of a nuisance) of this local law if—

- (a) the nuisance is authorised or required in the performance of an express duty, express power or an approval under—
 - (i) the *Environmental Protection Act 1994*; or
 - (ii) the *Fire and Rescue Service Act 1990*; or
 - (iii) the *Land Protection (Pest and Stock Route Management) Act 2002*; or
 - (iv) the *Transport Operations (Road Use Management) Act 1995*; or
 - (v) the *Public Health Act 2005*; or
 - (vi) the *Land Act 1994*; or
 - (vii) the *Plumbing and Drainage Act 2002*; or
 - (viii) the *Building Act 1975*; or
 - (ix) the *Sustainable Planning Act 2009*; or

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- (x) the *Workplace Health and Safety Act 1995*; or
- (xi) the *Food Production (Safety) Act 2000*; or
- (xii) another Act (including a local law); or
- (b) the act or omission is specified in a subordinate local law not to be a nuisance.
- (c) an approval been obtained permitting an activity which would, but for the conditions of the approval, constitute a nuisance.

Part 4 Waste container

9 Placement of waste containers outside property boundaries

- (1) The owner or occupier of premises where domestic or commercial waste is produced must —
 - (a) not place any waste containers outside the property boundary earlier than the day before the day of collection; and
 - (b) bring all waste containers within the property boundary no later than the day after the day of collection.

Maximum penalty — 10 penalty units.

- (2) In relation to domestic waste it is a defence to a breach of, or non-compliance with, subsection (1) if the owner or occupier has a reasonable excuse.

Example

An example of reasonable excuse for domestic waste may include a resident is absent for personal or family reasons; or a resident is absent on business on work related activities.

Part 5 Shopping trolleys

10 Definitions for Part 5

In this Part—

retail premises means the entire area owned, leased or utilised by a retailer including the area which is provided for the use of customers, including any car parking area, pedestrian walkways, common areas within a shopping centre or such other area approved by the local government by resolution.

retailer means any person who in connection with a retail or wholesale business owns, leases or otherwise makes shopping trolleys available for use by customers and includes any on-site or designated agent which provides the shopping trolleys for use by customers.

shopping trolley means a cart or wheeled basket used primarily for the carriage of goods by customers while on or in the retail premises.

trolley containment system means a wheel lock system or such other alternative system as Council may by subordinate local law prescribe to prevent shopping trolleys being removed from a retailer's premises, and to facilitate the return of the shopping trolleys to a designated location within the retail premises.

wheel lock system means a disabling device which makes the trolley inoperable, including by locking the wheels of the shopping trolley, if it is removed from or within a certain distance of a retail premises.

impoundment notice means a notice stating—

- (a) that the retailer's shopping trolley or shopping trolleys to which the notice relates have been impounded; and
- (b) that the retailer is required to claim the shopping trolley or trolleys; and
- (c) the period of not less than 14 days within which the shopping trolley or trolleys must be claimed ; and
- (d) that it is an offence not to claim an impounded shopping trolley within the period stated in the notice; and
- (e) that if the shopping trolley or trolleys are not claimed within the period stated in the notice that each shopping trolley is forfeited to the local government which may dispose of the shopping trolley or trolleys; and
- (f) the prescribed fee for claiming each shopping trolley.

collection notice means a notice stating —

- (a) that the retailer's shopping trolley or shopping trolleys to which the notice relates have been found outside the retail premises; and

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- (b) the location at which the shopping trolley or trolleys have been found; and
- (c) the period of not less than 2 working days within which the shopping trolley or trolleys must be collected and removed by the retailer; and
- (d) that it is an offence not to collect and remove a shopping trolley to which the notice relates within the period stated in the notice.

11 Shopping trolleys to remain with retail premises

- (1) A retailer must ensure that all of the shopping trolleys which the retailer provides for its customers remain within the retail premises.

Maximum penalty - 10 penalty units

- (2) It is a defence to a proceeding for a contravention of subsection 1 for the retailer to prove that it took all reasonable measures to ensure that the shopping trolley remains within the retail premises.

Examples of reasonable measures may include development and implementation of a trolley containment system.

- (3) A retailer must implement a trolley containment system —
 - (a) if the number of shopping trolleys owned, leased or otherwise made available to customers by that retailer exceeds the number prescribed by subordinate local law; or
 - (b) if otherwise prescribed by subordinate local law.

Maximum penalty - 50 penalty units

- (4) The local government may resolve to exempt a retailer from implementing a trolley containment system on such conditions it considers appropriate.

12 Identification of shopping trolleys

- (1) A retailer must display the following information on each shopping trolley—
 - (a) the name of the retailer;
 - (b) contact details, including a telephone number to report shopping trolleys found or abandoned outside of the retailer's premises; and
 - (c) any other information prescribed by subordinate local law.

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- (2) The information must be—
 - (a) legible;
 - (b) conspicuously displayed; and
 - (c) permanently affixed and not easily removed.

Maximum penalty - 10 penalty units

13 Impoundment and collection notices

- (1) If a shopping trolley is found in a public place other than the retail premises then the local government may —
 - (a) seize and impound the shopping trolley and give an impoundment notice to the retailer ; or
 - (b) give the retailer a collection notice.
- (2) An impoundment notice or a collection notice may relate to one or more shopping trolleys.

14 Claiming or collecting a shopping trolley

- (1) A person claiming an impounded shopping trolley within the period stated in an impoundment notice must—
 - (a) prove ownership or right to possession to the local government's satisfaction;
 - (b) sign a release, in the approved form, which releases the local government, an authorised person or other person acting in accordance with a local law from any claim or action for conversion or damages; and
 - (c) pay the prescribed fee.
- (2) It is an offence for a retailer to fail to claim a shopping trolley referred to in an impoundment notice given under section 13(1)(a) within the period stated in the notice.

Maximum penalty for each offence under subsection (2) - 50 penalty units

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- (3) It is an offence for a retailer not to collect and remove each shopping trolley referred to in a collection notice given under section 13 (1)(b) within the period sated in the notice.
Maximum penalty for each offence under subsection (3) - 50 penalty units
- (3) To avoid doubt, a failure to claim or collect each of the shopping trolleys referred to within an impoundment notice or collection notice within the period stated in the notice constitutes a separate offence.

15 Disposal of trolleys

- (1) The local government may dispose of any impounded shopping trolley not claimed within the period stated in an impoundment notice in accordance with section 41 (Confiscated goods) of *Local Law No. 1 (Administration) 2013*.
- (2) The retailer of a shopping trolley impounded or disposed of under this local law will have no cause of action for damages, conversion or otherwise against the local government, an authorised person or other person acting in accordance with a local law.

Part 6 Smoke free areas

16 Definitions for part 6—

In this part—

smoke free area means an area or areas declared in a subordinate local law to be a smoke free area.

smoke has the meaning in the *Tobacco and Other Smoking Products Act 1998*.

no smoking signs means a sign in the form and with the content prescribed by subordinate local law.

17 No smoking in a smoke free area

A person must not smoke in a smoke free area.

Maximum penalty - 10 penalty units

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18 Direction

- (1) A person must comply with a verbal direction of an authorised person not to contravene section 17 (No smoking in a smoke free area) of this local law.

Maximum penalty - 20 penalty units

- (2) Any direction given under subsection (1) is in addition to any other action that may be taken by the local government or authorised person under this or any other local law.³

Part 7 Subordinate local laws

19 Subordinate local laws

- (1) The local government may make a subordinate local law with respect to—
- (a) when a permit is not required for undertaking a permit regulated activity pursuant to section 5 (Requirement for a permit) of this local law; and
 - (b) light emission standards for the purposes of section 7(2) (Commission of a nuisance) of this local law; and
 - (d) an act or omission that is a nuisance pursuant to section 7(22) (Commission of a nuisance) of this local law; and
 - (e) an act or omission that is not a nuisance pursuant to section 8(b) (Exclusion from liability) of this local law; and
 - (f) a trolley containment system pursuant to section 10 (Definitions for part 4) ; and
 - (g) the number of shopping trolleys pursuant to section 10 (Definitions for part 4); and
 - (h) information to be included on shopping trolleys pursuant to section 10 (Definitions for part 4); and
 - (i) areas declared as a smoke free area pursuant to section 11 (Definitions for part 5); and

³ For example the *Environmental Protection Act*, section 440D provides the general offence of littering which would apply to the disposal of cigarette butts.

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- (j) a fence as a dangerous fence pursuant to the Schedule (Dictionary— definition of dangerous fence)) of this local law; and
- (k) a place specified as a footpath pursuant to the Schedule (Dictionary— definition of footpath) of this local law; and
- (l) activities that are permit regulated activities pursuant to the Schedule (Dictionary— definition of permit regulated activity) of this local law; and
- (m) a plant or animal as a declared pest pursuant to the Schedule (Dictionary— definition of declared pest) of this local law; and
- (n) a thing as a fire hazard pursuant to the Schedule (Dictionary— definition of fire hazard) of this local law;

Part 8 Transition, Savings and Repeals

20 Repeals

The following Local Laws are repealed —

- Local Law No.8 (Control of Pests) 2005, gazetted 20 May 2005
- Local Law No.9 (Entertainment Venues) 1999, gazetted 18 June 1999
- Local Law No. 10 (Health and Safety) 1999, gazetted 13 August 1999
- Local Law No. 18 (Control of Nuisances) 1998, gazetted 27 November 1998
- Local Law No. 22 (Water Supply) 1999, gazetted 18 June 1999
- Local Law No. 23 (Telecommunications Cabling) 1997, gazetted 5 December
- Local Law No. 28 (Spray Painting) 1999, gazetted 18 June 1999
- Local Law No. 29 (Temporary Homes), gazetted 19 May 2000
- Local Law No. 45 (Construction of Dams) 1999, gazetted 18 June 1999
- Local Law No. 51 (Private Railways) 1999, gazetted 18 June 1999
- Interim Local Law No. 1 (Smoke Free Areas) 2013, gazetted 22 March 2013

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21 Existing Permits

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a licence regulated activity under this local law is taken to be a holder of a permit under this local law and *Local Law No. 4 (Permits) 2013* to operated that activity.

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Schedule 1 Dictionary

Section 3

abandoned vehicle includes an unregistered vehicle parked on a local government controlled area or road.

approval has the meaning given in *Local Law No. 1 (Administration) 2013* and includes all conditions of consent, permission, permit, licence, authorisation or approval.

authorised person means a person authorised by the local government under *Local Law No. 1 (Administration) 2013* to exercise the powers of an authorised person under this local law.

cemetery means a place for disposing of human remains by—

- (a) burial;
- (b) cremation; or
- (c) placement in a columbarium, mausoleum or vault.

dangerous fencing means any of the following —

- (a) a razor wire fence
- (b) a barbed wire fence adjoining local government controlled area
- (c) an electric fence adjoining a local government controlled area or road
- (b) a fence specified in a subordinate local law.

damaged vehicle means a vehicle which is in a condition which renders it unable to be used readily on a road

declared pest means a plant or animal declared to be a pest by a subordinate local law.

facility means 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 in or on a local government controlled area.

fire hazard means anything that because of its flammable or combustible nature, its position, or its quantity, exposes premises or other property (such as plant, equipment or chattels) to a significant risk of damage or destruction by fire and includes anything that is declared under a subordinate local law to be a fire hazard.

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footpath has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes a mall, a square, court or other public place specified as a footpath in a subordinate local law.

hawking goods includes selling or attempting to sell goods informally.

Example —

Selling flowers from a roadside stall or parking a vehicle a road with signage indicating that the vehicle is for sale.

local government controlled area—

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

Examples of local government controlled areas—

- parks, reserves and recreational areas
- conservation parks
- cemeteries
- local government operated library, including mobile libraries
- local government Chambers and local government offices
- jetties.
- a pedestrian mall

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

noise includes vibration of any frequency, whether emitted through air or another medium.

park means a local government controlled area which the local government has resolved be set apart for as a park or for recreation or environmental purposes.

occupation of a temporary home means the use of a structure as a temporary place of residence which is not—

- (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 -
- (i) camping ground;
 - (ii) caravan park; or
 - (iii) part of the local government area excluded by subordinate local law.

occupier of premises means the person who has the control or management of the premises.

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permit regulated activity means—

- (a) an activity which is specified as a permit regulated activity or nuisance in this local law; or
- (b) an activity which would ordinarily be prohibited by this local law or subordinate local law unless authorised by a permit; or
- (c) an activity which would ordinarily be prohibited by this local law or subordinate local law unless authorised by a permit, but for which a local law or subordinate local law specifies that a permit is not required.

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

prohibited activity means the activities set out in schedule 3.

planning scheme means the planning scheme for Ipswich City Council made pursuant to the superseded *Integrated Planning Act 1997*, as amended pursuant to the *Planning Act* from time to time.

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

residential area includes areas comprising predominantly residential development and land (other than *roads*), that is situated in one or more of the following zones or other similar designation under a *Structure Plan* under the Planning Scheme—

- (a) within the Urban Areas Locality—
 - (i) Large Lot Residential Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Character Areas - Housing Zone;
 - (v) Future Urban Zone;
 - (vi) Character Areas - Mixed Use Zone;
 - (vii) Business Incubator Zone;
 - (viii) Bundamba Racecourse Stables Area Zone;
 - (ix) Special Uses Zone;

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- (x) Special Opportunity Zone;
- (b) within the Rosewood Locality—
 - (i) Character Areas - Housing Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Urban Investigation Zone;
- (iv) Special Uses Zone;
- (c) within the City Centre Locality—
 - (i) Residential High Density Zone;
- (d) within the Township Locality—
 - (i) Township Residential Zone;
 - (ii) Township Character Housing Zone;
 - (iii) Township Character Mixed Use Zone;
 - (iv) Stables Residential Zone;
 - (v) Special Uses Zone.
- (e) within the Springfield Structure Plan:
 - (i) Community Residential Designation.
- (f) within the Rural Locality—
 - (i) Rural Living Zone.

and includes land approved for residential development pursuant to a development approval, including a development which is recorded on the Planning Scheme pursuant to section 3.5.27 *Integrated Planning Act* 1997 or section 391 of the *Sustainable Planning Act* 2009.

residential premises means premises used for a residential use.

residential use means being used for residential purposes including as a domestic dwelling.

road means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road in respect of which the chief executive has given written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b) where that act requires such agreement.

temporary home means a structure used, or intended for use, as a place of residence on the land on which it is located but does not include a residential structure for the erection of which a development permit has been given, or is required.

Examples -

- a caravan;
- a car, bus, van or other used, or intended for use, as a place of residence;
- a tent;
- a prefabricated structure used, or intended for use, as a place of residence;
- a structure designed to be readily assembled and disassembled and used, or intended for use, as a place of residence.

the Act means the *Local Government Act 2009*.

vegetation includes a tree, bush, shrub, plant or grass, but does not include vegetation which is protected under a law of the State or Commonwealth or under any planning scheme.

vehicle see the *Transport Operations (Road Use Management) Act 1995*, schedule 4, definitions.

waste container means a wheelie bin or other receptacle which is used for the temporary storage of refuse such as garbage, recyclables, food scraps, vegetation matter or decomposing material pending collection or removal of the refuse.

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Schedule 2 Permit regulated activities

Section 5

Column 1 Permit regulated activities	Column 2 Circumstances that do not require a permit under the Local Law
Disturbance of human remains buried within or outside of a cemetery	A permit is not required for the disturbance of human remains on the order of a coroner or other lawful authority, including the local government.
Occupation of a temporary home	None prescribed

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Schedule 3 Prohibited activities

Section 5A

Column 1 Prohibited Activity	Column 2 Circumstances in which activity not prohibited
Burial or disposal of human remains outside of a cemetery.	The scattering of human cremated remains is not prohibited.
Interfering with a funeral or commemorative service being lawfully conducted in a cemetery or memorial area in the local government area	None prescribed

Endnotes

1 Index to Endnotes

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2 Date to which amendments incorporated

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 – no amendments

5 List of Legislation

Original Local Law

Local Law No.8 (Nuisances and Community Health and Safety) 2013
date of gazettal 5 July 2013

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Local Law No. 8 (Nuisances and Community Health and Safety) 2013

6 List of annotations

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Subordinate Local Law No. 8.1 (Nuisances and Community Health and Safety) 2013

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Ipswich City Council
Subordinate Local Law No. 8.1 (Nuisances and Community Health and Safety) 2013

Part 1 Preliminary

1 Short title

This subordinated local law may be cited as *Local Law No. 8.1 (Nuisances and Community Health and Safety) 2013*.

2 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No.8 (Nuisance and Community Health and Safety) 2013* (the authorising local law).

3 Object

The object of this subordinate local law is to assist in the implementation of *Local Law No.8 (Nuisances and Community Health and Safety) 2013* by specifying the nature of permit related activities, requirements and conditions in relation to permits and all other matters to effectively implement the objectives of the authorising local law.

4 Definitions—the dictionary

The dictionary in the Schedule (Dictionary) defines particular words used in this subordinate local law.

5 Information and material required for permit application

For the purposes of section 7(1)(c)(v) (Application for a permit) of *Local Law No. 4 (Permits) 2013* an application for a permit to undertake a permit regulated activity specified in column 1 of schedule 2 (unless otherwise required by the local government) must be accompanied by the information, material and documents prescribed in column 2 of schedule 2.

6 Conditions of permit

For the purposes of section 9(3) (Conditions of licence) of *Local Law No. 4 (Permits) 2013*, the conditions set out in column 3 of schedule 2 which relate to the activities specified in column 1 of schedule 2 will apply to any permit granted by the local government unless otherwise specified in the permit document.

7 Light emission standards

For the purposes of section 7(b) (Commission of a nuisance) of the authorising law, schedule 3 specifies the light emission standard for the spillage of light from artificial illumination on residential premises.

Part 2 Shopping trolleys

8 Commencement

Section 10 of this subordinate local law commences on 1 July 2014.

9 Definitions

For the purpose of section 10 (Definitions for part 5) of the authorising local law, schedule 4, part 1 prescribes the alternative trolley containment systems.

10 Shopping trolleys to remain within retail premises

For the purposes of section 11(3) (Shopping trolleys to remain within retail premises) of the authorising local law, schedule 4, part 2 prescribes the circumstances in which a trolley containment system must be implemented by a retailer.

11 Identification of shopping trolley

For the purposes of section 12(1) (Identification of shopping trolleys) of the authorising local law, schedule 4, part 3 prescribes information to be affixed and displayed on a shopping trolley.

Part 3 Smoke free areas

12 Prescribing a smoke free area

For the purposes of section 16 (Definitions for part 5) of the authorising local law, schedule 5, part 1 declares areas that are smoke free areas.

Schedule 1 Dictionary

Section 4

bus zone has the same meaning as *bus zone* in the *Transport Operations (Road Use Management) Regulation 2009*

chief executive means the chief executive of the department which administers Chapter 6 (Road Transport Infrastructure) of the *Transport Infrastructure Act 1994*;

taxi zone has the same meaning as *taxi zone* in the *Transport Operations (Road Use Management) Regulation 2009*

Schedule 2 Information for applications and permit conditions

Sections 5 and 6

Column 1 Regulated Activity	Column 2 Documents, material or information required to accompany application for permit	Column 3 Standard Conditions
Disturbance of human remains buried within or outside of a cemetery.	<p>a) Details of when the disturbance is to take place.</p> <p>(b) The relationship of the applicant to the deceased.</p> <p>(c) A copy of the death certificate or medical certificate of cause of death of the deceased.</p> <p>(d) Written consent from the nearest living relative.</p> <p>(e) Written confirmation from a recognised undertaker that he/she is prepared to carry out the exhumation.</p> <p>(f) Details of the proposed method of disturbance.</p> <p>(g) If the disturbance is the opening of a grave for the purpose of burial of another in the same grave, written confirmation that was the express wish of both or all of the deceased persons who have been or are to be buried in the same grave.</p>	The disturbance of exhumation must only be carried out by a recognised undertaker.
Occupation of a temporary home	<p>a) Details of the location of the temporary home within the property on which the temporary home is located.</p> <p>(b) The address of the property on which the temporary home is or will be located.</p> <p>(c) A drawing showing the design and dimensions of the proposed temporary home.</p> <p>(d) Details of the materials out of which the temporary home is (or is to be) constructed and other structural details of the temporary home.</p>	<p>The permit holder must ensure that -</p> <p>(a) the site is kept clean and tidy and in good order and repair at all times;</p> <p>(b) the temporary home be provided with the basic amenities required for living on the site such as kitchen facilities, bathing facilities, laundry, toilet, sleeping accommodation and storage; and</p> <p>(c) construction of any permanent residence being constructed on the site must not cease for a period greater than 3 months.</p>

	<p>(e) If the applicant is not the owner of the land on which the temporary home is located the written consent of the owner to the application.</p> <p>(f) The purpose for which occupation is required.</p> <p><i>For example:</i></p> <ul style="list-style-type: none">• <i>occupation of a caravan on land containing a permanent residence to be occupied by a person caring for an incapacitated person</i>• <i>occupation of the temporary home during the construction of a permanent residence living in the permanent residence</i> <p>(g) The maximum number of occupants, adults and children, to be accommodated.</p> <p>(h) Details of toilet, bathing, laundry, water storage and refuse facilities to be provided.</p> <p>(i) Details of the current development approval for a permanent residence, if applicable.</p>	
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Schedule 3 Light emission standards

section 7

The spillage of artificial illumination onto residential premises must not be unreasonable.

In determining what is unreasonable regard must be had to—

- (a) whether the light spillage is likely to cause irritation, annoyance or distress to others;
and
- (b) whether the spillage of artificial illumination exceeds the recommended maximum values of light technical parameters for the control of obtrusive light in light from an artificial illumination specified in Table 2.1 (Recommended maximum values of light technical parameters for the control of obtrusive light) of Australian Standard 4282 (Control of the obtrusive effects of outdoor lighting).

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Schedule 4 Shopping Trolleys

sections 9, 10 and 11

Part 1 Alternative Trolley Containment System

The following alternative trolley containment system is prescribed —
None prescribed.

Part 2 Shopping trolleys to remain with premises

The following retailers must implement a trolley containment system —

- (a) Any retailer with more than 20 shopping trolleys; or
- (b) If the retailer receives two or more infringement notices for the contravention of section 11(1) (Shopping trolleys to remain within retail premises) of the authorising law for the same retail premises during any 12 month period unless the local government resolves other wise.

Part 3 Additional information to be affixed on shopping trolleys

None prescribed.

Schedule 5 Smoke Free Areas

section 12

The following areas are declared to be smoke free areas—

- (a) the pedestrian malls—
 - (i) in Nicholas Street, Ipswich between Limestone Street and Brisbane Street;
 - (ii) in Nicholas Street, Ipswich between Brisbane Street and the north end of Nicholas Street; and
 - (iii) in Union Street, Ipswich.
- (b) at all bus stops on local government controlled roads or State-controlled or other roads as agreed to by the chief executive:
 - (i) within 4 metres from any bus stop sign erected at the bus stop; or
 - (ii) within 4 metres of any bus zone; or
 - (iii) within 4 metres of any seat or shelter associated with a bus stop or bus zone.
- (c) at all taxi ranks on local government controlled roads or State-controlled or other roads as agreed to by the chief executive:
 - (i) within 4 metres of any taxi rank sign erected at a taxi rank; or
 - (ii) within 4 metres of any taxi zone; or
 - (iii) within 4 metres of any seat or shelter associated with a taxi rank or taxi zone.

Endnotes

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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the

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 – no amendments

5 List of legislation

Original Local Law

Local Law No.5 (Parking) 2013
date of gazettal 5 July 2013

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Ipswich City Council

Subordinate Local Law No. 8.1 (Nuisances and Community Health and Safety) 2013

6 List of annotations

Ipswich

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Local Law (Amending) Local Law No. 8 (Nuisances
and Community Health and Safety) 2019

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Ipswich City Council
Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019

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Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019

Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 8 (Nuisances and Community Health and Safety) 2013.

Part 2 Amendment of Local Law No. 8 (Nuisances and Community Health and Safety) 2013

4 Amendment of s 2 (Object)

Section 2(e), before 'containers' –

insert –

waste

5 Amendment of s 4 (Relationship to other laws)

(1) Section 4(1), before subparagraph (a) –

insert –

(a) the Biosecurity Act 2014;

- (2) Section 4(1)(b), after 'the' –

omit, insert –

Fire and Emergency Services Act 1990;

- (3) Section 4(1)(c), after 'the' –

omit, insert –

Stock Route Management Act 2002;

- (4) Section 4(1)(h), after 'the' –

omit, insert –

Plumbing and Drainage Act 2018;

- (5) Section 4(1)(j), after 'the' –

omit, insert –

Planning Act 2016;

- (6) Section 4(1), subparagraphs (a) to (l) –

renumber as subparagraph (b) to (m)

6 Amendment of s 5 (Requirement for a permit)

- (1) Section 5(1), after 'permit regulated activity' –

insert –

:

- (2) Section 5(2), from '–' to 'this local law.' –

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omit, insert –

in any manner or by any means indicate that a permit regulated activity which
does not comply with this local law does comply with this local law.

(3) Section 5(4) –

omit.

(4) Section 5(5), 'and the schedule (permit regulated activity)' –

omit.

7 Amendment of s 6 (Prohibition of a nuisance)

Section 6(2), after 'action.' –

insert footnote –

Any compliance notice must be issued in accordance with Section 30 of Local Law
No. 1 (Administration) 2013 and is taken to have been issued under that section.

8 Amendment of s 7 (Commission of a nuisance)

(1) Section 7(1), after 'an object or material' –

insert –

(other than a plant)

(2) Section 7(1), subparagraphs (a) and (b) –

omit, insert –

(a) has, or in an authorised person's opinion is likely to, fall or be carried
away:

(i) by the wind;

- (ii) by activities being carried out on the premises; or
 - (iii) as a result of a lack of control measures being implemented in relation to the premises; and
- (b) has caused, or in an authorised person's opinion is likely to cause:
 - (i) harm to human health or safety, or personal injury; or
 - (ii) property damage or a loss of amenity.
- (3) Section 7(2), 'in a residential area onto a residential premises in a residential area' –
omit.
- (4) Section 7(7)(a), subsection (iii) –
omit.
- (5) Section 7(7)(b), subsection (iii) –
omit.
- (6) Section 7(9)(a), after 'personal injury' –
insert –

or a loss of amenity
- (7) Section 7(9)(b), after 'personal injury' –

insert –

or a loss of amenity
- (8) Section 7(11), 'on,' –

omit, insert –

or an animal (other than a domestic animal), on a nature strip,

(9) Section 7(12), 'an' –

omit, insert –

a

(10) Section 7(14), 'Apiaries Act 1982' –

omit, insert –

Biosecurity Act 2014

(11) Section 7(14)(b), 'the' –

omit, insert –

an

(12) Section 7(15)(b), 'Fire and Rescue Service Act 2004' –

omit, insert –

Fire and Emergency Services Act 1990

(13) Section 7(16)(b), 'the' –

omit, insert –

an

(14) Section 7(17), paragraph (18) –

omit, insert –

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Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019

paragraph (17)

(15) Section 7(17), after 'general rubbish' –

insert –

, garden waste

(16) Section 7(18)(b), after 'person' –

insert –

it

(17) Section 7(19), after 'area' –

insert –

and in an authorised person's opinion the vehicle has caused or is likely to cause
a loss of amenity to the area

(18) Section 7(20) –

omit, insert –

A person discharges or deposits waste water or other fluid onto adjoining or
proximate land or road, or otherwise interferes with or allows waste water or
other fluid to escape such that it impacts upon adjoining or proximate land or
road

(19) Section 7(21) –

omit.

(20) Section 7(22)(c) –

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Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019

omit.

- (21) Section 7, subsections (22) to (23) –

renumber as subsection (21) and (22), respectively

- (22) Section 7, after subsection (23) –

insert –

- (23) a person places, throws or otherwise discharges a stone, bottle or other object onto or over a road or other premises; or

- (24) a person paints, repairs, alters or maintains a vehicle on a road, except for minor maintenance in the event of an emergency.

9 Amendments of s 8 (Exclusion from liability)

- (1) Section 8(a), before subparagraph (i) –

insert –

- (i) the Biosecurity Act 2014;

- (2) Section 8(a)(ii), after 'the' –

omit, insert –

Fire and Emergency Services Act 1990;

- (3) Section 8(a)(iii), after 'the' –

omit, insert –

Stock Route Management Act 2002;

- (4) Section 8(a)(vii), after 'the' –

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omit, insert –

Plumbing and Drainage Act 2018;

- (5) Section 8(a)(ix), after 'the' –

omit, insert –

Planning Act 2016;

- (6) Section 8(a), subparagraphs (i) to (xii) –

renumber as subparagraph (ii) to (xiii)

- (7) Section 8(c), after 'an approval' –

insert –

has

10 Amendment of pt 4, hdg (Waste container)

Part 4, heading, 'container' –

omit, insert –

containers

11 Amendment of s 9 (Placement of waste container outside property boundaries)

Section 9, after subsection (b) –

insert –

- (c) not place any waste containers in a manner that is likely, in an authorised person's opinion, to cause:

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Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019

- (i) harm to human health or safety, or personal injury;
- (ii) property damage or a loss of amenity; or
- (iii) a traffic nuisance.

12 Amendment of s 10 (Definitions for Part 5)

Section 10, definition retail premises, 'approved' –

omit, insert –

specified

13 Amendment of s 11, hdg (Shopping trolleys to remain with retail premises)

Section 11, heading, 'with' –

omit, insert –

within

14 Insertion of new s 11A

After section 11 –

insert –

11A Leaving or taking shopping trolleys outside retail premises

A person must not take a shopping trolley from retail premises or leave a shopping trolley at a place outside retail premises unless:

- (a) the person takes or leaves the trolley with the consent of the owner of that trolley; or
- (b) the person has a reasonable excuse.

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Maximum penalty—20 penalty units.

15 Insertion of new s 16A

After section 16 –

insert –

16A No smoking signs

- (1) The local government may place and maintain no smoking signs at the main entrances to smoke free places.
- (2) It is not material to the commission of an offence under sections 17 or 18 that a person was not aware of the sign in subsection (1) or whether the sign had been removed or defaced.

16 Insertion of new pt 6A

After section 18 –

insert –

Part 6A Graffiti

18A Graffiti

- (1) This section shall not apply to —
 - (a) public art commissioned on a commercial basis by or with the consent of the owner of the premises; or
 - (b) public art on a wall or structure in a public place designated for its legal application.

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Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019

- (2) If any building or other structure is marked with graffiti an authorised person may give a written notice ("**graffiti removal notice**") to the owner or occupier of the land on which the building or structure is erected requiring the owner or occupier to remove the graffiti within 14 days of the notice being given.
- (3) If the graffiti is marked on a construction site hoarding erected beyond the boundary of the property on which the construction site is located, the graffiti removal notice may be given to the owner or occupier of the land on which the construction site is located.
- (4) If the graffiti is marked on a billboard or billboard structure, the graffiti removal notice may be given to the owner of the billboard requiring the billboard owner to remove the graffiti within 14 days of the notice being given.
- (5) A graffiti removal notice may be given by post or by personal service.
- (6) The recipient of a graffiti removal notice must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

17 Amendment of s 19 (Subordinate local laws)

Section 19, subparagraphs (d) to (n) –

renumber as (c) to (m)

18 Amendment of s 21 (Existing permits)

Section 21, 'operated' –

omit, insert –

operate

19 Amendment of Sch 1 (Dictionary)

(1) Schedule 1 –

insert –

disturbance of human remains includes to move, remove, relocate, exhume or otherwise interfere with human remains

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 residential structure authorised under the Planning Act; or
- (b) a residential structure declared to be prohibited development or assessable development under the Planning Act and no development permit exists to authorise the use or construction of the structure; or
- (c) the establishment or the occupation of a temporary home on or in a camping ground or caravan park; or
- (d) the establishment or occupation of a temporary home on or in a part of the local government area excluded by subordinate local law.

Examples –

- ☐ a caravan;
- ☐ a car, bus, van or other vehicle used, or intended for use, as a place of residence;

- ☐ a tent;
- ☐ a prefabricated structure used, or intended for use, as a place of residence;
- ☐ a structure designed to be readily assembled and disassembled and used, or intended for use, as a place of residence.

Planning Act means the Planning Act 2016 (Qld) and includes the predecessor legislation to that Act

vermin includes insects, rodents, ants, mosquitos, bugs, rats, snakes, termites, lice, mice, cockroaches and other similar small animals or insects

- (2) Schedule 1, definition dangerous fencing, subparagraph (a), after 'fence' –

insert –

;

- (3) Schedule 1, definition dangerous fencing, subparagraph (b), after 'adjoining' –

insert –

a

- (4) Schedule 1, definition dangerous fencing, subparagraph (b), after 'area' –

insert –

or road;

- (5) Schedule 1, definition dangerous fencing, subparagraph (c), after 'road' –

insert –

; or

- (6) Schedule 1, definition facility –

omit.

- (7) Schedule 1, definition hawking goods –

omit.

- (8) Schedule 1, definition occupation of a temporary home –

omit.

- (9) Schedule 1, definition planning scheme –

omit, insert –

planning scheme means the planning scheme made or amended from time-to-time under the Planning Act

- (10) Schedule 1, definition residential area, subparagraph (a), 'Locality' –

omit, insert –

Area

- (11) Schedule 1, definition residential area, subparagraph (b), 'Locality' –

omit, insert –

Area

- (12) Schedule 1, definition residential area, subparagraph (c), 'Locality' –

omit, insert –

Area

- (13) Schedule 1, definition residential area, subparagraph (d), 'Locality' –

omit, insert –

Area

- (14) Schedule 1, definition residential area, subparagraph (d)(iv) –

omit.

- (15) Schedule 1, definition residential area, subparagraph (v) –

renumber as (iv).

- (16) Schedule 1, definition residential area, subparagraph (f), 'Locality' –

omit, insert –

Area

- (17) Schedule 1, definition residential area, subparagraph (f)(i) –

omit, insert –

(f) Rural C (Rural Living) Zone.

- (18) Schedule 1, definition residential area, after '1997' –

omit, insert –

, section 391 of the Sustainable Planning Act 2009 or section 89 of the Planning
Act 2016.

- (19) Schedule 1, definition residential use –

omit, insert –

means the uses included in the Residential use class under the planning scheme.

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Local Law (Amending) Local Law No. 8 (Nuisances and Community Health and Safety) 2019

(20) Schedule 1, definition temporary home –

omit.

Draft

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8.1 (Nuisances and Community Health and Safety)
2019

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Subordinate Local Law (Amending) Local Law No. 8.1 (Nuisances and Community Health and Safety)
2019

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law (Amending) Local Law No. 8.1 (Nuisances and Community Health and Safety) 2019.

2 Commencement

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

3 Local laws amended

This subordinate local law amends Local Law No. 8.1 (Nuisances and Community Health and Safety) 2013.

Part 2 Amendment of Local Law No. 8.1 (Nuisances and Community Health and Safety) 2013

4 Amendment of s 1 (Short title)

(1) Section 1, 'subordinated' –

omit, insert –

subordinate

(2) Section 1, after 'as' –

insert –

Subordinate

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Ipswich City Council
Subordinate Local Law (Amending) Local Law No. 8.1 (Nuisances and Community Health and Safety)
2019

5 Amendment of s 2 (Authorising local law)

Section 2, after 'by' –

omit, insert –

- (a) Local Law No. 4 (Permits) 2013; and
 - (b) Local Law No. 8 (Nuisance and Community Health and Safety) 2013,
- (the authorising local laws).

6 Amendment of s 6 (Conditions of permit)

Section 6, 'of licence' –

omit, insert –

of a permit

7 Amendment of s 7 (Light emission standards)

(1) Section 7, '7(b)' –

omit, insert –

7(2)

(2) Section 7, 'the authorising law' –

omit, insert –

Local Law No. 8 (Nuisance and Community Health and Safety) 2013

8 Amendment of s 10 Shopping trolleys to remain within retail premises)

Section 10, 'the authorising local law' –

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Subordinate Local Law (Amending) Local Law No. 8.1 (Nuisances and Community Health and Safety)
2019

omit, insert –

Local Law No. 8 (Nuisance and Community Health and Safety) 2013

9 Amendment of s 11 (Identification of shopping trolleys)

Section 11, 'the authorising local law' –

omit, insert –

Local Law No. 8 (Nuisance and Community Health and Safety) 2013

10 Amendment of s 12 (Prescribing a smoke free area)

Section 12, 'the authorising local law' –

omit, insert –

Local Law No. 8 (Nuisance and Community Health and Safety) 2013

11 Amendment of Sch 1 (Dictionary)

(1) Schedule 1, definition bus zone, after 'Management' –

insert –

– Road Rules

(2) Schedule 1, definition taxi zone, after 'Management' –

insert –

– Road Rules

12 Amendment of Sch 2 (Information for applications and permit conditions)

(1) Schedule 2, item 1, Column 2, paragraph (e), 'exhumation' –

6
Ipswich City Council
Subordinate Local Law (Amending) Local Law No. 8.1 (Nuisances and Community Health and Safety)
2019

omit, insert –

disturbance

- (2) Schedule 2, item 1, Column 3, 'of' –

omit, insert –

or

- (3) Schedule 2, item 1, Column 3, 'recognised' –

omit, insert –

qualified

- (4) Schedule 2, item 2, Column 1, 'Occupation' –

omit, insert –

Establishment or occupation

- (5) Schedule 2, item 2, Column 2, after subsection (i) –

insert –

- (j) If the application is for the renewal of an existing permit, details of
exceptional circumstances warranting renewal of the permit.

13 Amendment of Sch 5 (Smoke free areas)

- (1) Schedule 5, before 'The following areas' –

insert –

Part 1 Designation of smoke free areas

7
Ipswich City Council
Subordinate Local Law (Amending) Local Law No. 8.1 (Nuisances and Community Health and Safety)
2019

(2) Schedule 5, paragraph (a) –

omit, insert –

(a) the following pedestrian malls:

- (i) D'arcy Doyle Place, Ipswich;
- (ii) Ipswich City Mall, Ipswich; and
- (iii) Union Place, Ipswich.

(3) Schedule 5, after subparagraph (c)(iii) –

insert –

Part 2 No smoking signs

No smoking signs placed by the local government must contain a symbol similar to the one below and may also contain additional words describing the extent of the smoke free area and any other conditions to which it applies.



Doc ID No: A5570409

ITEM: 9

SUBJECT: EXTRACTIVE INDUSTRIES - LOCAL LAW (REPEALING) LOCAL LAW NO. 25
(EXTRACTIVE INDUSTRIES)

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 30 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Repealing) Local Law No.25 (Extractive Industries) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019.
- B. That it be noted that a review of the proposed *Local Law (Repealing) Local Law No.25 (Extractive Industries) 2019* has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed *Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019* as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on *Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019* in accordance with section 29A of the *Local Government Act 2009*.
- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of

the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy "Local Law Making Process" which is available on Council's website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council's Business Transformation Program a review of Council's existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren't included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.
- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).
- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:

- Advertisement in Queensland Times
- Ipswich First articles
- Dedicated web page on Council's website
- Ability to lodge submissions online, via email and post
- Social media postings promoting the review and how to make a submission
- Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will be published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all proposed local laws for a minimum of 21 days (see policy for requirements)	17/07/19	7/08/19	Ready to commence
Step 4 – Anti-competitive provision check (steps 3 and 4 can be undertaken contemporaneously)	17/07/19	7/08/19	Ready to commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to	September	September	Not Started

proceed/amend/cease local law making process (see policy for further info)	Committee Mtg 10/09/19	Council Mtg 17/09/19	
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council's register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council's current *Local Law No. 25 (Extractive Industries)* (**Attachment 1**) whose objective is to provide the criteria for when a permit is required for an extractive industry that will be carried out on land in the Ipswich Local Government Area (LGA).

The local law review has resulted in the preparation of *Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019* (**Attachment 2**). It is noted that there are no anti-competitive provisions identified in the amended law.

The current local law has been in existence for many decades. There are only seven active permits in place as of June 2019 and there have been no new permits issued in the last decade. The cost of an annual permit is \$740 equating to \$5,180 a year for the seven permits.

The local law sets out that a permit condition may include for the applicant to pay the council a contribution towards the maintenance of roads used or likely to be used in association with the extractive industry. Of the seven current permits only four of them are required to pay contributions to Council. The other three permits maintain the haul route road. The four permits in total provide \$18,350 in contributions each year.

All current permits only have conditions around road maintenance and determining haul routes plus public liability insurance. There are no other conditions specified. Extractive industries land use is governed by the planning scheme and the permits in question have consent and development approval from the 1970's through to the 1990's. The current local law does provides criteria around noise, time of operation, tree planting, safety precautions, ingress and egress, fencing, and land reclamation. All the matters identified in the local law (except for road maintenance) are covered by other approvals, schemes and legislation. The development approval conditions, the *Environmental Protection Act* in particular and general nuisance provisions in other Council local laws are all

able to manage complaints and issues that arise for any of the seven extractive industries currently permitted under the local law.

The recommendation to repeal Local Law No. 25 (Extractive Industries) 2013 is based on the following factors:

- No new permits issued in over a decade
- All current seven permits are captured by development approvals and planning scheme requirements
- Minimal loss in road maintenance fees each year (\$23,530) (Noting that the cost of administering the permit system would need to be taken into consideration and would reduce the loss amount)
- Compliance issues can be managed through other legislation and approvals without the need for additional red tape and regulation by Council.

FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

As mentioned previously, if the local law is repealed then there will be a loss of revenue from the permits and road maintenance fees (\$23,530) which will need to be offset against the cost of administering those permits and processes.

RISK MANAGEMENT IMPLICATIONS

The Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting) schedule requires amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy "Local Law Making Process"

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)





COMMUNITY AND OTHER CONSULTATION

Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Local Law (Repealing) Local Law No.25(Extractive Industries) 2019*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law No.25 (Extractive Industries)  
2.	Local Law (Repealing) Local Law No.25 (Extractive Industries) 2019  

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

"Together, we proudly enhance the quality of life for our community"

**IPSWICH CITY COUNCIL
LOCAL LAW NO. 25 (EXTRACTIVE INDUSTRIES)**

Definition

1. (a) In this local law the term ‘extractive industry’ includes any land, building or other structure or any part thereof used or intended for use in the course of trade, business or operation for an activity being the extraction of sand, gravel, turf, soil, rock, stone or similar substances from land and including, when carried out on the land from which any such substance is extracted or on land adjacent thereto, the treatment of any such substance, the manufacture of products from any such substance including the crushing and screening thereof.
- (b) Where any term in this local law is not herein defined but is defined in the Act, the Town Planning Scheme or any other local law, the term shall, for the purposes of this local law and unless the context otherwise indicates or requires, have the meaning assigned to it by the Act, the Town Planning Scheme or any other local law as the case may be.

Permit required

2. (i) A person shall not carry on, nor cause to be carried on, nor be concerned in the carrying on of any extractive industry on land within the Area without first obtaining a permit from the Council so to do.
- (ii) An owner or occupier of land within the Area shall not permit nor suffer another person to carry on an extractive industry on such land unless such other person shall have first obtained a permit from the Council so to do and produces such permit to such owner or occupier.
3. (a) The Council, in its absolute discretion, may issue a permit to allow an owner or occupier to carry on an extractive industry on land within the Area and in so doing may subject such permit to such conditions as it may determine.
- (b) (i) An applicant for the issue of an extractive industry permit under this section, shall lodge with the Council an application in the form from time to time prescribed by the Chief Executive Officer and then only when any necessary Town Planning Consent has been previously obtained from the Council.
- (ii) The application shall be accompanied by the application fee prescribed in each year by the Council by resolution.
- (iii) The application shall be accompanied by two (2) copies of a plan showing:
 - (1) sufficient detail to inform the Council as to the nature of the excavation proposed;

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Local Law No. 25 (Extractive Industries)

- (2) the location of the land together with the Real Property Office description thereof and the name of the owner of such land;
 - (3) the limits of the area proposed to be excavated and the depth thereof;
 - (4) the existing contours of the land;
 - (5) the quantity of material proposed to be excavated and the quantity of the material proposed to be transported from the land during the period covered by the proposed permit;
 - (6) the estimated depth and description of the overburden present; and
 - (7) the location of any existing or proposed buildings, so far as is known.
- (iv) The accompanying plan referred to in (b) (iii) hereof shall clearly indicate the distance of the proposed excavation from the adjoining drains, water-courses, roads, footpaths and buildings.
- (v) An applicant for a permit under this local law shall provide to the Council such additional information concerning the proposed excavation as the Council may reasonably require from time to time including:
- (1) the road routes within the City intended for general use in the course of transportation of extractive material and where transportation of the extractive material from the land has occurred during any part of the period of twelve (12) months immediately prior to the lodgement of the application, the road routes generally used during that period;
 - (2) the number, size and capacity of vehicles intended to be involved in the transportation of extractive material during the period of the permit sought and where transportation of extractive material from the land has occurred during any part of the period of twelve (12) months prior to the lodgement of the application, the number, size and capacity of vehicles so involved in the said period;
 - (3) the nature of rehabilitation proposed after the intended excavation has occurred and the nature of financial reserves set aside or to be set aside for that purpose.

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- (vi) Where the applicant is not the owner of the land to which the application relates, such application shall also be accompanied by the consent in writing of the owner of such land in a form from time to time prescribed by the Chief Executive Officer.
- (c) An extractive industry permit issued in accordance with this section shall, unless sooner revoked by the Council or surrendered by the owner or occupier, be valid from the date of issue thereof until the Thirtieth day of June then next ensuing.
- (d) Prior to considering an application pursuant to this section the Council may require the Applicant to cause public notice of the application to be given by such means as the Council shall from time to time prescribe by resolution.
- (e) In determining whether an application pursuant to this section should be approved, refused or approved subject to certain conditions and if so what conditions the Council may have regard to the following amongst other matters:
 - (i) the location of the proposed site and whether in the opinion of the Council it is or will probably become a residential locality;
 - (ii) the effect the use of the proposed site for the extractive industry will have on the amenity or scenic beauty of the locality surrounding the proposed site having regard to the existing and probable future use thereof;
 - (iii) the standard of the road giving access to the proposed site whether, in the opinion of the Council, such roads are to a standard sufficient to carry traffic of the nature that the extractive industry would be likely to engender;
 - (iv) the roads (in terms of particular routes) which would be required for use by the applicant in the transportation of extractive material; the load-bearing capacity of roads and bridges as required and the expected weight of loads of vehicles used in such transportation;

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- (v) whether as a condition of the permit the applicant for the operation of an extractive industry should be required to construct or upgrade existing roads used in connection with the extractive industry to a standard approved by the Chief Executive Officer, and in this regard whether the applicant should be given the option of paying to the Council a contribution for the construction of upgrading of roads used in connection with the extractive industry, which contribution shall be expended on such roads;
- (vi) whether as a condition of the permit the applicant should be required to pay to the Council a contribution towards the maintenance of roads used or likely to be used in association with the extractive industry.
- (vii) in assessing the basis upon which the contribution towards the maintenance of roads used or likely to be used by the extractive industry the Council may have regard to the following matters namely:
 - (1) the size, capacity and number of vehicles which have used such roads and the number of movements of such vehicles over such roads to and from the land used for the extractive industry in the previous twelve (12) month period or the first year of operation and the estimates thereof in respect of the period for which the said permit is sought;
 - (2) the then condition of the said roads;
 - (3) the maintenance and/or replacement costs and expenses in relation to the said roads incurred by the Council in the previous twelve (12) month period and/or for the first year of operation the estimated costs and expenses as assessed by the Chief Executive Officer for the period for which the permit is sought based on the estimates provided by the applicant in respect of the period for which the said permit is sought relating to number, size and capacity of vehicles to be used in the transportation of extractive material.
- (viii) whether as a condition of the permit the applicant should be required to furnish the Council with a bond to secure the works required in respect of paragraph (v) hereof and/or the contributions required in respect of paragraph (vii) hereof.

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- (f) In the event that any of the conditions imposed by the Council on the approval of the permit in respect of the subject land are not complied with, the Council, with or without engineers, servants, workmen, employees, contractors and other persons authorised by the Council, shall have the full and free right and liberty at all times to enter upon the subject land with or without mechanical devices and vehicles of any nature whatsoever for the purpose of carrying out such of the said requirements that have not been fulfilled, and the cost of such work shall be chargeable against the bond pursuant to subsection (e) (viii) hereof and if no bond has been provided shall constitute a debt due and owing by the holder of the permit.
 - (g) For the purposes of subsection (e) (iv), (e) (v), (e) (vi), (e) (vii) and (e) (viii) the term “road” means such roads and bridges within the express power and authority of the Council pursuant to the Local Government Act 1993.
- 4.
 - (a) The Council, in its absolute discretion may subject to such conditions as it may determine renew a permit previously granted under section 3.
 - (b)
 - (i) An application for renewal of an extractive industry permit shall be submitted to the Council in the form from time to time prescribed by the Chief Executive Officer not later than the fifteenth day of June in each year and shall be accompanied by the renewal fee prescribed in each year by the Council by resolution.
 - (ii) Unless the Council otherwise prescribes, by resolution, the application for renewal shall contain all plans and information as if it were an application for the issue of an extractive industry permit pursuant to section 3.
 - (c) In considering an application for renewal pursuant to this section the Council may take into account amongst other matters the matters which it may take into account as if the application for renewal was an application for the issue of an extractive industry permit pursuant to section 3 and in addition thereto the following:
 - (i) whether the applicant had complied with the conditions under which the extractive industry permit had been issued and/or the conditions of any renewals thereof;
 - (ii) whether the applicant had complied with the provisions of this local law relating to extractive industry in force during the currency of the extractive industry permit and/or any renewals thereof.
- 5. The Council may revoke an extractive industry permit (which term includes any renewals thereof) if at any time:
 - (a) the holder thereof fails to comply and/or is in breach of any conditions thereof;

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- (b) the holder thereof fails to pay to the Council within seven (7) days of the due date for payment such sums by way of fees, contributions, charges or otherwise as are required to satisfy any condition of the said permit or requirement of the Council made pursuant to this local law.
- 6. (a) It shall be a requirement of any use of land within the Area for extractive industry that the person who for the time being conducts such use (and if such person is not the owner of the land, such owner) shall comply with all requirements from time to time determined by the Council upon notification thereof regarding:
 - (i) the methods of staging of the extractive industry operation;
 - (ii) the equipment to be used to control noise and dust emissions;
 - (iii) the location of plant, buildings, equipment and stockpiles in terms of the amenity of the locality;
 - (iv) the location and construction of haul roads on the land and where necessary on other land;
 - (v) the removal of waste materials and refuse;
 - (vi) the creation of buffer areas suitably planted between excavated areas and adjoining roads and land;
 - (vii) the payment of such amounts as shall be determined from time to time by the Council in respect of the added cost to the Council in maintenance of roadworks (including bridges) occasioned by the use of such roadworks in connection with such extractive industry making for any contributions paid after pursuant to section 3(f) in respect of the use of the said land;
 - (viii) the rehabilitation of the site;
 - (ix) matters to ensure the safety of the public;
 - (x) the amenity of the locality.
- (b) Subsection (a) hereof shall apply to any use of land within the Area for extractive industry established before the date upon which this local law shall be in force.

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- (c) The Council may require the person and/or the owner referred to in subsection (a) hereof to furnish the Council with a bond, of an amount specified by the Council from a bank, insurance company or finance company approved by the Council and in a form satisfactory to the Council to secure to the Council the due fulfilment of the requirements imposed by the Council pursuant to the preceding subsection. Such bond duly stamped and executed shall be delivered to the Chief Executive Officer within the time determined by the Council.
- (d) In the event that any requirement of the Council imposed pursuant to subsection (a) is not complied with, the Council with or without engineers, servants, workmen, employees, contractors and other persons authorised by the Council shall have the full and free right and liberty at all times to enter upon the relevant site with or without mechanical devices and vehicles of any nature whatsoever for the purpose of carrying out such requirement and the cost thereof shall be chargeable against any bond provided pursuant to subsection (c) hereof and if no bond has been provided shall constitute a debt due and owing by the person and/or the owner referred to in subsection (a) hereof.

Existing extractive industries

- 7. An extractive industry whether established on or before the date of the publication of this local law in the Gazette shall be conducted in such manner as to comply with the requirements of the Council and the provisions of this local law.

Points of ingress and egress

- 8.
 - (i) Each entrance to or exit from a site of an extractive industry shall be between six (6) metres and nine (9) metres wide and be situated at least nine (9) metres from any other entrance to or exit from the site.
 - (ii) Each entrance to or exit from a site of an extractive industry shall be so located as not to, in the opinion of the Council, create a new traffic hazard or increase an existing traffic hazard.

Fencing

- 9.
 - (i) So much of the site as contains an excavation that is 1.2 metres more below the level of the unexcavated ground immediately alongside it shall be enclosed by a fence at least 1.8 metres high.
 - (ii) The fence required by subsection (i) of this section shall be so constructed and maintained that a person cannot enter the site except by climbing over the fence or by passing through a gateway.

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- (iii) Every gate in the fence required by subsection (i) of this section shall be the same height as the fence and shall be so constructed and maintained that a person cannot enter the site except by passing through the open gate or by climbing over the closed gate.
- (iv) Every gate shall be kept locked except when the person conducting the extractive industry, or an employee of such person, is on the site.

Safety precautions

- 10. (i) Water shall not be allowed to accumulate so as to exceed 900 millimetres in depth in any uncovered excavation on the site.
- (ii) Subsection (i) of this section does not apply to a settling pond used in connection with the winning of sand by hydraulic sluicing.
- (iii) Ensure that the slopes of any stockpile of material extracted are battered and protected to the satisfaction of the Chief Executive Officer.

Blasting and explosions

- 11. (i) Blasting and explosions shall not be conducted:
 - (a) Before the hour of seven o'clock in the morning (7 a.m.); or
 - (b) After the hour of seven o'clock in the evening (7 p.m.); or
 - (c) On Anzac Day, Christmas Day, Good Friday or Sunday, unless in an emergency and with the approval of the Council.

Mode of operation

- 12. (i) All processes of extractive industry are prohibited within:
 - (a) Eighteen (18) metres of a road;
 - (b) Nine (9) metres of any land that is not being used for extractive industry.
- (ii) A person shall not cause nor allow any clay, gravel, rock, sand, silt, sludge, soil, stone or overburden resulting from extractive industry to:
 - (a) Enter a swamp, watercourse or water storage;
 - (b) Enter a drain or sewer;
 - (c) Enter a drainage or sewerage easement; or

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- (d) Cause injury to or interference with the use of any land that is not being used for extractive industry.
- (iii) All buildings or other structures and stockpiles shall be so located and maintained as to prevent dust, sand or soil blowing on to any road or onto land that is not being used for extractive industry.
- (iv) A person shall not take an excavation to a greater depth, nor take a stockpile to a greater height than is authorised by the Council in respect of such excavation or stockpile.

Tree planting and maintenance

- 13. (i) Shrubs and trees shall be so planted and maintained as to effectively screen to the satisfaction of the Council, the activities on the site from any person standing at ground level on any part of any land used for residential purposes.
- (ii) The Council may permit the planting of young shrubs and trees which when planted are not of sufficient height or development to comply with subsection (i) of this section.
- (iii) The Council may by resolution modify or dispense with subsection (i) of this section in any case where it is satisfied that the circumstances thereof warrant such modification or dispensation.

Land reclamation

- 14. (i) Where the Council is of the opinion that reclamation of any excavation will be necessary, a person proposing to carry out such excavation shall:
 - (a) Prior to the commencement of the excavation, deposit with the Council such amount as the Council may by resolution determine to be retained by the Council until the extractive industry ceases on the subject land and until such person shall have complied with the provisions of this section, provided that the Council may accept a bond guaranteed by a Bank or an Insurance Company in lieu of such deposit;

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- (b)
 - (1) Progressively reclaim such excavation to the satisfaction of the Council and ensure that the excavation remaining to be reclaimed shall not at any time by measurement exceed the excavation that could be reclaimed if the deposit referred to in paragraph (a) of this subsection were used to pay for such reclamation at the rate determined by the Council from time to time by resolution. Provided that the Council may by resolution modify or dispense with the provisions of this subparagraph in any case where it is satisfied that the circumstances thereof warrant such modification or dispensation;
 - (2) If such excavation is being filled, accept from the Council refuse and rubbish as filling, without fee, on its being delivered to the site;
 - (3) If vegetable or other matter likely to attract vermin or flies is used in the filling of such excavation, use and cover such vegetable or other matter as directed by the Chief Executive Officer or the Council.
 - (c) Ensure that:
 - (1) Any face permitted to remain in the excavation is so sloped or battered as to remain stable, with all loose material removed therefrom;
 - (2) Such slopes are planted with protective vegetation as directed by the engineer or the Council;
 - (d) Within three (3) years after extractive industry ceases on the subject land complete the reclamation to the satisfaction of the Council.
- (ii) A deposit paid to the Council pursuant to subsection (i) of this section shall be placed in the Council's Trust Fund and all interest derived therefrom shall be added to the deposit and credited to the person entitled to receive payment of such deposit.

IPSWICH CITY COUNCIL
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- (iii) In the event that any requirement of the Council imposed pursuant to section 13 is not complied with, the Council with or without engineers, servants, workmen, employees, contractors and other persons authorised by the Council, shall have the full and free right and liberty at all times to enter upon the relevant site with or without mechanical devices and vehicles of any nature whatsoever for the purpose of carrying out such requirement, and the cost thereof shall be chargeable against any bond provided pursuant to paragraph (a) hereof, and if no bond has been provided, shall constitute a debt due and owing by the person and/or the owner referred to in section 13 (i) hereof.
- (iv) Upon the completion of the works referred to in subsection (i) of this section, the deposit (if any) and interest accrued thereon or the balance of the deposit and interest accrued thereon, as the case may be, shall be paid to the person entitled to receive such deposit.

Extractive Industry - Minor

- 15. (1) Notwithstanding the provisions of section 2 of this local law, the Council may grant a permit for the use of land for an extractive industry - minor provided:
 - (a) The conditions prescribed in sections 7, 8, 9, 10, 11, 12 and 13 of this local law shall apply to extractive industry - minor.
 - (b) the total extraction of sand, gravel, clay, turf, soil, rock, stone or similar substance does not exceed a total of 7 500.00 cubic metres.
 - (c) The period of extraction of sand, gravel, clay, turf, soil, rock, stone or similar substance does not exceed twelve (12) months.
 - (d) Only one (1) permit for the extraction of sand, gravel, clay, turf, soil, rock, stone or similar substance shall be issued in respect of any separately described parcel of land.
 - (e) The boundaries of the site from which extraction is to be made shall be indicated by appropriate markers to the satisfaction of the Chief Executive Officer, and such extraction shall be carried out only within such boundaries.
 - (f) An application for a permit under the provisions of this section shall be in the form from time to time prescribed by the Chief Executive Officer and accompanied by such application fee as prescribed by the Council from time to time.
 - (g) where the applicant is not the owner of the land to which the application relates, such application is also accompanied by the consent in writing of the owner of such land.

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Local Law No. 25 (Extractive Industries)

- (2) In considering an application pursuant to this section the Council may approve it or approve it subject to reasonable and relevant conditions.
- (3) The permit for an extractive industry - minor shall be in force from the date the Council grants such registration until the expiry date as shown on the permit.
- (4) The permit issued for an extractive industry - minor shall be revocable by the Council upon breach of any of the conditions of such permit or for any other cause which the Council deems sufficient.

Penalties

- 16. A person who, either by act or omission, contravenes a section of this local law, or being the owner or occupier of land within the Area knowingly permits an act or omission on such land in contravention of such sections, shall be guilty of an offence and liable to a penalty of a maximum of 850 penalty units and in addition, to a daily penalty of a maximum of 20 penalty units for each day during which the offence continues after his conviction.

Ipswich

City Council

Local Law (Repealing) Local Law No. 25 (Extractive
Industries) 2019

2
Ipswich City Council
Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019

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Draft

3
Ipswich City Council
Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019

1 Short title

This local law may be cited as Local Law (Repealing) Local Law No. 25 (Extractive Industries) 2019.

2 Commencement

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

3 Local laws repealed

This local law repeals Local Law No. 25 (Extractive Industries).

4 Expiration

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

Doc ID No: A5570420

ITEM: 10

SUBJECT: VEGETATION MANAGEMENT - LOCAL LAW (AMENDING) LOCAL LAW NO.49 (VEGETATION MANAGEMENT) 2019 AND SUBORDINATE LOCAL LAW NO. 49.1 (PROTECTION OF IMPORTANT VEGETATION) 2019

AUTHOR: STRATEGIC POLICY AND SYSTEMS MANAGER

DATE: 30 JUNE 2019

EXECUTIVE SUMMARY

This report is in relation to the Local Law Review which is a sub-project of Council's Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). An internal review has been conducted recommending changes to Council's existing local laws.

Approval is being sought to commence the Local Law making process which includes public consultation and State Government interest checks related to *Local Law (Amending) Local Law No.49 (Vegetation Management) 2019* and *Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019*.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council propose to make Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019, as attached to the report of the Strategic Policy and Systems Manager dated 30 June 2019.
- B. That it be noted that a review of the proposed Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019 has been undertaken and no anti-competitive provisions have been identified.
- C. That Council approve to proceed to public consultation for the proposed Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019, as detailed in Clause A above.
- D. That Council approve to proceed to the State Government interest check on Local Law (Amending) Local Law No.49 (Vegetation Management) 2019 and Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019.

- E. That, following public consultation and the State Government interest check, as detailed in Clauses C and D above, the General Manager – (Coordination and Performance) be requested to prepare a report to a future Governance Committee meeting to progress the proposed amendments to the final stage of the formal local law making process, in accordance with the *Local Government Act 2009* and Council's *Local Law Making Process Policy*.

RELATED PARTIES

There are no known related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management
Caring for the community

PURPOSE OF REPORT/BACKGROUND

- Councils have the ability to make, amend and repeal local laws as per Chapter 3, Part 1 Local Laws (Sections 26 to 38B) of the *Local Government Act 2009*. As per Section 29, Councils may decide their own processes for making local laws for which Ipswich City Council has done in its policy "Local Law Making Process" which is available on Council's website. The steps of the local law making process policy have been included in Stage 3 of the local law review schedule (see **Table 1**).
- Council introduced a whole new framework of local laws in 2013 which rationalised 52 local laws and subordinates down to 18. As part of Council's Business Transformation Program a review of Council's existing local laws was included to ensure the laws are contemporary and relevant since it has been over 5 years since they were reviewed.
- Council engaged external lawyers to be involved in the review and draft the amended laws which are included in this report.
- The present review focussed on amending the current local laws to identify key issues impacting the City as well as operational and formatting issues.
 - o All changes were identified through internal stakeholder consultation and an independent legal review by the external solicitors.
 - o All issues raised by internal stakeholders were discussed with internal and external solicitors to determine if they would be included in drafting instructions.
 - o Some issues weren't included in drafting instructions because they could be managed through existing powers in the local laws or were covered in existing State legislation.
 - o Most issues included in drafting instructions were operational in nature and also include an improved layout, correcting typing/formatting errors and inconsistencies as well as updating legislative references.
 - o Where appropriate or required benchmarking with other Councils was undertaken to determine a best practice approach for drafting.
- As per Section 29A of the *Local Government Act 2009* the State Government interest check process only applies to local laws. Subordinate local laws are not required to

follow this process. Local Laws will be sent to the relevant agencies for their feedback during a three week period (Step 2 of Stage 3 in **Table 1**).

- Public consultation on the amended local laws and subordinate local laws will be conducted over a three week period to seek meaningful feedback. Key highlights of the consultation process will be:
 - o Advertisement in Queensland Times
 - o Ipswich First articles
 - o Dedicated web page on Council's website
 - o Ability to lodge submissions online, via email and post
 - o Social media postings promoting the review and how to make a submission
 - o Post close of the consultation period, and prior to the laws commencing, all submissions received that are properly made will be published online. A summary document will published that will include how submissions have been considered.
- Where relevant any anti-competitive provisions will be identified and included in any public consultation. If there are no anti-competitive provisions within an amended local law this will be noted. Council's recommendations will also reflect this.
- Council has liaised with the Department of Local Government, Racing and Multicultural Affairs to ensure legislative requirements are being met, in particular assistance with the State Government interest check process.

TABLE 1: Local Law Review Schedule

Key Milestone	Planned Start Date	Planned Finish Date	Status
Stage 1 – Information Gathering	25/02/19	26/04/19	COMPLETED
Consultation with key internal stakeholders and staff on changes required to current local laws	25/02/19	29/03/19	Completed
Engagement of legal services to draft changes to laws	25/02/19	29/03/19	Completed
Engagement with Dept of Local Government on project and State Interest Check process	25/02/19	-	Completed
Consideration and finalisation of consultation submissions to develop complete list of changes required	29/03/19	26/04/19	Completed
Stage 2 – Development of draft laws	29/04/19	7/06/19	COMPLETED
Stage 1 outcomes to be given to legal services for drafting and finalizing drafts ready for stage 3	29/04/19	7/6/19	Completed
Consideration of public consultation requirements (campaign/community engagement)	29/04/19	7/6/19	Completed
Development of Council Committee Report	6/05/19	7/6/19	Completed
Stage 3 - Local Law Making Process and Public Consultation	09/07/19	1/11/2019	COMMENCED
Commence the local law making process as below:			
Step 1 – Council resolution to make the proposed local laws; commencement date for new laws to be considered in this step.	July Committee Meeting 09/07/19	July Council Meeting 16/07/19	Commenced
Step 2 – Undertake State Government Interest Checks for changes to Local Laws (checks are not required for Subordinate Local Law Changes)	17/07/19	7/08/19	Ready to commence
Step 3 – Commence public consultation on all proposed local laws for a minimum of 21 days (see policy for requirements)	17/07/19	7/08/19	Ready to commence
Step 4 – Anti-competitive provision check (steps 3 and	17/07/19	7/08/19	Ready to

4 can be undertaken contemporaneously)			commence
Step 5 – Accept and consider submissions properly made to the Council (see policy for criteria) + develop Council Committee report for step 6	8/08/19	30/08/19	Ready to commence
Step 6 – By Council resolution, decide to proceed/amend/cease local law making process (see policy for further info)	September Committee Mtg 10/09/19	September Council Mtg 17/09/19	Not Started
Step 7 – Let public know that the local law has been made with notice in accordance with Local Government Act 2009.	1/10/19	31/10/19	Not Started
Step 8 – make local laws available to the public	1/10/19	31/10/19	Not Started
Step 9 – Within 14 days of notice being published, complete Minister for Local Government requirements	1/10/19	31/10/19	Not Started
Step 10 – update the Council’s register of its local laws.		1/11/19	Not Started
PROPOSED COMMENCEMENT DATE 1 NOVEMBER 2019			
Stage 4- Change Management Requirements	30/06/19	24/12/19	
Establishment of Change Management project working group	-	30/06/19	Ready to commence
The above group to manage change of approved laws which includes – communications (for community and staff); delegations; authorizations; marketing and customer service collateral; website information; scripting; systems changes (CES, Pathway, Oracle)	1/7/19	01/11/19 for GO LIVE then ongoing support till 24/12/19	Not Started

This report relates to Council’s current *Local Law No.49 (Vegetation Management)* (**Attachment 1**), *Subordinate Local Law No.49A (Permitted Damage)* (**Attachment 2**) and *Subordinate Local Law 49B (Management Policies)* (**Attachment 3**) where the objectives relate to providing appropriate protection for significant vegetation; management of protected vegetation; powers to enforce vegetation protection orders; powers to require action to reinstate vegetation damaged in contravention of the local law; and the necessary power to require removal of vegetation which is a danger to life or property.

The local law review has resulted in the preparation of *Local Law (Amending) Local Law No.49 (Vegetation Management) 2019* (**Attachment 4**) and the preparation of a brand new *Subordinate Local Law No.49.1 (Protection of Important Vegetation)* (**Attachment 5**) which includes repealing provisions for the existing subordinate local laws 49A and 49B. It is noted that there have been no anti-competitive provisions identified in the laws.

The proposed amendments are based on two primary aspects, which are:

- The fine-tuning of the focus and wording of the local law to improve its transparency. The fine-tuning delineates the intent from broad vegetation management to specifically centering on protecting important vegetation.
- References through-out the laws to the term “significant and significance” have been removed and the term “important” has been used. This is to reduce potential misunderstanding or misperception that the local law deals with the same or similar matters as the Commonwealth and State environmental legislation and Local Government land-use planning legislation which uses significant/significance

terminology. These legislative mechanisms extensively use significant/significance terminology which have associated triggers and approval requirements.

BACKGROUND TO COUNCIL'S CURRENT VEGETATION MANAGEMENT LOCAL LAWS

- The laws set clear direction and robust criteria relating to protecting vegetation for environmental purposes. It differentiates between a tree and vegetation's importance for environmental and to a lesser extent, cultural reasons.
- The laws were introduced at a time when there were limited protective mechanisms for vegetation.
- Its implementation to date (late 1990's to now) has essentially been reactionary to community requests.
- Since its introduction, many Commonwealth, State and local planning scheme mechanisms have also been introduced to protect certain types of vegetation. This has been predominately for their different values and relate to achieving different outcomes.
- Since its introduction, the laws have protected three individual trees, predominately for their character values. The last was in 2003. Six Interim Protection Orders were registered, however did not proceed to permanent Vegetation Protection order status.
- These three trees are also listed in the Ipswich Planning Scheme as Schedule 2 – Character Places. The listing affords it a level of protection and recognition, particularly during development assessment.
- Protection of individual trees or vegetation primarily for their conservation or environmental values is currently not one of the principal drivers for Schedule 2. The schedule relates to mainly protecting character values in comparison to conservation values.
- The laws provide Council a protection mechanism, generally for smaller, more isolated individual trees or vegetation. The mechanism is used in a situation where the tree or vegetation has been either missed or not protected as part of a broader vegetation community that is recognised as significant under Commonwealth, State or local planning scheme mechanisms.
- The laws have also used in situations where trees or vegetation are under perceived threat of removal and are not currently protected. It has been interpreted that through Section 12 of the law Council can immediately put an Interim Protection Order and simultaneously a Stop Order under Section 27B.

PROPOSAL FOR AMENDED LOCAL LAW AND NEW SUBORDINATE LOCAL LAW

- Based on the above the review is recommending to retain and amend the current Local Law 49 (Vegetation Management) as well as combine the intent of the current subordinates (49A and 49B) into one new subordinate local law for the foreseeable future while clarifying better protection mechanisms under Council's Planning Scheme.

Additionally, the local law's stop order provisions are more enhanced than the current Planning Scheme if Council had to manage pre-emptive removal of tree/vegetation.

- Change "Vegetation Management" to "Protection of Important Vegetation". This would better reflect the intent of the local law to "protect" rather than "manage" vegetation.
- Change the use of the word "significance" to "important". This avoids any misperception of a relationship with Commonwealth or State Government legislation.
- The proposed laws will not be used to protect trees/vegetation on public owned/managed land. Existing internal measures protect trees/vegetation in these locations.
- Council may wish to pro-actively call for community nominations to protect important vegetation through the Planning Scheme. This process should assist with identifying any trees or vegetation Council has missed previously. Promotion of nominations would celebrate important trees of the city's urban and rural forest.
- Once Council has adequately identified and protected the important trees/vegetation through the Planning Scheme the Local Laws could be repealed in the next review.

FINANCIAL/RESOURCE IMPLICATIONS

Associated operational budgets for the Local Law Review are contained within Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Costs will be expended primarily in the following areas:

- Drafting and amending of all laws through an external legal firm;
- Public consultation of amended local laws and subordinate local laws and their commencement.

Implementation and enforcement costs will be minimal for these amendments as most will be managed on a reactive basis (community driven) until Council implements a proactive call for nominations in the coming years which would involve promotion, application and assessment costs.

RISK MANAGEMENT IMPLICATIONS

The local law review is a sub project of Transformation Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). Project schedules require amended local laws to commence prior to the end of the 2019 calendar year. Delays in approving the recommendations of this report will delay all steps of the formal local law making processes and ultimately their commencement.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Local Government Act 2009

Local Government Regulation 2012

Ipswich City Council Policy “Local Law Making Process”

National Competition Policy: Guidelines for conducting reviews on anti-competitive provisions in local laws (Queensland State Government)











COMMUNITY AND OTHER CONSULTATION

Consultation has been undertaken with all Departments of Council to determine drafting instructions for the amended local laws. This consultation and feedback is based on officer and community feedback on operational matters within the local laws. The next stages of the local law review process includes full community consultation to enable meaningful feedback to be provided to Council. State Government interest checks will also be conducted on any amendments to a local law, noting that as per the *Local Government Act 2009* this does not need to occur for any amendments to subordinate local laws.

CONCLUSION

This report is in relation to the Local Law Review which is a sub-project of Council’s Transformational Project 9 (Review Policies, Procedures, Local Laws and the Committee Process and associated reporting). The report is seeking approval to commence the Local Law making process which includes public consultation and State Government Interest checks related to *Local Law (Amending) Local Law No.49 (Vegetation Management) 2019* and *Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Local Law 49 (Vegetation Management)  
2.	Subordinate Local Law 49A (Permitted Damage)  
3.	Subordinate Local Law 49B (Management Policies)  
4.	Local Law (Amending) Local Law No.49 (Vegetation Management) 2019  
5.	Subordinate Local Law No.49.1 (Protection of Important Vegetation) 2019  

Barbara Dart

STRATEGIC POLICY AND SYSTEMS MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

“Together, we proudly enhance the quality of life for our community”

**IPSWICH CITY COUNCIL
LOCAL LAW NO. 49 (VEGETATION MANAGEMENT)**

SUMMARY OF PROVISIONS

PART 1 - PRELIMINARY

1. Citation
2. Objects
3. Definitions

PART 2 - VEGETATION PROTECTION

Division 1 - Making of vegetation protection orders

4. Power to make vegetation protection orders
5. Grounds on which vegetation protection order may be made
6. Vegetation to which order may relate
7. Notice of order to be given
8. How submissions are to be made
9. Consideration of submissions
10. Confirmation of order
11. Commencement of vegetation protection order
12. Interim protection orders

Division 2 - Revocation of order

13. Revocation of unconfirmed order
14. Proposal to revoke order
15. How submissions are made
16. Consideration of submissions
17. Revocation of vegetation protection order after its confirmation

Division 3 - Management Policies

18. Management policies for protected vegetation

Division 4 - Registration of orders

19. Vegetation protection orders to be entered in land record
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Local Law No. 49 (Vegetation Management)

PART 3 - DAMAGE TO VEGETATION

Division 1 - Prohibition of damage

- 21. Prohibition of damage
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- 25. Term of permit
- 26. Conditions of permit
- 27. Compliance with conditions
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PART 5 – REMOVAL

- 28. Removal Order
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- 32. Compliance order
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PART 7 – INVESTIGATION AND ENFORCEMENT

- 34. Inspection
- 35. Suspension or cancellation of permit
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- 37. Liability of third parties
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Local Law No. 49 (Vegetation Management)

PART 8 – REVIEW

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- 42. Carrying out a review
- 43. Decision on review

PART 9 – MISCELLANEOUS

- 44. Defence of reasonable excuse
- 45. Subordinate local laws

Local Law No. 49 (Vegetation Management)

PART 1 - PRELIMINARY

Citation

1. This local law may be cited as Local Law No. 49 (Vegetation Management).

Objects

- 2.(1) The objects of this local law include:
- (a) providing appropriate protection for significant vegetation; and
 - (b) providing for the management of protected vegetation; and
 - (c) providing the necessary powers to enforce vegetation protection orders; and
 - (d) providing the necessary powers to require appropriate action to reinstate vegetation damaged in contravention of this local law; and
 - (e) providing the necessary power to require the removal of vegetation which is a danger to life or property.
- (2) In administering this local law, Council must balance the interests of the conservation and sound environmental management of vegetation against other important public and private interests.
- (3) Vegetation may be significant if in the opinion of Council the vegetation is:
- (a) a valuable part of the natural heritage of the area; or
 - (b) an example of a rare or threatened species or a species that may be, or may be about to become, a rare or threatened species; or
 - (c) a valuable scientific resource; or
 - (d) a valuable source of propagating stock or of other horticultural value; or
 - (e) of historic or cultural significance; or
 - (f) a valuable educational or recreational resource; or
 - (g) a significant habitat for native animals (including native or migratory birds) or a part of a fauna and flora corridor; or
 - (h) a significant part of a vegetation system or other ecological system; or

Local Law No. 49 (Vegetation Management)

- (i) important for maintaining the life-supporting capacities of ecological systems for present and future generations; or
- (j) important for protecting a water catchment area; or
- (k) important for its aesthetic value or its beneficial effect on the amenity of the locality in which it is situated; or
- (l) of other environmental significance.

Definitions

3. In this local law:

‘authorised person’ means a person authorised by Council to exercise the powers of an authorised person under this local law.

‘compliance order’ see section 32.

‘Council’ means Ipswich City Council.

‘Court’ means the Planning and Environment Court.

‘damage’ to vegetation includes destruction or removal of vegetation or interference with its natural growth other than:

- (a) pruning to promote regeneration, to remove dead wood or to prevent interference with buildings or services; or
- (b) ornamental shaping; or
- (c) mowing of grass or lawn.

‘development’ has the meaning given in the *Integrated Planning Act 1997*.

‘development approval’ has the meaning given in the *Integrated Planning Act 1997*.

‘protected vegetation’ means vegetation for which a protection order is in force under this local law.

Local Law No. 49 (Vegetation Management)

‘reasonably necessary’ damage to vegetation is only regarded as reasonably necessary for a particular purpose if there is no alternative way of achieving the purpose that is prudent and feasible and would avoid the damage to vegetation or significantly reduce the extent of the damage to vegetation.

‘reinstatement order’ see section 33.

‘removal order’ see section 28.

‘reviewable decision’ see section 39.

‘significant vegetation’ see section 2(3).

‘stop order’ see section 27B.

‘vegetation’ means trees, plants, shrubs, bushes, seedlings, saplings, reshoots and all parts thereof and all other organisms of vegetable origin (whether living or dead) but does not include declared plants within the meaning of the *Land Protection (Pest and Stock Route Management) Act 2002*.

Examples:

- *an individual tree;*
- *a cluster of trees with associated undergrowth;*
- *a dead tree (including a fallen tree);*
- *a grassland habitat*

‘vegetation protection order’ see section 4.

Application

- 3A. This local law applies to all land within Council’s local government area.

PART 2 - VEGETATION PROTECTION

Division 1 - Making of vegetation protection orders

Power to make vegetation protection orders

4. The Council may make an order (a **‘vegetation protection order’**) to protect significant vegetation.

Local Law No. 49 (Vegetation Management)

Grounds on which vegetation protection order may be made

- 5.(1) The grounds on which a vegetation protection order is made must be stated in the order.
- (2) The grounds must be consistent with the objects of this local law.

Examples:

For example, a vegetation protection order might be made on one or more of the following grounds:

- *because the vegetation has outstanding aesthetic value;*
- *because the vegetation is of a rare or threatened species or a species that may be, or may be about to become, a rare or threatened species;*
- *because of its great height, trunk circumference, or canopy spread;*
- *because of its great age;*
- *because of its association with an important historical event or the commemoration of a important historical event;*
- *because it has a significant historic or cultural association with a particular person or group of persons;*
- *because of its significance in Aboriginal rituals, religious observance or legend;*
- *because of its horticultural value as a source of propagating stock;*
- *because of its scientific or educational value;*
- *because of its ecological value as a habitat for native animals (including resident or migratory birds) or as a fauna and flora corridor;*
- *because of its support for natural or artificial land forms such as drainage lines, watercourses, bodies of water, foreshores, slopes or unstable and erodible soils;*
- *because of its beneficial effect, or possible beneficial effect, on water salinity (including groundwater salinity);*
- *because of its unique contribution to the landscape;*

Local Law No. 49 (Vegetation Management)

- *because it provides a visual buffer against unsightly objects or a buffer against pollutants, light spillage, noise or other factors that have an adverse effect on the environment;*
- *because of its importance as buffer zone adjacent to areas of conservation significance;*
- *because of its importance in the context of the objectives of State or local government planning, land management and environmental management policies and initiatives; or*
- *because of its value as a source of fodder for stock.*

Vegetation to which order may relate

- 6.(1) A vegetation protection order must identify or describe the vegetation to which it related with reasonable particularity.

Examples:

A vegetation protection order may, for example, state that it relates to:

- *a particular tree in a specified location;*
- *a particular group of trees in a specified location;*
- *vegetation of a specified class on land within a specified area;*
- *all vegetation on land within a specified area;*
- *all vegetation on land within a specified area other than vegetation of a specified class or classes.*

- (2) A vegetation protection order cannot relate to vegetation:
- (a) if the vegetation is planted and grown for commercial purposes; or
 - (b) if the vegetation is subject to a scheme or plan providing for its management and exploitation as a sustainable resource:
 - (i) approved by Council; or
 - (ii) authorised or approved under another law.

Local Law No. 49 (Vegetation Management)

Notice of order to be given

- 7.(1) When Council makes a vegetation protection order:
- (a) it must give written notice of the vegetation protection order to the owner of the land on which the vegetation is situated; and
 - (b) it may give public notice of the vegetation protection order by advertisement in a newspaper circulating in Council's local government area.
- (2) A notice under this section must:
- (a) give reasonable particulars of the terms and effect of the vegetation protection order including a statement of Council's reasons for the making of the vegetation protection order; and
 - (b) invite written submissions for or against the vegetation protection order; and
 - (c) explain that submissions must be related to the objects of this local law; and
 - (d) fix a date (which must be at least twenty-one days after the date of the notice) as the closing date for submissions.
- (3) A notice under subsection (1)(a) may be given to the owner of the land either:
- (a) personally; or
 - (b) by mail; or
 - (c) where the vegetation protection order affects more than one parcel of land, by the publication of the notice in accordance with subsection (1)(b).

How submissions are to be made

- 8.(1) A person may make a written submission to the Council for or against the vegetation protection order.
- (2) A submission must set out in detail the grounds on which the person who makes the submission supports or opposes the vegetation protection order.
- (3) The submission must:
- (a) be in writing and contain the name and address of the person making the submission; and

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- (b) be received by Council not later than close of business on the date fixed as the closing date for submissions.

Consideration of submissions

- 9. Council must consider all properly made submissions made in accordance with section 8.

Confirmation of order

- 10.(1) After considering all properly made submissions, Council may confirm the vegetation protection order.
- (2) The vegetation protection order may be confirmed with or without modification.
- (3) However a modification, other than a modification of a minor nature, may be made only if:
 - (a) the modification arises out of Council's consideration of the submissions made in response to notice of the proposed vegetation protection order; and
 - (b) the modification does not make the vegetation protection order substantially more burdensome or restrictive than if the proposed vegetation protection order had been confirmed without modification.

Commencement of vegetation protection order

- 11. A vegetation protection order comes into force when notice of the vegetation protection order is given or at a later time specified in the vegetation protection order.

Interim protection orders

- 12.(1) If a vegetation protection order comes into force before it is confirmed by Council, the vegetation protection order has effect on an interim basis.
- (2) A vegetation protection order that has effect on an interim basis (an '**interim protection order**') remains in force for four months from its commencement but comes to an end earlier if the interim protection order is wholly revoked by Council.
- (3) However, if a vegetation protection order that has operated for the maximum period of four months as an interim protection order is later confirmed by Council, the vegetation protection order revives on confirmation or a later date fixed by Council in the resolution confirming the vegetation protection order. Council may not confirm a vegetation protection order under any circumstances where more than twelve months has elapsed since the notice of the vegetation protection order was given.

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Revocation of unconfirmed order

- 13.(1) Council may revoke a vegetation protection order, including an interim protection order, if the vegetation protection order has not been confirmed.
- (2) If Council revokes a vegetation protection order under this section:
- (a) it must give written notice of the revocation to the owner of the land on which the vegetation is situated; and
 - (b) it must give public notice of the revocation by advertisement in a newspaper circulating in Council's local government area.
- (3) A notice under section 13(2) (a) may be given to the owner of the land in accordance with section 7(3).

Proposal to revoke order

- 14.(1) If Council proposes to revoke a vegetation protection order after confirmation of the vegetation protection order under section 10(1):
- (a) it must give written notice of the proposed revocation to the owner of the land on which the vegetation is situated; and
 - (b) it must give public notice of the revocation by advertisement in a newspaper circulating in Council's local government area.
- (2) A notice under this section must:
- (a) give reasonable particulars of the terms and effect of the vegetation protection order to be revoked; and
 - (b) invite written submissions for or against revocation of the vegetation protection order; and
 - (c) explain that submissions must be related to the objects of this local law; and
 - (d) fix a date (which must be at least twenty-one days after the date of the notice) as the closing date for submissions.

How submissions are made

- 15.(1) A person may make a written submission to Council for or against revocation of a vegetation protection order.

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- (2) A submission must set out in detail the grounds on which the person who makes the submission supports or opposes revocation of the vegetation protection order.
- (3) The submission must:
- (a) be in writing and contain the name and address of the person making the submission; and
 - (b) be received by Council not later than close of business on the date fixed as the closing date for submissions.

Consideration of submissions

16. Council must consider all properly made submissions made in accordance with section 15.

Revocation of vegetation protection order after its confirmation

17. After considering all properly made submissions made in accordance with section 15, Council may revoke the vegetation protection order.

Division 3 - Management Policies

Management policies for protected vegetation

18. The sub-ordinate local law may include policies for the management of protected vegetation.

Examples:

The management policies might for example cover:

- *the fencing of protected vegetation to prevent stock damage;*
- *eradication of pests that could damage protected vegetation;*
- *management of sites on which protected vegetation of particular classes is situated;*
- *in the case of rare or threatened species, management of the vegetation to facilitate regrowth, regeneration or propagation;*
- *fire management, including maintenance of fire breaks, controlled burning off and other protective measures;*

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- *protection of the vegetation from damage resulting from public use of the area in which it is situated (for example, by the construction of boardwalks and other infrastructure).*

Division 4 - Registration of orders

Vegetation protection orders to be entered in land record

19. If a vegetation protection order exists in relation to a parcel of rateable land, a note of the effect of the vegetation protection order must be made in the entry about the land in Council's land record.

Register of vegetation protection orders

- 20.(1) Council must establish a register (the '**Vegetation Protection Register**') for recording:
- (a) all vegetation protection orders (including interim protection orders) made by Council; and
 - (b) all revocations of vegetation protection orders.
- (2) For each vegetation protection order, the Vegetation Protection Register must include:
- (a) the date when the vegetation protection order was made, when it came into force, and if it is no longer in force, the date when it ended; and
 - (b) particulars of the location of the land to which the vegetation protection order relates and of the location of the protected vegetation (including if necessary a map showing where the vegetation is situated); and
 - (c) particulars of the protected vegetation to which the vegetation protection order relates; and
 - (d) Council's reasons for the making of the vegetation protection order; and
 - (e) details of any permit issued by Council under this local law in respect of the protected vegetation.
- (3) Council's policies for managing protected vegetation must be included in the Vegetation Protection Register or in a statement kept with the Vegetation Protection Register.
- (4) The Vegetation Protection Register, or a copy of the Vegetation Protection Register, must be kept available for public inspection at Council's public office.

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PART 3 - DAMAGE TO VEGETATION

Division 1 - Prohibition of damage

Prohibition of damage

21.(1) A person must not wilfully and unlawfully damage protected vegetation.

(2) A person must not unlawfully damage protected vegetation.

Maximum penalty - 850 penalty units.

(3) In proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

(4) However, an offence is not committed if the damage is permitted by or under this local law.

Permitted damage

22. Damage to protected vegetation is permitted in the following circumstances:

- (a) if the damage is reasonably necessary¹ for carrying out work authorised or required under an Act;

Examples:

- road, water supply, sewerage or drainage work for which all necessary statutory approvals have been obtained;
- work authorised by development approval;
- the eradication of pests under the Land Protection (Pest and Stock Route Management) Act 2002 may necessarily involve some damage to protected vegetation;

- (b) if the damage is:

- (i) within a distance fixed under a subordinate local law from an existing building or structure, or the site of a proposed building or structure for which all necessary development approvals have been obtained; and

¹ See definition of 'reasonably necessary' in section 3 of this local law.

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- (ii) reasonably necessary for access to the building, structure or site;
- (c) if the vegetation creates a risk to health or safety;
- (d) if an authorised person authorises the damage on the ground that the vegetation is actually or potentially dangerous;
- (e) if the damage is within a distance fixed by a subordinate local law from the boundary between land under separate ownership and internal property fences and is reasonably necessary for erecting or maintaining a dividing fence;
- (f) if the damage is within a distance fixed by a subordinate local law and is reasonably necessary for a survey by a registered surveyor;
- (g) if the damage is reasonably necessary to establish or maintain a fire break:
 - (i) to keep fire from crossing property boundaries or from damaging buildings or structures; or
 - (ii) to contain fire in some other way; or
 - (iii) for other minor purposes as fixed by a subordinate local law.
- (h) if the vegetation is taken for lawful agricultural or animal husbandry operations (where such operations meet criteria specified in a subordinate local law) conducted on the land on which the protected vegetation is situated;
- (i) if the vegetation is damaged in the course of land clearing operations (where such operations meet criteria specified in a subordinate local law) genuinely undertaken to extend or facilitate agricultural or animal husbandry operations that were being conducted on the land when the vegetation protection order was made and:
 - (i) the area of land on which the operations are carried out is more than a lower limit fixed under a subordinate local law; and
 - (ii) the land is not designated under a subordinate local law as land on which the protection of vegetation is of paramount importance;

Examples:

A subordinate local law might, for example, state that the protection of vegetation is of paramount importance if the land on which the vegetation is situated is:

- *a ridgetop;*

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- *an escarpment;*
 - *a steep slope;*
 - *land within a specified distance of a natural drainage line, a watercourse, a body of water or a foreshore;*
 - *land liable to damage from salinity;*
 - *land with unstable soil or soil that is liable to erosion.*
- (j) if the damage is reasonably necessary for carrying out the Council's statutory responsibilities;
- (k) if the damage arises in other circumstances in which damage is permitted under the local law policies;
- (l) if the damage is allowed under a permit.

Division 2 - Permits

Application for permit

- 23.(1) An application for a permit permitting damage to protected vegetation must include or be accompanied by:
- (a) particulars (including drawings) of the location of the land on which the protected vegetation is situated and of the vegetation to which the damage is proposed; and
 - (b) particulars of the type of vegetation to which the damage is proposed; and
 - (c) a statement of the reasons why the proposed damage is reasonably necessary; and
 - (d) particulars of how the vegetation is to be damaged and, if relevant, how the damaged material is to be removed or dealt with; and
 - (e) if approval for anything to be done under the permit is also required under another local law or legislation, a certified copy, or other appropriate evidence, of the approval.

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- (2) If the purpose for which a permit is sought could be achieved without the proposed damage to protected vegetation or with less damage, the application must include or be accompanied by a written explanation stating why it is not prudent and feasible, in the circumstances, to carry out the purpose in a way that avoids or reduces damage to protected vegetation.
- (3) If the applicant for the permit is not the owner of the land, the application must be accompanied by the written consent of the owner of the land to the proposed damage.

Grant of permit

- 24.(1) Council may grant a permit permitting damage to protected vegetation.
- (2) In deciding whether to grant a permit, Council must have regard to the objects of this local law and in particular:
 - (a) whether the permit would be consistent with the objects of this local law and, if not, whether there would be a fundamental conflict with the objects or merely a minor conflict; and
 - (b) the probable environmental impact of the proposed damage; and
 - (c) the reasons for the proposed damage and the purpose that would be served by permitting the damage; and
 - (d) whether there are reasonable means of achieving the same purpose without damage or with less damage to protected vegetation.
- (3) A subordinate local law may specify criteria that:
 - (a) Council may consider when making a decision regarding the grant of a permit; or
 - (b) must be complied with if a permit is to be granted.

Term of permit

- 25.(1) A permit is granted for a term specified in the permit.
- (2) Council may, on application by the holder of a permit, renew the permit for a further term.
- (3) A term for which a permit is granted or renewed:
 - (a) cannot be more than 5 years; and

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- (b) may be fixed as required by subordinate local law, or by Council when it grants a permit or renewal of permit.

Conditions of permit

26.(1) A permit may be granted on conditions Council considers appropriate.

(2) The conditions of a permit may, for example:

- (a) regulate how the work is to be carried out (including the kind of machinery that may be used to carry out the work);
- (b) regulate how damaged vegetation and other waste material is to be disposed of;
- (c) require specified action to replant vegetation on affected land or reinstate land to which the permit relates;
- (d) require the holder of the permit to lodge a specified amount with Council to secure compliance with the obligations imposed under the permit.

(3) Council may, by subordinate local law, prescribe conditions that:

- (a) must be imposed on a permit; or
- (b) may be ordinarily be imposed on a permit.

Compliance with conditions

27. The holder of a permit must comply with the conditions of the permit.

Maximum penalty - 850 penalty units.

Refusal of Permit

27A. Council may refuse an application for a permit:

- (a) if Council considers that it is appropriate to refuse the permit in order to advance the objectives of this local law; or
- (b) for any other reason prescribed by subordinate local law.

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PART 4 – STOP ORDER

Stop Order

27B.(1)An authorised person may, verbally or in writing, order a person to stop an activity (a ‘**stop order**’) if in the authorised person’s opinion the person has unlawfully damaged protected vegetation or may be about to unlawfully damage protected vegetation.

(2) A stop order may be issued to:

- (a) the owner or occupier of the land upon which the protected vegetation is located; or
- (b) any person who the authorised person has reasonable cause to believe is about to cause or assist in causing damage to the protected vegetation.

(3) A person against whom a stop order is made must comply with the stop order.

Maximum penalty – 850 penalty units

PART 5 - REMOVAL ORDER

Removal Order

28. Where in the opinion of an authorised person, vegetation is a danger to life or property, the authorised person may, by written order (a ‘**removal order**’), direct the owner or occupier of the land on which the vegetation is situated to remove the vegetation as directed in the removal order.

Notice of Removal Order

29. In giving a removal order pursuant to section 28, Council may specify a time limit by which the removal order shall be complied with.

Compliance with Removal Order

30. A person against whom a removal order is made must comply with the removal order.

Maximum Penalty - 100 Penalty Units.

Application of Removal Order

31. A removal order applies to vegetation regardless of whether or not a vegetation protection order has been made in relation to vegetation the subject of a removal order.

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PART 6 – COMPLIANCE ORDERS

Compliance order

- 32.(1) An authorised person may give written notice (a ‘**compliance order**’) to any person if a person contravenes, or is about to contravene, a provision of this local law or a condition of a permit.
- (2) A compliance order may:
- (a) require the person to whom the compliance order is given to stop the contravention; or
 - (b) require the person to whom the compliance order is given to take specified action to remedy the contravention;
- within a time specified in the compliance order.
- (3) A person to whom a compliance order is given must comply with the compliance order.

Maximum penalty - 850 penalty units.

- (4) Council may withdraw a compliance order.

Reinstatement order

- 33.(1) An authorised person may give written notice (a ‘**reinstatement order**’) to any person who the authorised person suspects on reasonable grounds is responsible for unlawful damage to protected vegetation in contravention of this local law.
- (2) A reinstatement order may require that the person to whom the reinstatement order is given, either:
- (a) take specified action to restore the vegetation or re-establish the vegetation, or
 - (b) compensate the community for the value of the vegetation as if the value of the vegetation was a debt.
- (3) A reinstatement order may also require the person to whom the reinstatement order is given to make good any environmental damage directly or indirectly resulting from the interference with the vegetation.

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- (4) If a reinstatement order requires the planting of vegetation:
- (a) the reinstatement order must specify the type of vegetation and where it is to be planted and the period within which it is to be planted; and
 - (b) the reinstatement order may require the person to undertake:
 - (i) specified action over a period stated in the notice to nurture the vegetation; and
 - (ii) if the vegetation fails to germinate or thrive, further action as directed by an authorised person; and
 - (iii) other measures including but not limited to erosion and sediment control.
- (5) A person must comply with a reinstatement order unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (5) – 850 penalty units.

PART 7 – INVESTIGATION AND ENFORCEMENT

Inspection

34. An authorised person may inspect any land to which this local law applies, to determine whether the owner of the land or any permit holder has complied or is complying with:
- (a) the conditions of a permit; or
 - (b) a compliance order;
 - (c) a reinstatement order ; or
 - (d) a removal order; or
 - (e) a stop order; or
 - (f) the requirements of this local law and any relevant subordinate local law.

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Suspension or cancellation of permit

35. (1) Council may suspend or cancel a permit if –

- (a) the permit holder has failed to comply with the conditions of a compliance order or reinstatement order; or
 - (b) the permit was issued because of a materially false or misleading representation or declaration (made orally or in writing) by or on behalf of the applicant or in support of the application; or
 - (c) rare, vulnerable or endangered vegetation or wildlife is discovered within an area to which a permit applies; or
 - (d) the carrying out of the work associated with the damage to vegetation is causing serious or material environmental harm.
- (2) A subordinate local law may specify other grounds on which Council may suspend or cancel a permit.
- (3) Council may suspend a permit for a period of up to 2 months by giving the permit holder written notice, in which case the permit is suspended from the time the notice is received by the permit holder.
- (4) Where Council intends to extend the period of a permit suspension, or cancel a permit following a period of suspension, Council must:
- (a) give the permit holder written notice of the proposed suspension or cancellation and invite the permit holder to make written representations about the proposed change within 1 month of the date of the written notice; and
 - (b) take the written representation of the permit holder into account; and
 - (c) give the permit holder written notice of the decision regarding the suspension or cancellation of the permit within 1 month of receipt of written representations by the permit holder.
- (5) If the permit holder is not notified as required by subsection (4)(c), the proposed suspension or cancellation will lapse.

Executive officer liability

36. (1) The executive officers of a corporation or company must ensure that the corporation complies with the local law.

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- (2) If a corporation commits an offence against a provision of this local law, each of the executive officers of the corporation also commits an offence, namely, the offence of failing to ensure that the corporation complies with this local law.

Maximum penalty for subsection (2) - the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with this local law.

- (4) However, it is a defence for an executive officer to prove that:

- (a) they were not in a position to influence the conduct of the corporation in relation to the offence; and
- (b) the executive officer took all reasonable steps to ensure that the corporation complied with this local law.

Liability of third parties

- 37.(1) Any person who authorises, undertakes and benefits from a contravention of this local law commits an offence.

Maximum penalty for subsection (1) - the penalty for the contravention of the provision by an individual.

- (2) A person is involved in a contravention of this local law if they:
- (a) aid, abet, counsel or procure the contravention; or
 - (b) induce, whether by treats or promises or otherwise, the contravention; or
 - (c) are in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) conspire with others to effect the contravention; or
 - (e) knowingly benefit from or knowingly were capable of benefiting from the contravention.

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Attempts to commit offences

- 38.(1) A person who attempts to commit an offence under this local law commits an offence.

Maximum penalty for subsection (1) - the maximum penalty for committing the offence.

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

Responsibility for unlawful damage of protected vegetation

- 39.(1) The unlawful damage of protected vegetation on land in contravention of a provision of this local law is taken to have been done by an occupier of the land in the absence of evidence to the contrary.

- (2) In this section:

'occupier', of land, includes:

- (a) for freehold land other than a freeholding lease - the owner of the land; or
- (b) for a freeholding lease - the holder of the lease.

PART 8 - REVIEW

Reviewable decisions

40. A decision of Council or an authorised person under this local law is reviewable (a 'reviewable decision') unless it is:

- (a) a decision made by resolution of Council; or
- (b) a decision made on an earlier application for review.

Application for review

- 41.(1) A person who is aggrieved by a reviewable decision may apply to Council for a review of the decision.

- (2) An application for review of a reviewable decision must:

- (a) be in writing; and
- (b) state the reasons why the applicant considers the decision should be reviewed; and

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- (c) be lodged at the office of Council within 21 days after the date on which notice of the decision was given to the applicant or within a further period allowed by Council (before or after the end of that period).

Carrying out a review

42.(1) Council must either -

- (a) carry out a review at a meeting of Council; or
 - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

Decision on review

- 43.(1)** On completing a review, Council may confirm, vary or reverse the decision under review.
- (2) Council must give the applicant written notice of the result of the review within 40 days of a decision made under subsection (1).
- (3) Council has the power to extend the time period specified in subsection (2) in special circumstances, provided that it gives the applicant a written notice outlining the reason for the extension and the revised time frame before the relevant time period expires.

PART 9 - MISCELLANEOUS

Defence of reasonable excuse

- 44.** If a person is charged with an offence involving a contravention of a provision of this local law, it is a defence to prove that the person had a reasonable and lawful excuse for the contravention.

Subordinate local laws

- 45.** Council may make subordinate local laws about any matters about which this local law specifically provides for the making of subordinate local laws.

REGISTER OF SUBORDINATE LOCAL LAWS
LOCAL GOVERNMENT ACT 1993 - SECTION 895

(This Register must contain the particulars prescribed by Section 34(1) of the Local Government Regulation 1994)

1. **LAW NAME:** Local Law Policy No. 49A - Permitted Damage
2. **PURPOSE AND GENERAL EFFECT:** The objects of this local law policy are to provide detailed information called upon by Local Law No.49 (Vegetation Management) to:
 - (a) Specify the level and type of permitted damage to protected vegetation;
 - (b) Outline the criteria and conditions placed on permits to allow damage to protected vegetation;
 - (c) All cleared vegetation is to be suitably processed or removed from the site by a method approved by Council.
3. **LAW NAME ALLOWING THE MAKING:** Local Law No. 49 - Vegetation Management
4. **DATE OF COUNCIL RESOLUTION:** 10 December 1997
5. **PUBLIC NOTICE PUBLISHED IN THE QUEENSLAND TIMES:** 19 December 1997
6. **DATE OF COMMENCEMENT OF LOCAL LAW POLICY:** 19 December 1997

IPSWICH CITY COUNCIL
LOCAL LAW POLICY NO. 49A - PERMITTED DAMAGE

Citation

1. This local law policy may be cited as Local Law Policy No. 49A (Permitted Damage)

Objects

2. The objects of this local law policy are to provide detailed information called upon by Local Law No.49 (Vegetation Management) to:
 - (a) Specify the level and type of permitted damage to protected vegetation;
 - (b) Outline the criteria and conditions placed on permits to allow damage to protected vegetation.
 - (c) All cleared vegetation is to be suitably processed or removed from the site by a method approved by Council.
3. For the purposes of Section 22 of the Local Law damage to protected vegetation is permitted if the damage is:-
 - a) - within 3m of a lawfully constructed building on an allotment of less than 2000 sq m;
 - b) - within 6m of a lawfully constructed building on an allotment more than 2000sq m, but less than one hectare;

- c) - within 15m of a lawfully constructed building on an allotment greater than one hectare;
- d) - within 3m of a boundary line, including internal property boundary lines, for the construction or maintenance of a boundary fence;
- e) - within 3 metres of a boundary line for the purpose of erecting or maintaining a dividing fence between land under separate ownership;
- f) - within 2 m of a boundary line for the purpose of surveying by a registered surveyor;
- g) - within 3 metres on any one side of an internal fence;
- h) - identified in a fire management plan that is endorsed by the Rural Fire Brigade.

Measured on a horizontal plan of the outer limits vertically extended of that building to the extent that building is level of adjoining ground.

4. For the purposes of section 22(h) of the Local Law, damage to protected vegetation is permitted where lawful agricultural or animal husbandry operations meet the following criteria:
 - the property is recognised as meeting the category of farming under Part 2, Section 17 (2) of the Valuation of Lands Act 1994;
- 5.(1) For the purposes of section 22(i) of the Local Law, damage to protected vegetation is permitted in the course of land clearing operations where the following criteria is met:
 - the property is recognised as meeting the category of farming under Part 2, Section 17 (2) of the Valuation of Lands Act 1994;
 - the area of land on which the operations are carried out is more than 4 hectares;
6. For the purposes of section 22(k) of the Local Law, damage is permitted for the removal of weeds as listed on the Ipswich City Council's Environmental Weeds List and declared plants under the *Rural Lands Protection Act 1985* for the purpose of maintaining the condition and integrity of protected vegetation.
7. For the purpose of section 24(3) of the Local Law a permit will be granted, provide it complies with the following criteria:
 - inspection undertaken by authorised officers
8. For the purposes of section 25(3) of the Local Law a permit may be granted for a fixed period of 12 months.
- 9.(1) For the purpose of section 26(3) of the Local Law the conditions that must be imposed on a permit are as follows:
 - specify the extent of approved damage, in relation to both species and area;
 - silt management conditions
 - disposal of vegetation

REGISTER OF SUBORDINATE LOCAL LAWS
LOCAL GOVERNMENT ACT 1993 - SECTION 895

(This Register must contain the particulars prescribed by Section 34(1) of the Local Government Regulation 1994)

1. **LAW NAME:** Local Law Policy No. 49B - Management Policies
2. **PURPOSE AND GENERAL EFFECT:** The objects of this local law policy are to provide detailed information called upon by Local Law No. 49 (Vegetation Management) on:
 - (a) The following management issues need to be addressed for protected vegetation:
 - Pest Plants
 - Feral Species Management
 - Fire Management
 - Landholder assistance
 - Good Neighbour
 - Rare, Threatened & Vulnerable Species &/or Communities
 - Cultural/archaeological/historical
 - Riparian Zone Management
 - Remnant Vegetation Management
 - Offsite damage
3. **LAW NAME ALLOWING THE MAKING:** Local Law No. 49 - Vegetation Management
4. **DATE OF COUNCIL RESOLUTION:** 10 December 1997
5. **PUBLIC NOTICE PUBLISHED IN THE QUEENSLAND TIMES:** 19 December 1997
6. **DATE OF COMMENCEMENT OF LOCAL LAW POLICY:** 19 December 1997

IPSWICH CITY COUNCIL
LOCAL LAW POLICY NO. 49B - MANAGEMENT POLICIES

Citation

1. This local law policy may be cited as Local Law Policy No. 49B (Management Policies)

Objects

2. The objects of this local law policy are to provide detailed information called upon by Local Law No. 49 (Vegetation Management) on:
 - (a) The following management issues need to be addressed for protected vegetation:
 - Pest Plants
 - Feral Species Management
 - Fire Management
 - Landholder assistance
 - Good Neighbour
 - Rare, Threatened & Vulnerable Species &/or Communities
 - Cultural/archaeological/historical
 - Riparian Zone Management

- Remnant Vegetation Management
 - Offsite damage
3. Council may require a management plan to be prepared for the management of the protected vegetation.
- (a) The production of a management plan must address the the issues listed in 2a and be to the satisfaction and obtain the approval of Council.
 - (b) Council may jointly prepare a management plan with the property owner.
 - (c) Regarding properties recognised under Section 22, Council should enter into a cost sharing program for any management inputs required as a result of any prepared vegetation management plan for any costs in excess of those costs ordinarily incurred as part of accepted land management practices. Council may provide these management inputs as technical support, material provisions, direct grants or other relevant mechanisms.

Ipswich

City Council

Draft

Local Law (Amending) Local Law No. 49 (Vegetation
Management) 2019

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

Part 1 Preliminary

1 Short title

This local law may be cited as Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019.

2 Commencement

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

3 Local laws amended

This local law amends Local Law No. 49 (Vegetation Management) 1997.

Part 2 Amendment of Local Law No. 49 (Vegetation Management) 1997

4 Amendment of s 1 (Citation)

Section 1, 'Vegetation Management' –

omit, insert –

Protection of Important Vegetation

5 Amendment of s 2 (Objects)

(1) Section 2(1)(a), 'significant' –

omit, insert –

important

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

- (2) Section 2(3), 'significant' –

omit, insert –

considered important vegetation

- (3) Section 2(3), subsection (b), 'of a rare of' –

omit, insert –

of a

- (3) Section 2(3), subsection (b), 'a rare or threatened' –

omit, insert –

a threatened

- (4) Section 2(3), subsection (g), 'a significant' –

omit, insert –

an important

- (5) Section 2(3), subsection (h), 'a significant' –

omit, insert –

a key

- (6) Section 2(3), subsection (i) –

omit.

- (7) Section 2(3), subsection (l) –

omit, insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

- (l) planted for the purpose of meeting obligations under offsets or related environmental management schemes or legislation.

6 Amendment of s 3 (Definitions)

- (1) Section 3, definition development, 'Integrated Planning Act 1997' –

omit, insert –

Planning Act 2016

- (2) Section 3, definition development approval, 'Integrated Planning Act 1997' –

omit, insert –

Planning Act 2016

- (3) Section 3, after definition development approval –

insert –

'interim protection order' means:

- (a) an order made under section 12(1) of this local law; or
- (b) a vegetation protection order that is yet to be confirmed by Council.

'properly made submission' means a submission that:

- (a) is in writing and signed by the person making it; and
- (b) is addressed to, and lodged with, Council; and
- (c) states —
 - (i) the name and address of the person making it; and

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

- (ii) the grounds of the submission (which must be related to the object of this local law); and
 - (iii) the facts and circumstances relied on in support of those grounds.
- (4) Section 3, definition protected vegetation, after 'means' –

omit, insert –

vegetation the subject of a vegetation protection order or interim protection order made under this local law.
- (5) Section 3, definition vegetation, 'Land protection (Pest and Stock Route Management) Act 2002' –

omit, insert –

Stock Route Management Act 2002

7 Amendment of s 5 (Grounds on which vegetation protection order may be made)

- (1) Section 5, 'Examples', 2nd dot point, 'of a rare or' –

omit, insert –

of a
- (2) Section 5, 'Examples', 2nd dot point, 'become, a rare or' –

omit, insert –

become, a

8 Amendment of s 6 (Vegetation to which order may relate)

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

Section 6(1), 'related' –

omit, insert –

relates

9 Amendment of s 7 (Notice of order to be given)

Section 7(1), subsection (b), after 'by' –

omit, insert –

:

- (a) publishing a notice in a newspaper circulating in the Council's local government area; or
- (b) publishing a notice on the Council's website.

10 Insertion of new s 7A

After section 7 –

insert –

7A Request for vegetation protection order

- (1) A person may request Council to make a vegetation protection order in respect of vegetation particularised in the request.
- (2) Any request must be in writing and demonstrate how protection of the subject vegetation would meet the objects of this local law.

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

- (3) The person making the request must, if the person is not the owner of the land upon which the vegetation is situated, state in the request:
- (a) whether the owner has been consulted about the request and the extent of the consultation; and
- (b) the outcome of any consultation, including whether the owner agrees to the making of the request or opposes it.
- (4) Council may consult with the owner of any land upon which vegetation is situated following a request under this section to seek the views of the owner about the request prior to making a vegetation protection order.

11 Amendment of s 8 (How submissions are to be made)

- (1) Section 8, subsections (2) to (3) –
omit.

12 Amendment of s 9 (Consideration of submissions)

- Section 9, 'made in accordance with section 8' –
omit.

13 Amendment of s 10 (Confirmation of order)

- (1) Section 10, heading, after 'Confirmation' –
insert –
or revocation

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

(2) Section 10(1), after 'may' –

omit, insert –

:

(a) confirm the vegetation protection order, with or without modification; or

(b) revoke the vegetation protection order, in whole or in part.

(3) Section 10(2) –

omit.

14 Insertion of new s 10A

After section 10 –

insert –

10A Notice of confirmation of order

As soon as practicable after Council confirms a vegetation protection order under section 10 of this local law, it must give notice of the confirmation to the owner of the land upon which the vegetation is situated.

15 Insertion of new s 11A

After section 10A –

insert –

11A Term of vegetation protection order

11
Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

A vegetation protection order remains in effect until it is revoked or
expires by a date that is specified in the vegetation protection order.

16 Amendment of s 12 (Interim protection orders)

(1) Section 12 –

omit, insert –

- (1) Council may make an order (**interim protection order**) to protect important vegetation on an interim basis if it considers that urgent action is needed to protect the vegetation.
- (2) Before making an interim protection order, Council must have regard to the objects of this local law.
- (2) Instead of complying with section 7 of this local law, Council must, as soon as possible, give written notice of the interim protection order to the owner of the land upon which the vegetation is situated.
- (3) An interim protection order has effect for 4 months from the day it is made by Council or a shorter period stated in the order unless:
 - (i) earlier revoked by Council; or
 - (iii) confirmed by Council as a vegetation protection order under section 10 of this local law in which case the vegetation protection order replaces the interim protection order.

17 Omission of s 13 (Revocation of unconfirmed order)

Section 13 –

omit.

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

18 Amendment of s 14 (Proposal to revoke order)

- (1) Section 14, heading –

omit, insert –

Revocation of order after confirmation

- (2) Before subsection (1) –

insert –

- (1) Council may revoke a confirmed vegetation protection order or interim protection order, in whole or in part.

- (3) Section 14(1), 'proposes' –

omit, insert –

intends

- (4) Section 14(1), after '10(1)' –

insert –

, it must first:

- (5) Section 14(1), subsection (a), 'it must' –

omit.

- (6) Section 14(1), subsection (b), 'it must' –

omit.

- (7) Section 14(1), subsection (b), before 'revocation' –

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

insert –

proposed

19 Amendment of s 15 (How submissions are made)

Section 15, subsection (2) to (3) –

omit.

20 Amendment of s 16 (Consideration of submissions)

Section 16, 'made in accordance with section 15' –

omit.

21 Replacement of s 17 (Revocation of vegetation protection order after its confirmation)

Section 17 –

omit, insert –

17 Notice of revocation of order

As soon as practicable after Council revokes a vegetation protection order or interim protection order, it must give notice of the revocation to the owner of the land on which the vegetation is situated.

22 Replacement of s 18 (Management policies for protected vegetation)

Section 18, 'The sub-ordinate local law may include policies for the management of protected vegetation' –

omit, insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

Council may make and implement policies for the management of protected vegetation.

23 Insertion of new Div 3A

After section 18 –

insert –

Division 3A – Vegetation management plans

18A Vegetation management plans

- (1) Council may require a landowner to enter into and comply with a vegetation management plan for the management of the protected vegetation.
- (2) A vegetation management plan must address the following issues:
 - (a) Pest Plants;
 - (b) Feral Species Management;
 - (c) Fire Management;
 - (d) Landholder assistance;
 - (e) Good Neighbour Relations;
 - (f) Threatened & Vulnerable Species &/or Communities;
 - (g) Cultural/archaeological/historical;
 - (h) Riparian Zone Management;

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

- (i) Remnant Vegetation Management; and
- (j) Offsite damage.
- (2) A vegetation management plan may be prepared jointly by the landowner and Council.
- (3) Council may enter into a cost-sharing program for any management inputs required as a result of any prepared vegetation management plan for any costs in excess of those costs ordinarily incurred as part of accepted land management practices.
- (4) Council may provide these management inputs as technical support, material provisions, direct grants or other relevant mechanisms.

24 Amendment of s 19 (Vegetation protection orders to be entered in land record)

- (1) Section 19, after 'If a vegetation protection order' –

insert –

or interim protection order
- (2) Section 19, 'effect of the vegetation protection order' –

omit, insert –

effect of the order

25 Amendment of s 21 (Prohibition of damage)

- (1) Section 21(1), after 'vegetation.' –

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

insert –

Maximum penalty – 850 penalty units.

- (2) Section 21(2), '850 penalty units' –

omit, insert –

500 penalty units

- (3) Section 21(3), after 'In' –

insert –

a

26 Amendment of s 22 (Permitted damage)

Section 22(k) –

omit, insert –

- (k) if the damage is otherwise permitted under a subordinate local law.

27 Amendment of s 23 (Application for permit)

- (1) Section 23, before subsection (1) –

insert –

- (1) A person may apply to Council for a permit to permit damage to protected vegetation.

- (2) Section 23(1)(a), from 'and' to 'proposed' –

omit.

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

- (3) Section 23(1) –
- renumber as subsection (2)
- (4) Section 23(1), after subsection (d) –
- insert –
- (e) if the vegetation proposed to be damaged is subject to a vegetation protection order or interim protection order, particulars of the order; and
- (5) Section 23(1), subsection (e), ‘.’ –
- omit, insert –
- ; and
- (6) Section 23(1), subsection (e) –
- renumber as subsection (f)
- (7) Section 23(1), after subsection (e) –
- insert –
- (g) any prescribed fee.
- (8) Section 23(3), ‘the proposed damage’ –
- omit, insert –
- on which the protected vegetation proposed to be damaged is located

28 Amendment of s 24 (Grant of permit)

- (1) Section 24, heading –

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

omit, insert –

Deciding application for permit

(2) Section 24(1) –

omit, insert –

(1) Council may:

- (a) approve the application;
- (b) approve the application subject to conditions; or
- (c) refuse the application.

(3) Section 24, after subsection (3) –

insert –

(4) Council must give notice of its decision under section (1) to the applicant.

(5) The notice must state:

- (a) whether the application was approved or refused;
- (b) if conditions are imposed – the conditions;
- (c) if the application was refused – the reasons for refusal; and
- (d) the date the decision was made.

29 Amendment of s 26 (Conditions of permit)

Section 26(2)(d), 'after amount' –

insert –

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

by way of security of monies, or bank guarantee acceptable to Council,

30 Omissions of s 27A (Refusal of permit)

Section 27A –

omit.

31 Amendment of s 28 (Removal order)

(1) Section 28, before 'Where' –

insert –

(1)

(2) Section 28, after 'removal order.' –

insert –

(2) A removal Order may be made in relation to vegetation irrespective of whether or not the vegetation is also subject to a vegetation protection order or interim protection order.

32 Replacement of s 29, hdg (Notice of removal order)

Section 29, heading –

omit, insert –

Time for Compliance with Removal Order

33 Omissions of s 31 (Application or removal order)

Section 31 –

omit.

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

34 Amendment of s 32 (Compliance order)

Section 32(1), 'a person contravenes' –

insert –

the authorised person suspects, on reasonable grounds, the person has
contravened,

35 Amendment of s 33 (Reinstatement order)

(1) Section 33(2), 'that' –

omit.

(2) Section 33(2), ', either' –

omit, insert –

to

36 Amendment of s 35 (Suspension or cancellation of permit)

Section 35(1)(c), 'rare,' –

omit.

37 Omission of s 39 (Responsibility for unlawful damage of protected vegetation)

Section 39 –

omit.

38 Omission of s 45 (Subordinate local laws)

Section 45 –

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

omit.

39 Insertion of new pt 10

After section 44 –

insert –

Part 10 – Subordinate Local Laws

45 Subordinate local laws

The local government may make a subordinate local law with respect to –

- (a) the distance from an existing building or structure, or the site of a proposed building or structure for which all necessary development approvals have been obtained, that damage to protected vegetation is permitted;
- (b) the distance from a boundary between land under separate ownership and internal property fences, that damage to protected vegetation is permitted;
- (c) the distance reasonably necessary for a survey by a registered surveyor, that damage to protected vegetation is permitted;
- (d) the minor purposes for which damage to protected vegetation is permitted to establish or maintain a firebreak;
- (e) criteria for the operation of lawful agricultural or animal husbandry activities for which damage to protected vegetation is permitted;

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Ipswich City Council
Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

- (f) criteria for the operations of land clearing activities for which damage to protected vegetation is permitted;
- (g) the area of land on which land clearing operations are carried out for which damage to protected vegetation is permitted;
- (h) land on which the protection of vegetation is of paramount importance;
- (i) other circumstances in which damage to protected vegetation is permitted;
- (j) criteria Council may consider when deciding to grant a permit;
- (k) criteria that must be complied with if a permit is granted;
- (l) the term of a permit;
- (m) the conditions that must be imposed on a permit, and that may ordinarily be imposed on a permit; or
- (n) grounds on which Council may suspend or cancel a permit.

Ipswich

City Council

Subordinate Local Law No. 49.1 (Protection of
Important Vegetation) 2019

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019.

2 Commencement

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

3 Authorising local law

This subordinate local law is made pursuant to Local Law No. 49 (Protection of Important Vegetation) 1997.

4 Object

The object of this subordinate local law is to assist in the implementation of Local Law No. 49 (Protection of Important Vegetation) 1997 by specifying those matters necessary for the protection of important vegetation in the local government area.

5 Definitions – Dictionary

The dictionary in the authorising local law also defines words used in this local law.

6 Local laws repealed

This local law repeals:

- (1) Local Law Policy No. 49A (Permitted Damage) 1997; and
- (2) Local Law Policy No. 49B (Management Policies) 1997.

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

Part 2 Permitted Damage

7 Permitted Damage

For the purpose of section 22 of the authorising local law, Schedule 1 specifies the circumstances in which damage to protected vegetation is permitted.

Part 3 Permits

8 Deciding an application for a permit

For the purpose of section 24(3)(a) of the authorising local law, Council may consider the following additional criteria deciding an application for a permit under the authorising local law – none specified.

9 Criteria for grant of permit

For the purpose of section 24(3)(b) of the authorising local law, before Council decides to issue a permit under the authorising local law, an authorised person must first undertake an inspection of the land and the vegetation the subject of the application.

10 Term of a permit

For the purpose of section 25(3)(b) of the authorising local law, a permit may be granted for a fixed period of 1 year.

11 Conditions of a permit

For the purpose of section 26(3)(a) of the authorising local law, the conditions set out in Schedule 2 will ordinarily be imposed on any permit issued by Council.

Part 3 Transitions, Savings and Repeals

12 Repeals

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

The following subordinate local laws are repealed –

- (1) Local Law Policy No. 49A (Permitted Damage) 1997; and
- (2) Local Law Policy No. 49B (Management Policies) 1997.

Draft

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

Schedule 1 Permitted Damage

Section of authorising local law	Circumstances where damage of protected vegetation is permitted
s 22(b)(i)	<p>(a) within 3m of a lawfully constructed building on an allotment of less than 2000m²;</p> <p>(b) within 6m of a lawfully constructed building on an allotment more than 2000m², but less than one hectare; or</p> <p>(c) within 15m of a lawfully constructed building on an allotment greater than one hectare</p>
s 22(e)	<p>(a) Within 3m of a boundary line, including internal property boundary lines, for the construction or maintenance of a boundary fence; or</p> <p>(b) Within 3 metres of a boundary line for the purpose of erecting or maintaining a dividing fence between land under separate ownership.</p>
s 22(f)	Within 2 m of a boundary line for the purpose of surveying by a registered surveyor.
s 22(g)(iii)	<p>(a) within 3 metres on any one side of an internal fence; or</p> <p>(b) identified in a fire management plan that is endorsed by the Rural Fire Brigade.</p>
s 22(h)	The property is recognised as meeting the category of farming under Chapter 2, Subdivision 2 of the Land Valuation Act 2010.

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

s 22(i)	<p>(a) the property is recognised as meeting the category of farming under Chapter 2, Subdivision 2 of the Land Valuation Act 2010; and</p> <p>(b) the area of land on which the operations are carried out is more than 4 hectares.</p>
s 22(k)	<p>For the removal of weeds as listed on the Ipswich City Council's Weeds List and biosecurity matter or designated biosecurity matter under the Biosecurity Act 2014 for the purpose of maintaining the condition and integrity of protected vegetation.</p>

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Ipswich City Council
Subordinate Local Law No. 49.1 (Protection of Important Vegetation) 2019

Schedule 2 Standard Conditions

- (1) The holder of the approval must dispose of the vegetation at an approved Council waste transfer facility.
- (2) The holder of the approval must ensure that appropriate measures are in place to comply with applicable laws and standards relevant to erosion and sediment control.
- (3) The holder of the approval must comply with any approved plan relating to the vegetation which is permitted to be damaged.

Doc ID No: A5610995

ITEM: 11
SUBJECT: MONTHLY PERFORMANCE REPORT - MAY 2019
AUTHOR: FINANCE MANAGER
DATE: 20 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning Council performance for the period ending 31 May 2019, submitted in accordance with Section 204 of the *Local Government Regulation 2012*.

RECOMMENDATION/S

That the report be received and the contents noted.

RELATED PARTIES

There are no related party matters associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Strengthening our local economy and building prosperity

PURPOSE OF REPORT/BACKGROUND

The attached report shows the financial results for whole of council and the Departments for YTD May. Commentary and analysis of the results is included in the report.

FINANCIAL/RESOURCE IMPLICATIONS

There are no specific financial implications as a result of this report.

RISK MANAGEMENT IMPLICATIONS

The implications of the financial results YTD will be monitored by management and any changes or risks to Council's forecast position will be considered as part of Council's budget amendments.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions: *Local Government Regulation 2012*.



COMMUNITY AND OTHER CONSULTATION

The contents of this report did not require any community consultation.

CONCLUSION

The monthly performance report for May 2019 is included at Attachment 1.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Monthly Performance Report for May  
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Jeffrey Keech

FINANCE MANAGER

I concur with the recommendations contained in this report.

Andrew Knight

GENERAL MANAGER - CORPORATE SERVICES

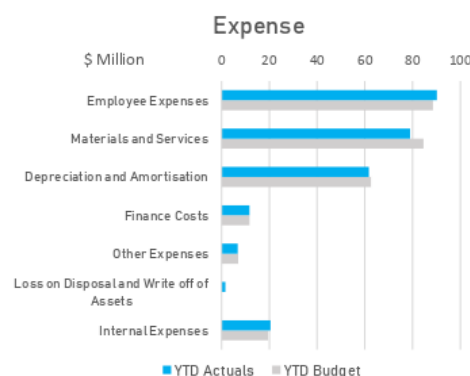
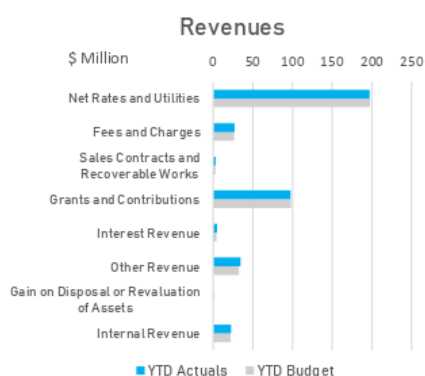
“Together, we proudly enhance the quality of life for our community”

FINANCIAL EXECUTIVE SUMMARY

May 2019

	Annual		YTD				Trend from APR 2019
	Original Budget \$'000s	Current Budget \$'000s	Current Budget \$'000s	Actuals \$'000s	Variance \$'000s	Variance %	
Operating Revenue	300,561	314,596	291,649	296,304	4,655	1.6%	▲
Operating Expense	296,957	299,693	273,619	271,185	2,434	0.9%	▼
Operating Surplus/(Deficit)	3,604	14,903	18,030	25,119	7,089	39.3%	▼
Capital Revenue	99,461	100,176	91,653	90,656	(997)	(1.1%)	▲
Net Result	103,065	115,079	109,683	115,775	6,092	5.6%	▲

Construction Program and Asset Purchase	174,730	129,549	100,543	88,347	12,196	12.1%	▲
Donated Assets	67,122	67,122	59,227	59,312	(85)	(0.1%)	▼
Total Capital Expenditure	241,852	196,671	159,770	147,659	12,111	7.6%	▲

**Net Result**

The total Net Result (including capital revenues) for Ipswich City Council as at 31 May 2019 is \$115.8m compared to a YTD budget of \$109.7m. Council's operating surplus (excluding capital revenue) is approx. \$25.1m compared to a YTD budget of \$18m. Council's full year budget surplus is \$14.9m.

Capital Expenditure

Capital expenditure as at 31 May is considerably below year to date budget. Approximately \$88.3m has been expended to 31 May compared to a YTD budget of \$100.5m. The full year capital expenditure budget is \$129.5m including \$21.5m towards the CBD redevelopment.

- The Infrastructure Program is approx. \$7.4m behind YTD forecast. Actual costs to date are \$72.1m compared to a YTD budget of \$79.4m. Underspend of \$6.681m expected for 2018-2019 across various programs. Of this, \$4.873m has been proposed for carryover.
- CBD currently under budget \$3.8m with full year budgeted spend of \$21.5m unlikely to be achieved.

Operating revenue is \$4.7m above YTD Budget as a result of:

- Fees and charges are \$553,000 above budget YTD. Council has in prior months received 3 large development applications received due to Koala Policy changes. In discussion with P&D there is a possibility that these applications were withdrawn then Council would be required to issue refunds of the fees received.
- Interest revenue is \$821,000 above budget due to higher than forecast cash balances arising from lower than expected capital expenditure.
- Other cash revenue is above budget primarily as Council continues to receive higher than forecast dividend payments from Queensland Urban Utilities.

Operating expenses is \$2.4m below YTD Budget as a result of:

- Employee expenses including contingency workers is over budget and is being investigated further. Due to Council's new payroll system there is a slightly different LSL liability calculation which has resulted in an additional expense of approx. \$400k in the year.
- Materials and services are below budget primarily due to timing differences and are expected to align closer to budget by year end.
- Depreciation expenditure is \$914,000 below YTD forecast budget and variance is expected to reduce by year end as outstanding WIP is capitalised.

FINANCIAL EXECUTIVE SUMMARY

May 2019

	Annual		YTD				Trend from APR 2019	Note	Variance \$'000s by Department					
	Original Budget \$'000s	Current Budget \$'000s	Current Budget \$'000s	Actuals \$'000s	Variance \$'000s	Variance %			CP	CS	CE	IE	IWS	PR
Revenue														
Net rates and utilities charges	201,642	201,642	197,641	197,228	<div></div> (413)	(0.2%)	<div></div>	1	<div></div> 25	<div></div> (321)	N/A	<div></div> 194	<div></div> (176)	<div></div> (135)
Fees and charges	29,751	29,750	26,340	26,893	<div></div> 553	2.1%	<div></div>	2	N/A	<div></div> (162)	<div></div> (47)	<div></div> (59)	<div></div> 576	<div></div> 245
Gov't grants and subsidies	14,571	15,352	10,709	11,622	<div></div> 913	8.5%	<div></div>		N/A	<div></div> 30	<div></div> 214	<div></div> 574	N/A	<div></div> 95
Internal revenue	23,504	23,504	21,896	22,486	<div></div> 590	2.7%	<div></div>	3	N/A	<div></div> (49)	<div></div> 134	<div></div> (201)	<div></div> 706	<div></div> 0
Other revenue	130,554	144,525	126,716	128,731	<div></div> 2,015	1.6%	<div></div>	4	<div></div> 1,655	<div></div> 736	<div></div> (1,845)	<div></div> 1,176	<div></div> 178	<div></div> 114
Total Revenue	400,022	414,773	383,302	386,960	3,658	1.0%	<div></div>		1,680	234	(1,544)	1,684	1,284	319
Expense														
Employee expenses	94,465	94,298	86,939	84,974	<div></div> 1,965	2.3%	<div></div>	5	<div></div> (191)	<div></div> 1,147	<div></div> 803	<div></div> (175)	<div></div> 321	<div></div> 61
Labour contracts	1,615	1,653	1,552	5,142	<div></div> (3,590)	(231.3%)	<div></div>	6	<div></div> (203)	<div></div> (757)	<div></div> (395)	<div></div> (1,218)	<div></div> (633)	<div></div> (383)
Materials and services	88,707	93,873	84,511	78,956	<div></div> 5,555	6.6%	<div></div>	7	<div></div> 197	<div></div> 778	<div></div> 1,056	<div></div> 3,754	<div></div> (334)	<div></div> 106
Internal expense	21,194	21,194	19,768	20,676	<div></div> (908)	(4.6%)	<div></div>	8	<div></div> 158	<div></div> 5	<div></div> (87)	<div></div> (349)	<div></div> (610)	<div></div> (25)
Other expenses	90,975	88,675	80,849	81,437	<div></div> (588)	(0.7%)	<div></div>	9	<div></div> (9)	<div></div> (452)	<div></div> 103	<div></div> 24	<div></div> (53)	<div></div> (204)
Total Expenses	296,956	299,693	273,619	271,185	2,434	0.9%	<div></div>		(48)	721	1,480	2,036	(1,309)	(445)
Net Result	103,066	115,080	109,683	115,775	6,092	5.6%	<div></div>		1,632	955	(64)	3,720	(25)	(126)

**Revenue**

- Under budget due to lower than expected recovery of clearing overgrown allotments and is expected to be underspent by year end.
- CS change of ownership fees under budget resulting in from lower than expected property sales. Under budget in IE due to lower utilisation of metered parking resulting in lower than expected parking revenue. Utilisation is expected to remain 6% less than budgeted for the remaining year. IWS has continued to trend above budgeted levels with demand for most services being higher than anticipated.
- Over budget in IWS, offset by under budget in internal fleet recover primarily due to reduction in Council vehicles and the additional waste rear loader (budgeted to be utilised for the full year but not in service). Other minor variances in internal revenue are due to assets being sold but not required to be replaced.
- CE primarily under budget due to capital cash contributions. This has been more than offset in CP (dividends \$1.7m more than expected), IE (across various accounts) and CS (interest revenue \$647k due to higher cash balances held).

Expenses

- Over budget in CS primarily relates to one-off contract costs.
- Over budget across all Departments due to vacant positions budgeted as employees being filled by labour contracts and unbudgeted labour contracts. This is partially offset by overall employee expenses being under budget YTD.
- Materials and services under budget primarily in IE due to unbudgeted operational costs incurred on capital projects, higher than budgeted fuel prices and higher than expected reactive maintenance.
- Internal expenses over budget in Infrastructure and Environment due to under utilisation of plant and equipment and expensing of capital projects. Over budget in Community, Cultural and Economic Development and IWS which is offset by increased internal revenue.
- Primarily over budget due to increased depreciation in ICT and Safe City branches.

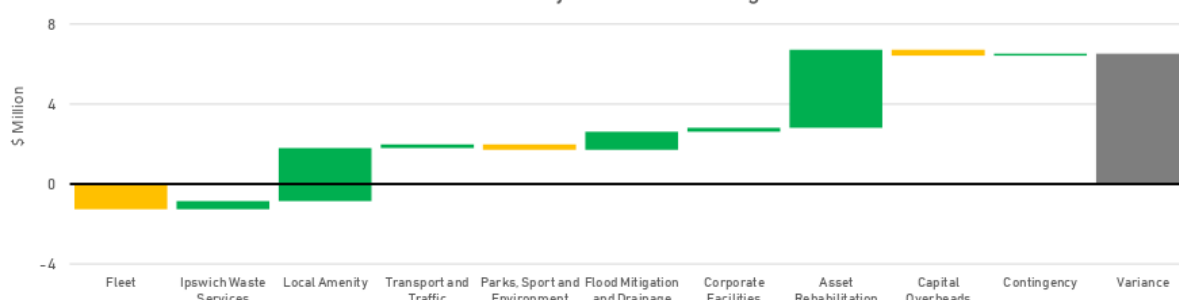
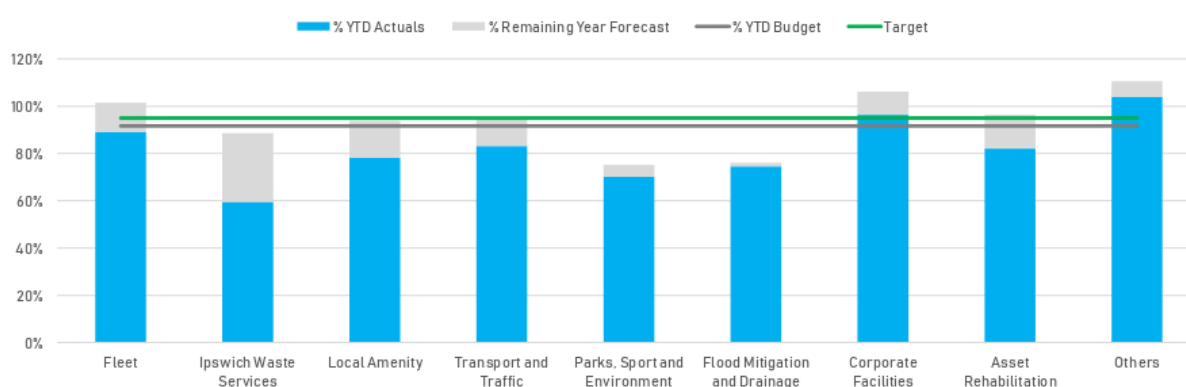
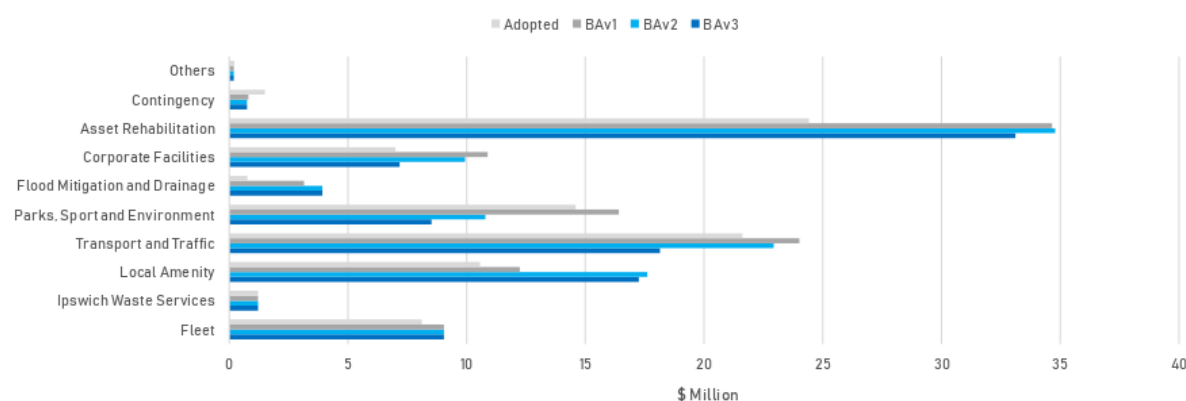
FINANCIAL EXECUTIVE SUMMARY

May 2019

Capital

	Annual		YTD				Trend from APR 2019
	Original Budget \$'000s	Current Budget \$'000s	Current Budget \$'000s	Actuals \$'000s	Variance \$'000s	Variance %	
Coordination and Performance	70,220	21,490	5,386	2,106	3,281	60.9%	▲
Corporate Services	6,515	6,895	6,126	4,204	1,922	31.4%	▲
Community, Cultural and Economic Development	1,388	870	835	655	180	21.6%	▼
Infrastructure and Environment	95,488	99,602	87,596	81,086	6,510	7.4%	▼
Planning and Regulatory Services	1,119	691	601	295	306	50.9%	▼
Net Result	174,730	129,549	100,543	88,345	12,198	12.1%	▼

YTD Variance by Construction Program

Capital Program (Excluding CBD)
Actual and Forecast % of FY BudgetCapital Program (Excluding CBD)
Budget Version Comparison

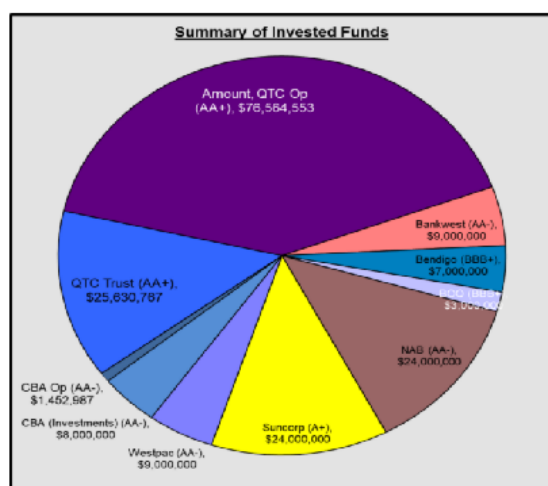
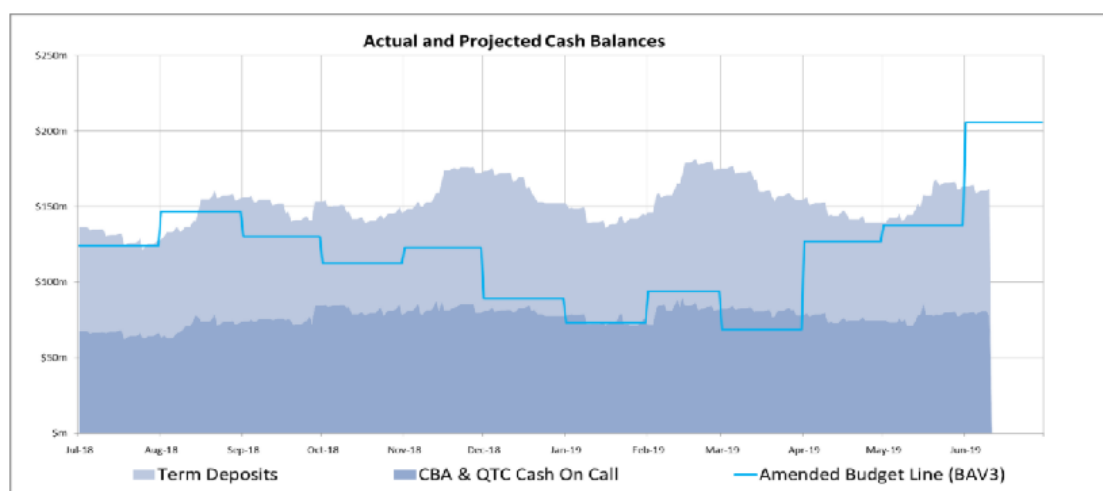
Item 11 / Attachment 1.

CAPITAL SUMMARY AS AT May 2019								
	MTD Actual \$'000s	MTD Budget \$'000s	MTD Variance \$'000s	YTD Actual \$'000s	YTD Budget \$'000s	YTD Variance \$'000s	Full Year Budget \$'000s	EDY Forecast \$'000s
Comments								
Whole of Council								
Construction Program and Asset Purchase	12,439	(1,311)	(13,750)	88,347	100,543	12,196	129,549	122,867
Donated Assets	10,061	4,446	(5,614)	59,312	59,227	(85)	67,122	67,122
Total Capital Expenditure	22,500	3,136	(19,364)	147,659	159,770	12,111	196,671	189,989
Coordination and Performance								
CBD Development	791	1,250	459	2,106	5,386	3,281	21,490	21,490
CBD – Cash flow recently reviewed by project team, expected spend \$21.5m and the balance of \$48.7m was deferred in BAv2.								
Total Capital Expenditure	791	1,250	459	2,106	5,386	3,281	21,490	21,490
Corporate Services								
Construction Program and Asset Purchase	258	796	538	4,204	6,126	1,922	6,895	6,895
ICT – Total project spend is forecasted to be below budget due to delay in various projects including ERP system upgrade. ICT are currently expecting an under spend of \$1m by year end based on certain assumptions on a high volume of variables.								
Total Capital Expenditure	258	796	538	4,204	6,126	1,922	6,895	6,895
Community, Cultural and Economic Development								
Construction Program and Asset Purchase	89	(247)	(336)	655	835	180	870	870
Library – No issues.								
Civic Centre – No issues.								
Art Gallery – Information Desk has been delayed due to timetabling/workload issues with Facilities and will be underspent approximately \$120k by year end.								
Total Capital Expenditure	89	(247)	(336)	655	835	180	870	870
Infrastructure and Environment								
Infrastructure Program	10,131	(4,787)	(14,918)	72,103	79,488	7,385	89,143	82,440
IE – Underspend of \$6.68m expected for 2018-2019 across various investment programs. Of this, \$4.873m has been proposed for carryover.								
Equipment	15	18	2	206	188	(18)	198	219
Waste	48	142	94	725	1,138	413	1,218	1,080
Fleet	1,128	1,805	677	8,052	6,782	(1,270)	9,044	9,181
Total Capital Expenditure	11,322	(2,822)	(14,144)	81,086	87,596	6,510	99,602	92,921
Planning and Regulatory Services								
Construction Program and Asset Purchase	(21)	(287)	(266)	296	601	304	691	691
Safe City – Expansion projects are expected to complete shortly with only a minimal amount of components unfinished in 2018-2019.								
Strategic Policy and Systems – Timing of the Cemetery projects has been delayed until next financial year due to scheduling constraints.								
Total Capital Expenditure	(21)	(287)	(266)	296	601	304	691	691
Donated Assets								
Coordination and Performance	0	0	0	0	0	0	0	0
Corporate Services	0	0	0	0	0	0	0	0
Community, Cultural and Economic Development	0	0	0	43	14	(29)	28	28
Infrastructure and Environment	10,061	4,446	(5,614)	59,269	59,213	(56)	67,094	67,094
Planning and Regulatory Services	0	0	0	0	0	0	0	0
Total Donated Assets	10,061	4,446	(5,614)	59,312	59,227	(85)	67,122	67,122

FINANCIAL EXECUTIVE SUMMARY

May 2019

Cash and Investments



Investments and Earnings Summary	Margin	% Return	\$
CBA Operating Account	0.006	2.00%	\$1,452,987
Term Deposit Investments	0.012	2.58%	\$84,000,000
QTC Trust Fund Account	0.014	2.82%	\$25,630,767
QTC Operating Account	0.014	2.82%	\$76,564,553
Total Invested funds (W.Avg return)	0.013	2.71%	\$187,648,307
Total Operating Funds (Ex Trust)	0.013	2.69%	\$162,017,540

Cashflow

Council's cash and cash equivalents balance as at 31 May 2019 was \$163.8m. Council's investments are made in accordance with Council's Investment Policy (adopted as part of the annual budget) with an average return percentage of 2.52%.

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ITEM: 12

SUBJECT: POLICY AND PROCEDURE MANAGEMENT FRAMEWORK AND THE REVIEW OF IPSWICH CITY COUNCIL'S POLICY PORTFOLIO

AUTHOR: STRATEGIC CLIENT OFFICE MANAGER

DATE: 1 JULY 2019

EXECUTIVE SUMMARY

This is a report by the Strategic Client Manager dated 1 July 2019 concerning development of an Ipswich City Council Policy and Procedure Management Framework under Business Transformational Project 9 – Policies, Procedures and Local Laws (TP9) and the proposed review of council's existing suite of policies.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council (Interim Administrator of Ipswich City Council) adopt the Ipswich City Council Policy and Procedure Management Framework (Attachment 1 to this report).**
- B. That Council (Interim Administrator of Ipswich City Council) note the proposed process and timeframe for the review of Ipswich City Council's suite of policies.**
- C. That Council (Interim Administrator of Ipswich City Council) note the proposal to repeal existing policies which may be redundant or identified for transition to an administrative directive, procedure or supporting document.**

RELATED PARTIES

There are no related parties associated with this report.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management

PURPOSE OF REPORT/BACKGROUND

Policy and Procedure Management Framework

To assist in improving the understandings of all stakeholders, the TP9 team developed the Policy and Procedure Management Framework (the Framework), refer **Attachment 1**. The Framework provides the structure for describing, ordering, developing and maintaining

council's policies, procedures and supporting documentation together with the roles and accountabilities for their approval.

The Framework reflects a revised hierarchy that includes policies that set council's strategic position or ensure compliance with statutory obligations together with a new category entitled administrative directive. Administrative directives deal with the day-to-day internal administration and operations of council, are approved by the Chief Executive Officer and are proposed to replace a number of related former policies negating the requirement for council approval.

Policy Portfolio Review

A detailed review of council's current policy portfolio was undertaken against the definitions of the proposed Framework to identify policies requiring updating, redundant policies for repeal, opportunities to amalgamate similar/aligned policies and policies suitable for transition to an administrative directive, procedure or supporting documentation.

The following table shows that, of an original list of approved existing policies, approximately 52 will transition to a new policy format as per definitions in the proposed Framework. There are currently 41 policies identified for repeal with another 41 that are expected to be amalgamated into approximately 14 new policies, and 16 will be amalgamated into two administrative directives.

Good corporate governance requires that a local government have effective policies and procedures for it to function efficiently and transparently. A review of these essential governance documents will ensure Council complies with its laws, regulations and best practice. The review and re-categorisation of Council's policies will reduce risks, promote consistency and establish accountability across the organisation as well as ensuring operational issues are dealt with separately through the addition of administrative directives.

The below table summarises the transition process for existing approved policies, and notes where new policies will be developed to address policy gaps and/or be developed as a future policy which will amalgamate multiple existing policies. There is potential for these numbers to fluctuate as the result of further analysis and as amalgamated policies are developed.

Category	Existing	New	Total
Policies	52	43	95
Administrative Directives	52	1	53
Procedures	20	-	20
Supporting Documentation	5	-	5
To Be Repealed	41	-	41
Total	170	44	214

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Templates together with instructions have been created for departments to transition existing policies into the correct format for each category identified in the Framework.

To ensure the high-priority and councillor interfacing policies are reviewed and adopted by council by the end of the 2019 calendar year in anticipation of the 2020 local government election, the following process is proposed:

- Late July 2019 – Executive Leadership Team Report by each department to present the proposed policies re-categorisation and transitioned administrative directives, procedures or supporting documents for approval.
- August 2019 – Governance Committee report to repeal redundant policies and documents transitioned and approved at Executive Leadership Team meeting as new Administrative Directives, procedures or supporting documents. Each Department will present a separate report and will also include existing policies transitioning to new policy format for adoption (Completion of Stage 1 of Project).
- August to December 2019 and April 2020 onward – Governance Committee monthly reports from individual departments detailing amalgamated and new policies for consideration and approval.

Commencement of Stage 2:

New policies to be developed including existing policies being amalgamated. Procedures, administrative directives etc. will continue to be reviewed in 2020 as part of ongoing good governance practice.

FINANCIAL/RESOURCE IMPLICATIONS

The resource implications associated with this report relate to the resourcing requirements of individual departments to achieve the goal of the review and adoption of updated priority policies by the end of the 2019 calendar year. Associated operational budgets are contained within Transformational Project 9.

RISK MANAGEMENT IMPLICATIONS

There is a risk of council failing to meet its responsibilities under the *Local Government Act 2009* and the *Local Government Regulation 2012* if its policies and supporting documentation do not provide clear and specific directions to both council employees and councillors. Due to the impacts of the restructure, there is the potential for risk associated with the loss of alignment with business functions, staffing resources and accountabilities.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:
Local Government Act 2009
Local Government Regulation 2012

COMMUNITY AND OTHER CONSULTATION

The contents of this report did not require any community consultation. However, the intent of Council's Transformation Projects to involve a review of policies, procedures and



local laws has been published via local media outlets (last reference April 2019). Consultation has occurred across all council departments as part of the review into the adequacy of existing policies and the identification of potential policy gaps.

CONCLUSION

The Policy and Procedure Management Framework will increase organisational accountability and transparency and will be fundamental in assisting council meet its future objectives and clarify both the role and expectations of staff.

The detailed review of council's policy portfolio identified a program of work to ensure all high-priority and councillor interfacing policies will be considered by council for adoption before January 2020. The outcomes of the policy review by the TP9 team will ultimately ensure council is well positioned to uphold the principles of the *Local Government Act 2009* in particular transparent and effective processes and decision making in the public interest.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Policy and Procedure Management Framework  
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Greg Thomas
STRATEGIC CLIENT OFFICE MANAGER

I concur with the recommendations contained in this report.

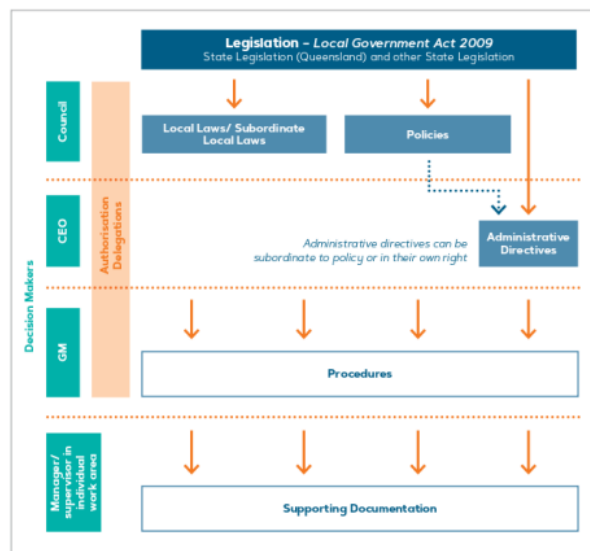
Sean Madigan
GENERAL MANAGER - COORDINATION AND PERFORMANCE

"Together, we proudly enhance the quality of life for our community"

POLICY AND PROCEDURE MANAGEMENT FRAMEWORK



KEY ELEMENTS

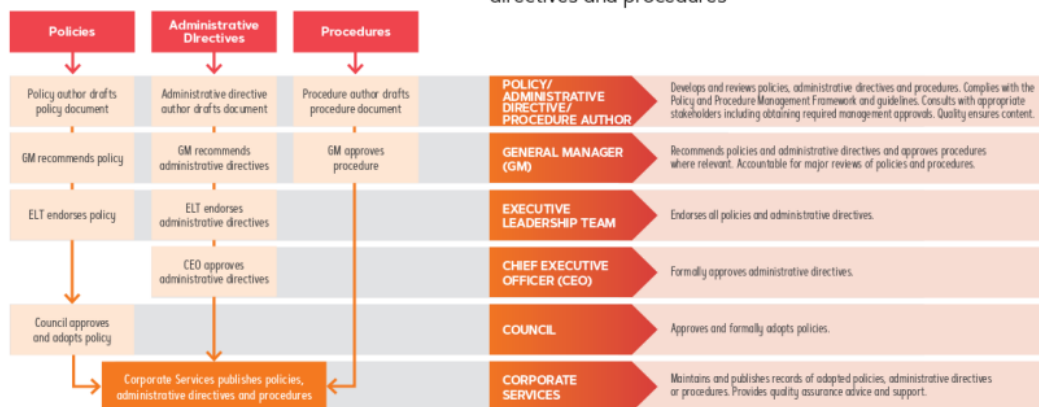


DEFINITIONS

Compliance with all policies, administrative directives, procedures and work instructions is mandatory

What is a Policy?	What is an Administrative Directive?	What is a procedure?	What is a supporting documentation?
<ul style="list-style-type: none"> Policies set out council's strategic position, viewpoints and values, and assists in decision-making relating to matters that often impact on and are of concern to the local or wider community Statutory policies are required by legislation to be adopted to ensure compliance with statutory obligations E.g. Procurement Policy, Entertainment and Hospitality Policy Policies are required to be adopted where they impact or involve the public. E.g. Ipswich EnviroPlan Program and Levy Policy Improves management of risk, information management and transparency 	<ul style="list-style-type: none"> Directs the implementation of the day-to-day internal administration and operations of council. E.g. May cover subject matter such as the provision of appropriate clothing or shoes Improves management of risk, information management and transparency Approved by the Chief Executive Officer 	<ul style="list-style-type: none"> Sets out a series of steps that defines the 'how', 'when' and 'whom' is required under council's administrative, regulatory and compliance obligations to perform a function. Identifies responsibilities for individuals or business areas Approved by General Manager (GM's discretion to present to ELT) 	<ul style="list-style-type: none"> A set of instructions to aid the implementation of a procedure Includes screenshots or other images to help with understanding (if required) May include strategies, work instructions, manuals, guides, scripting etc Reflects council's standard of good practice Approved by manager/supervisor in individual work areas
Examples			
Statutory Policy: Ipswich City Council Advertising Spending Policy – Section 197 of the Local Government Regulation 2012 states council must prepare and adopt a policy about their spending on advertising.	Strategic Policy: International Relations Policy. The aim of this policy is to raise the profile of the City of Ipswich, establish businesses, government and cultural partnerships, create export opportunities and inward investment from priority international markets.	Rehabilitation Policy will become an administrative directive as it provides a directive to staff on how council is committed to promoting a safe and healthy work environment for all workers.	Customer complaints management procedure – sets out a consistent departmental approach, including process and responsibilities for managing customer complaints across the organisation.
		Work instruction entitled 'Loading and unloading a stock truck'.	

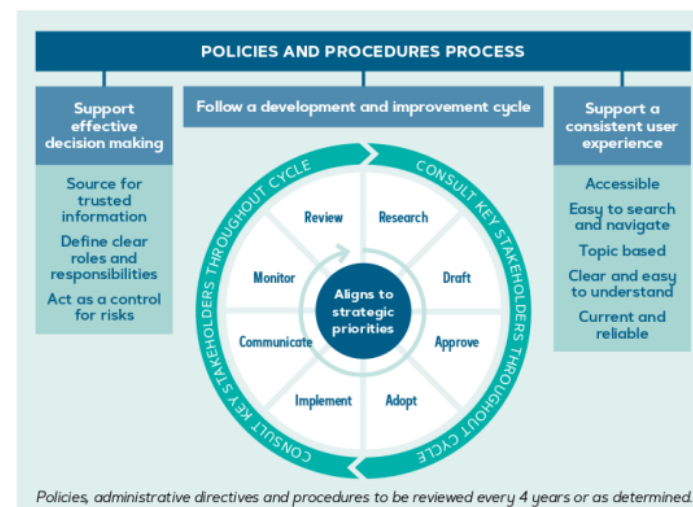
DEVELOPMENT AND REVIEW APPROVAL PROCESS



ROLES AND RESPONSIBILITIES

For the development and review of policies, directives and procedures

POLICY/ ADMINISTRATIVE DIRECTIVE/ PROCEDURE AUTHOR	Develops and reviews policies, administrative directives and procedures. Complies with the Policy and Procedure Management Framework and guidelines. Consults with appropriate stakeholders including obtaining required management approvals. Quality ensures content.
GENERAL MANAGER (GM)	Recommends policies and administrative directives and approves procedures where relevant. Accountable for major reviews of policies and procedures.
EXECUTIVE LEADERSHIP TEAM	Endorses all policies and administrative directives.
CHIEF EXECUTIVE OFFICER (CEO)	Formally approves administrative directives.
COUNCIL	Approves and formally adopts policies.
CORPORATE SERVICES	Maintains and publishes records of adopted policies, administrative directives or procedures. Provides quality assurance advice and support.



Policies, administrative directives and procedures to be reviewed every 4 years or as determined.

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ITEM: 13

SUBJECT: PROPOSED NEW TRUSTEE LEASE OVER RESERVE FOR RECREATION PURPOSES - AUSTRALIAN CRAWL (GOODNA) PTY LTD - 19A TOONGARRA ROAD LEICHHARDT

AUTHOR: SENIOR PROPERTY OFFICER

DATE: 11 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the proposed Trustee Lease between Ipswich City Council as Trustee and Australian Crawl (Goodna) Pty Ltd for the whole of the land described as Lot 39 on Crown Plan 902321.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. **That Council terminate the Swimming Pool Management Agreement with Australian Crawl (Goodna) Pty Ltd located at 19A Toongarra Road Leichhardt described as Lot 39 on Crown Plan 902321.**
- B. **That Council, as Trustee of the Reserve located at 19A Toongarra Road Leichhardt, enter into a Trustee Lease with Australian Crawl (Goodna) Pty Ltd pursuant to section 236(1)(c)(iii) and (2) of the *Local Government Regulation 2012 (QLD)*.**
- C. **That the Chief Executive Officer be authorised to negotiate and finalise the terms of the Trustee Lease to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.**

RELATED PARTIES

The parties related to this matter include;

- Infrastructure and Environment Department (Internal)
- Legal Services (Internal)
- Australian Crawl (Goodna) Pty Ltd (External)
- Department Natural Resources, Mines and Energy (External)

ADVANCE IPSWICH THEME LINKAGE

Caring for the community

PURPOSE OF REPORT/BACKGROUND

The Georgie Conway Leichhardt Swim Centre is a public pool located at 19A Toongarra Road, Leichhardt and described as Lot 39 on Crown Plan 902321, which is a State Reserve for Recreation Purposes (trust land). The property is improved with a 25 metre in-ground pool, wading pool, change rooms and an entrance/office building and caretaker residence and the facility is operated for public use. Australian Crawl (Goodna) Pty Ltd were successful in the tender process coordinated by the former Works, Parks and Recreation Department for the management rights and lease of the swim centre. On 1 April 2018, Council (as Trustee) and Australian Crawl (Goodna) Pty Ltd (ACG) entered into a Swimming Pool Management Agreement for a ten (10) year term until 31 March 2028.

Following an internal review it has been noted that the Swimming Pool Management Agreement is the incorrect agreement for tenure over State Reserve under section 57 of the *Land Act 1994*. The legislation requires that Council as Trustee, only enter into a Trustee Permit for short term agreements (less than 3 years) or a Trustee Lease for longer term agreements for tenure over State Reserve. It is recommended that Council terminate the existing Swimming Pool Management Agreement and enter into a Trustee Lease to ensure that Council complies with its obligations as a Trustee under the *Land Act 1994*.

To remedy this, it is proposed that Council enter into a new Trustee Lease with ACG for a nine (9) year term until 31 March 2028 over the whole of the trust land and under the same terms and conditions of the existing agreement. The Trustee Lease will replace the existing Swimming Pool Management Agreement. There will be no increase to the length of the term and no change to the rent charged. Property Services have consulted with ACG regarding the requirements for the new Trustee Lease and ACG understand the reasons for and agree to the termination of the existing agreement and entering into the Trustee Lease.

As part of the successful tender submission, ACG proposed to construct a new pool within the swim centre subject to development approval. ACG has submitted a development application with Council to build the new swimming pool and they have been issued with an Action Notice requiring land owner consent for the improvements before final approval is provided. The State is the owner of the land and will only provide land owner consent to the development application provided that the applicant has a legal interest in the property. The Swimming Pool Management Agreement is the incorrect tenure for the property and once the new Trustee Lease is executed and registered on the reserve title, ACG will have a legal interest in the property and can then apply for land owner consent.

The caretaker's residence located on the property can be occupied by the manager or an employee of the swim centre under the *Land Act 1994*. Under the Act it cannot be leased on an individual tenancy agreement and can only be used in association with the operation of the swimming pool complex. The caretaker's residence has been previously leased on an individual tenancy for approximately seven years and the tenant has now vacated the premises. ACG have expressed an interest to Council to now use the caretaker's residence for an employee to occupy and oversee the facility. The Infrastructure and Environment

Department have agreed to allow the ACG to occupy the caretaker's residence and this will be included in the new Trustee Lease agreement.

Given the restrictions imposed under the *Land Act 1994* for the use of the caretaker's residence, there are both advantages and disadvantages for including the caretaker's residence in the lease area. Any potential operators of the swim centre may or may not want to use the caretaker's residence depending on how they want to operate the facility and given they are responsible for the asset during the lease term. Therefore, Property Services are satisfied that ACG are not receiving a significant benefit by allowing them to occupy the caretaker's residence.

The Trustee Lease document must satisfy all requirements of the *Land Act 1994* and the State's Operation Policy - Secondary Use of Trust Land under the Land Act and the Mandatory Standard Terms Document 711932933, the Trustee Lease can then be registered in the Titles Registry.

FINANCIAL/RESOURCE IMPLICATIONS

Council will continue its responsibility for structural repairs and other repairs to the building, as per the maintenance schedule of the proposed trustee lease.

RISK MANAGEMENT IMPLICATIONS

The major risk is that Council is not complying with their obligation as Trustee of the Reserve under the *Land Act 1994*. This includes providing the correct legal instrument for offering tenure over the Reserve. If Council terminates the existing Swimming Pool Management Agreement and enters into a new Trustee Lease, it will remove the risk to Council.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Land Act 1994

Land Regulations 2009

Local Government Regulation 2012

Local Government Act 2009

Council as Trustee are the legal owners of the land and must comply with any requirements under the *Local Government Regulation 2012* for disposal of land. Section 232(2) of the default contracting provisions of the Regulation have been considered, as they relate to this particular transaction, to create a trustee lease, the provisions under Part 3 of the Regulation do not apply to trust land.

The consequences of not applying for disposal are that Council do not need to go to tender in relation to trust land. The default contracting provisions are only specific to Part 3 of the Regulation and this specifically excludes trust land. The general powers of the Trustee are contained in s52 of the Land Act, but the obligations contained in s57 (5) of the Land Act relate to trustee leases, and the trustee lease must be consistent with the purpose of which the trust was reserved.

If it is proposed that Council enter into a new Trustee Lease with ACG for a specified period, over the whole of the trust land and under the same terms and conditions of the existing agreement, if necessary Council could achieve that through solely the instrument of a trustee lease.

Property Services have consulted with ACG regarding the requirements for the new Trustee Lease and ACG understand the reasons for and agree to the termination of the existing agreement. The Swimming Pool Management Agreement is the incorrect tenure for the property and once the new Trustee Lease is executed and registered on the reserve title, ACG will have a legal interest in the property and can then apply for land owner consent. Council as the trustee lessor are the owner of the property, for the purposes of providing consent under the *Planning Act 2016*, to any development application.

COMMUNITY AND OTHER CONSULTATION











The content of this report does not require any community consultation. ACG were the successful applicant in a public tender process to secure the occupancy of the facility.

CONCLUSION

It is recommended that Council enter into a Trustee Lease with Australian Crawl (Goodna) Pty Ltd over the whole of the land described as Lot 39 on Crown Plan 902321 under the same terms and conditions of the existing agreement.

The Trustee lease will reflect the obligation of Council as Trustee under the *Land Act 1994* and will be consistent with the State's Operational Policy – *Secondary use of Trust Land* and the *Mandatory Standard Terms Document 711932933*.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Map for 19A Toongarra Road Leichhardt  
2.	Georgie Conway Leichhardt Community Swim Centre - Swimming Pool Management Agreement - Expires 31.03.2028  
3.	Mandatory Standard Terms Document 711932933  
4.	Action Notice  
5.	Draft Plans  

Brett McGrath
SENIOR PROPERTY OFFICER

I concur with the recommendations contained in this report.

Andrew Knight
GENERAL MANAGER - CORPORATE SERVICES

“Together, we proudly enhance the quality of life for our community”



Reserve for Recreation Purposes - 19a Toongarra Road Leichhardt

Scale 1:704
Printed Date: 1 May 2019



SWIMMING POOL MANAGEMENT AGREEMENT

Georgie Conway Leichhardt Community Swim Centre

Ipswich City Council

Australian Crawl (Goodna) Pty Ltd – A.B.N. 21 120 208 255

Level 23 Central Plaza One
345 Queen Street
BRISBANE QLD 4000
Tel: (07) 3231 0600
Fax: (07) 3221 2921
Our ref: BAS:MEG:117307

www.mcw.com.au

Brisbane
Maroochydore
Southport
Sydney
Canberra
Melbourne
Adelaide

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SWIMMING POOL MANAGEMENT AGREEMENT

DATE

DETAILS OF PARTIES

Name	Ipswich City Council
Label	Council
Attention	Technical Support Principal Officer
Street Address	45 Roderick Street IPSWICH QLD 4305
Mailing Address	PO Box 191 IPSWICH QLD 4305
Fax Number	(07) 3810 6206

Name	Australian Crawl (Goodna) Pty Ltd
Label	Manager
AGN/ABN	21 120 208 255
Attention	Justin Lemberg
Street Address	Cathedral Village 115 Wickham Street Fortitude Valley QLD 4006
Mailing Address	PO Box 348 CAROLE PARK QLD 4300
Fax Number	

BACKGROUND

- A. The Council is the registered owner of the Land and is also the owner of all improvements, including the Centre, that are erected on that Land.
- B. The Manager has experience in the operation and management of swimming facilities.
- C. This Agreement is to provide for the good management of the Centre and ensure that the facility is maintained and managed to the highest possible standard and to ensure the continued access for residents to high quality swimming facilities.
- D. The Council agrees to appoint the Manager to manage the Centre in accordance with the terms of this Agreement.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in this document:

"Agreement" means this Swimming Pool Management Agreement.

"Business Day" means a day on which banks are open for retail banking, other than a Saturday, Sunday or public holiday, in Ipswich, Australia.

"Business Plan" means the business plan (or plans) required to be prepared by the Manager and provided to Council in accordance with clause 12.1.

"Centre" means the Georgie Conway Leichhardt Community Swim Centre located on the Land and includes the fixtures, fittings, swimming pools, amenities, and where the context permits, the Centre includes Council's Assets.

"Commencement Date" means 1 April 2018.

"Council Nominated Officer" means the Chief Executive Officer or a staff member delegated by Council.

"Council's Assets" means all fixtures, fittings and goods belonging to Council in or on the Centre including those items listed in the inventory in Schedule 3. Where the context permits, the Centre includes Council's Assets.

"Electricity Costs" includes, but is not limited to, the cost of electricity associated with the following: -

- (a) water purification equipment;
- (b) water heating;
- (c) lighting of the Centre, the swimming pools and surrounds; and
- (d) lighting and water heating in the amenities buildings.

"Expiry Date" means 31 March 2028.

"Externally Administered Body Corporate" means a body corporate:

- (a) that is being wound up;
- (b) in respect of the property of which a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting;
- (c) that is under administration;
- (d) that has executed a deed of company arrangement that has not yet terminated; or
- (e) that has entered into a compromise or arrangement with another person the administration of which has not been concluded.

"Government Authority" means:

- (a) a local, state or federal government;
- (b) a minister, department or agency of any government in (a);
- (c) a corporation, authority or body that is constituted under statute or regulation for a public purpose;
- (d) a holder of a statutory office for a public purpose, or a person charged with the administration of a law; or
- (e) a court, tribunal or commission constituted under statute or regulation.

"GST" has the meaning given by the GST Law.

"GST Law" has the meaning given to "GST law" in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

"Land" means the land containing the Centre, located at 21 Toongarra Road, Leichhardt and described as Lot 39 on Crown Plan 902321.

"Maintenance Schedule" means the table of obligations and responsibilities of each party to this Agreement relating to (amongst other matters) the inspection, cleaning, maintenance and repair of the Centre (and, where the context permits, the Council's Assets), which is contained in Schedule 1 of this Agreement.

"Notice" means a notice, demand, certificate, consent, approval, waiver or communication given under this document.

"Revenue" means the total of all amounts received or receivable for all goods or services sold, supplied or disposed of at or from the Centre (whether cash, credit or otherwise and whether made by the Manager or any other person other than where Council receives the amount directly).

"Services" means any water, gas, electricity, lighting, sanitary, hot water, air conditioning, ventilation, security and other services supplied to or enjoyed at the Centre.

"Special Conditions" means the terms (if any) contained in Annexure A.

"Specific Statutory Charges" means Statutory Charges:

- (a) attributable to the Manager because of the Manager's direct use and enjoyment of the Services or facilities or other subject matter of the Statutory Charges; or
- (b) in respect of any activity, matter or thing at or occurring in the Centre.

"Statutory Charges" means all rates, taxes, levies, charges and assessments, duties, impositions, surcharges or fees:

- (a) assessed, charged, imposed, levied or payable in relation to the use or occupation of the Land or the Centre; or
- (b) assessed, charged, imposed, levied or payable in relation to waste or garbage removal or for any other service or facility supplied to or enjoyed on the Land or the Centre;
- (c) assessed, charged, imposed, levied or payable in relation to the provision, reticulation or discharge of water, sewerage or drainage (including pedestal charges and meter rents) or
- (d) assessed, charged, imposed, levied or payable in relation to the payment or receipt of money; or
- (e) which are general rates, differential general rates, minimum general rate levies, separate rates and charges, special rates and charges and utility charges under the *Local Government Act 1993*; or
- (f) which are general rates (including differential rates), special rates and charges, utility charges and separate rates and charges under the *Local Government Act 2009*,

regardless of whether they are assessed, charged, imposed or levied to or on, or payable by, Council or the Manager or any other person.

"Term" means the term of this Agreement, commencing on the Commencement Date and expiring on the Expiry Date (or any earlier date this Agreement is terminated).

1.2 Rules for Interpreting this Document

This clause 1.2 specifies the rules for interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) The contents page[s] (if any), the Background and headings are for convenience only and do not affect the interpretation of this document.
- (b) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document), or a provision of a document (including a provision of this document), is to that document or provision as amended or replaced;
 - (iii) a party to this document, or a party to any other document or agreement, includes that party's executors, administrators, permitted substitutes and permitted assigns;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) anything (including a right, obligation or concept) includes each part of it;
 - (vi) property includes real, personal and intangible property;
 - (vii) any body or agency, if that body or agency ceases to exist, is renamed, reconstituted, replaced or has its powers or functions removed (**Defunct Body**), means the agency or body which succeeds to the Defunct Body's powers or functions, or performs most closely the functions of the Defunct Body;
 - (viii) AUD\$, A\$, \$A, dollar or \$ is to Australian currency; or
 - (ix) a clause, schedule or annexure is to a clause of, or schedule or annexure to, this document.
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes any other genders.
- (e) If a word is defined, another part of speech or grammatical form of that word has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

-
- (g) An obligation on, warranty by, or right of:
- (i) two or more persons; or
 - (ii) a party that comprises two or more persons,
- is the obligation, warranty or right (as the case may be) of those persons jointly and severally.
- (h) Time is reckoned as follows:
- (i) A reference to the date or time of day, is a reference to that date or that time of day in Queensland, Australia.
 - (ii) If a period expressed in days, beginning on a given day, act or event is provided or allowed for any purpose, the period is calculated by:
 - (A) excluding the day, or the day of the act or event; and
 - (B) including the day on which the purpose is to be fulfilled.
 - (iii) If a period expressed in weeks, months or years, beginning on a given day, act or event is provided or allowed for any purpose, the period is calculated from:
 - (A) the day, or the day of the act or event; until
 - (B) the corresponding day in the next appropriate week, calendar month or year.
 - (iv) If there is no corresponding day for the purposes of clause 1.2(h)(iii)(B), because of the differing number of days in calendar months, the corresponding day is taken to be the last day of the relevant calendar month.
 - (v) If something is to be done on a particular day, it must be done by 5.00pm on that day.
 - (vi) If something is to be done on a day which is not a Business Day then that thing must be done on the next Business Day.
- (i) Terms defined in the GST Law have the same meaning in this document unless the context makes it clear that a different meaning is intended.

2. TERM OF AGREEMENT

Subject to the terms and conditions of this Agreement, this Agreement will operate for the Term.

3. RELATIONSHIP

- (a) The parties' relationship is one of principal and independent Manager, not employer and employee, agency or partnership.
- (b) The Manager and any of its employees, sub-managers and agents are not entitled to any payments or benefits from the Council other than those provided for in this Agreement.

- (c) the Manager does not have the right or authority to act on behalf of, or bind the Council or to speak on its behalf, and will not indicate to any third party that it has that right or authority unless the Manager has been expressly authorised by the Council in writing.

4. MANAGEMENT OF THE CENTRE

4.1 Conduct business of the Centre

The Manager shall have the sole right during the Term to conduct the business of the Centre.

4.2 Operation of the Centre

- (a) The Manager must operate the business of the Centre, and in that context, must manage the property as an income-producing asset.
- (b) The Manager must comply with all laws and the requirements, notices, orders and requisitions of any relevant Government Authority which relate to the Centre or the Manager's operation or occupation of the Centre.
- (c) The Manager must comply with the reasonable requirements of Council in relation to the proper operation of the Centre, for example, in relation to cleanliness, control or vermin, emergency drills and procedures, and installation, operation and maintenance of equipment.
- (d) The Manager must implement the Manager's current Business Plan in operating the Centre.
- (e) The Manager must ensure that the Centre is kept open to the general public on every day, except:
 - (i) Christmas Day and Good Friday;
 - (ii) any day during any period of closure under clauses 4.2(e), (f), (h) and (i);during the hours:
 - (iii) specified or approved from time to time by Council (Council may change or revoke the specification or approval at any time); or
 - (iv) if no hours are specified or approved, from 7 am to 6 pm.
- (f) The Manager may close the Centre in an emergency or during hours that the Manager cannot lawfully comply with clause 4.2(d).
- (g) The Manager may, with the approval of Council, temporarily suspend trading and close the Centre, or any part of it:
 - (i) if the Manager reasonably considers the suspension and closure commercially prudent or necessary; or
 - (ii) for the purposes of carrying out maintenance on the main swimming pool in the Centre.
- (h) If the Manager requires the Centre to be temporarily closed in accordance with clause 4.2(f), the Manager must notify Council as soon as possible, advising

Council of the reason for the intended closure and how long the Manager intends to close the Centre, and must seek Council's approval (which shall not be unreasonably withheld).

- (i) If Council is required to carry out maintenance on one or all of the swimming pools in the Centre, Council may direct the Manager to close the Centre to the general public for a period specified by Council to allow the work to be carried out.

4.3 Admission Fees and Hourly Fees

- (a) The Manager may charge Admission Fees and Hourly Fees.
- (b) On or around 30 January each year, Council may give the Manager a list of median figures for proposed Admission Fees or Hourly Fees or both. The median figures will be generated by Council from benchmarking corresponding fees of similar facilities within south-east Queensland.
- (c) The Manager must, on or before 31 March each year, give Council a proposed schedule of Admission Fees and Hourly Fees to take effect on the next 1 July.
- (d) Council must notify the Manager whether or not Council approves the proposed schedule of Admission Fees and Hourly Fees. Council must not unreasonably withhold its consent if each item in the proposed schedule does not exceed the median figures by more than 5%. Council may approve, or decide not to approve, the proposed schedule in whole or in part.
- (e) The Manager must not charge to or recover from any person any fee, charge or other payment for:
 - (i) entering or being in the Centre; or
 - (ii) using any swimming pool or other facility in or at the Centre; or
 - (iii) any service supplied at the Centre,unless the fee, charge or payment is an Admission Fee or an Hourly Fee.
- (f) In this Agreement:
 - "Admission Fee" means a fee which:
 - (i) is charged to a person for the right to enter the Centre and use any swimming pool in the Centre; and
 - (ii) is in an amount which is, or which is calculated in accordance with:
 - (A) the Manager's tender for this Agreement; or
 - (B) a proposed schedule approved by Council under clause 4.3(d); or
 - (C) an approval given to the Manager by Council; and
 - (iii) is charged in circumstances provided in or necessarily contemplated by:
 - (A) the Manager's tender for this Agreement;
 - (B) a proposed schedule approved by Council under clause 4.3(d); or

- (C) an approval given to the Manager by Council.

"Hourly Fee" means a fee which:

- (i) is charged to a Swimming Club for a club swim, carnival or similar event; and
- (ii) is in an amount which is, or which is calculated in accordance with:
 - (A) the Manager's tender for this Agreement; or
 - (B) a proposed schedule approved by Council under clause 4.3(d); or
 - (C) an approval given to the Manager by Council; and
- (iii) is charged in circumstances provided in or necessarily contemplated by:
 - (A) the Manager's tender for this Agreement;
 - (B) a proposed schedule approved by Council under clause 4.3(d); or
 - (C) an approval given to the Manager by Council.

"Swimming Club" means each of the following:

- (i) a swimming club;
- (ii) a school;
- (iii) another body or group approved or specified by Council from time to time.

4.4 No Right to Sub-Contract

The Manager must not at any time during the Term of this Agreement:

- (a) sub-contract or assign any of its obligations under this Agreement; or
- (b) leave the Centre, or any part thereof under the control or management of any other person,

unless the Manager has previously obtained the consent of the Council which must not be unreasonably withheld.

4.5 Manager obligations - General Responsibilities

The Manager must carry out the following general responsibilities in operation of the business of the Centre:

- (a) control all aspects of the day-to-day operations of the Centre;
- (b) the recruitment of employees and the training, supervision and dismissal of employees;
- (c) marketing and promotion of the Centre in line with the Manager's Business Plan;
- (d) purchasing of all goods and services required in carrying on the business of the Centre and payment of all expenses relating to the day-to-day business of the Centre, except for the chemicals needed to comply with the Manager's obligations

under this Agreement (which shall be supplied by Council) and unless this Agreement specifies otherwise;

- (e) ensuring that the personal presentation of the Manager and their employees and agents is to an appropriate and acceptable standard so as to present a positive professional image of the Centre (e.g. life guard uniforms, covered non-slip footwear etc.);
- (f) ensuring that all exterior doors, windows and gates in the Centre are securely locked and fastened at all times when the Centre is closed or not being used;

4.6 Manager obligations - Use of the Centre

Without limiting the obligations and responsibilities outlined in the Maintenance Schedule, the Manager must:

- (a) use toilets, sinks, drainage and plumbing facilities in the Centre only for the purpose for which they were constructed or provided, and must not deposit any rubbish in those facilities;
- (b) only prepare or cook food in an area installed and properly equipped for those purposes;
- (c) prohibit smoking within the Centre;
- (d) not display any signs or place any installations on the Centre without the prior written consent of Council;
- (e) keep the Centre (including all swimming pools in the Centre) thoroughly clean, remove any useless property from the Centre, remove all wet refuse daily and all other refuse periodically from the Centre, and store all refuse in proper receptacles located in the Centre;
- (f) keep the Centre free and clean from weeds and generally in accordance with Council's landscape maintenance standards from time to time, including (but not limited to):
 - (i) regularly trim all ornamental shrubs and maintain all garden and landscaping features;
 - (ii) regularly have the lawns mowed;
 - (iii) properly tend and water all shrubs, lawns and garden and landscaping features; and
 - (iv) generally tend and keep the gardens in the Centre in a clean and tidy condition to the reasonable satisfaction of Council;
- (g) keep any irrigation system in good working condition, including inspection and regular servicing of pumps, and inspection, repair and maintenance of the system in accordance with manufacturer recommendations;
- (h) not:
 - (i) obstruct access to, overload or otherwise interfere with or damage any of the Services;

- (ii) damage or destroy anything in or on the Centre;
- (iii) do anything dangerous, noxious, annoying or offensive, immoral or illegal in the Centre;
- (iv) do anything to pollute the Centre or its environment; or
- (v) without Council's approval, keep or use inflammable, explosive or volatile materials in the Centre;
- (i) comply with insurance, sprinkler and fire alarm regulations and any lawful directions given by Council or any relevant Government Authority;
- (j) appoint fire controllers and fire wardens, carry out fire drills when required, comply with emergency evacuation procedures;
- (k) give to Council from time to time when reasonably required (but at least annually) a written testing plan satisfactory to Council for the regular testing and maintenance of all electrical equipment in or on the Centre (including portable equipment that is not permanently installed in the Centre) and comply with those testing plans;
- (l) give Council written reports other evidence as and when required by, and satisfactory to, Council to show that the Manager has complied with its obligations under this clause 4.6.

4.7 Manager obligations – Swimming Pools

Without limiting the obligations and responsibilities outlined in the Maintenance Schedule, the Manager must:

- (a) inspect the pool equipment, solar heating and electrical fittings (including heat pumps, gas heaters and solar heating system) each day to ensure that the fittings are operational and assess whether any servicing, maintenance or upgrade to the fittings may be required from time to time;
- (b) ensure that a free chlorine, total chlorine and pH test of the water in each swimming pool in the Centre is taken:
 - (i) at the time on each day when the pool is first opened for use by members or the public; and
 - (ii) at least once every 2 hours from that time until the pool is closed; and
 - (iii) at further or other times as Council specifies;
- (c) keep a record of those tests;
- (d) whenever the pool is open to members or the public, the Manager must ensure that chlorine and pH test readings are always within the range required under:
 - (i) any applicable law, regulation, local law or policy; or
 - (ii) the range specified by Council from time to time;
- (e) keep a record containing details, on a daily basis, of:

- (i) all chemicals used in connection with the purification of water in or for any swimming pool in the Centre;
- (ii) the time when the filters have been backwashed; and
- (iii) any other particulars or information that Council requires from time to time;
- (f) keep any record given to or obtained by the Manager of any test or analysis of the water in any of the pools in the Centre;
- (g) ensure that no person other than the Manager's employees or agents are at the Centre when any swimming pool is being emptied or filled;
- (h) ensure that no springboard, diving board, trampoline or similar implement or thing is placed in installed at any time in, next to or near any swimming pool in the Centre;
- (i) ensure that at all times, except to the extent necessary for the Manager to comply with its other obligations under this Agreement, a minimum of 2 lanes in the main swimming pool in the Centre are kept open for use by the general public. If there is more than one swimming pool in the Centre, Council may designate which one is the main swimming pool and Council's designation is determinative.

4.8 Technical Operations Guidelines

- (a) The Manager must comply with all the procedures, requirements and obligations under any Technical Operations Guidelines from time to time.
- (b) For the purposes of this clause, "Technical Operations Guidelines" are guidelines, a manual, document or series of documents that:
 - (i) is published by Council;
 - (ii) contains procedures, requirements and obligations relating to technical operations with or without other matters;
 - (iii) Council notifies the Manager that the Manager must comply with or that it applies to the Centre; and
 - (iv) Council has not notified the Manager that Council has revoked.
- (c) If there is any inconsistency between the terms of this Agreement and the Technical Operations Guidelines, the Technical Operations Guidelines will prevail to the extent of the inconsistency.

4.9 Council's Obligations

- (a) Without limiting the obligations and responsibilities outlined in the Maintenance Schedule, Council must:
 - (i) be responsible for any vandalism, wilful destruction, wilful damage and graffiti for any part of the Centre or the Council's Assets unless caused by the Manager;
 - (ii) pay all Statutory Charges relating to the Land or the Centre, other than any Specific Statutory Charges;
 - (iii) supply the Manager with the chemicals reasonably required to enable the Manager to comply with its obligations under clause 4.7 (for avoidance of doubt, any equipment needed by the Manager to comply with clause 4.7 is to be supplied by the Manager); and

- (iv) pay all Electricity Costs reasonably used by the Manager in operating the Centre in accordance with this Agreement, subject to the Manager:
 - (A) not misusing the electricity supply; and
 - (B) taking reasonable care to minimise Electricity Costs.
- (b) The following applies to Council's obligations under clause 4.10(a)(ii):
 - (i) the chemicals will remain the property of Council until they are used by the Manager to comply with its obligations under clause 4.7;
 - (ii) Council gives no warranty about the chemicals and the Manager must satisfy itself that the chemicals are fit for their intended purpose and are of merchantable quality before using them;
 - (iii) the Manager cannot require Council to acquire chemicals from any particular supplier;
 - (iv) the Manager cannot require Council to acquire chemicals of a particular brand or make;
 - (v) the Manager must give Council reasonable advance notice before the Manager runs out of the chemicals held by the Manager and previously supplied to the Manager by Council.

5. MANAGEMENT OF THE CENTRE - EMPLOYEES

5.1 Manager and Staff Qualifications

- (a) The Manager warrants that as of the Commencement Date it possesses and that it shall ensure that its employees and agents (where applicable):
 - (i) shall possess the following qualifications, awards and certifications throughout the Term of this Agreement:
 - (A) a Pool Plant Operators Certificate;
 - (B) a Bronze Medallion;
 - (C) a Pool Lifeguard Certificate;
 - (D) a Positive Notice Blue Card for Child Related Employment;
 - (E) a First Aid Certificate; and
 - (ii) are competent, appropriately qualified and have the necessary skills to conduct the business of the Centre.
- (b) The First Aid Certificate referred to in clause 5.1(a)(i)(E) must be issued by at least one of the following organisations:
 - (i) The Royal Life Saving Society Australia;
 - (ii) Surf Life Saving Australia;
 - (iii) St John Ambulance Australia;

- (iv) Queensland Ambulance Service;
 - (v) The Red Cross Society Australia;
 - (vi) an Australian State or Territory constituent body of one of the above organisations.
- (c) In the event that any of the above qualifications, awards or certificates held by the Manager expire or are otherwise terminated during the Term of this Agreement, the Manager must immediately inform Council. Council will advise the Manager as to what course of action Council requires the Manager to take in relation to the expiration or termination of the relevant qualifications, awards or certificates. Council may, in its discretion absolutely, terminate this Agreement on notice to the Manager.
- (d) A reference in this clause 5.1 to a particular organisation includes a reference to any organisation that succeeds to the functions or role of such organisation in the event that such organisation is disbanded or otherwise ceases to exist.
- (e) A reference in this clause 5.1 to a particular qualification, award or certification includes a reference to an equivalent qualification, award or certification, dealing with the same or substantially the same skills, competencies and subject matter as is covered by the relevant qualification, award or certification as at the Commencement Date, and awarded, granted or offered by the same organisation as at the Commencement Date (subject to clause 5.1(c)), with that organisation's certification of what is an equivalent qualification, award or certification being final and determinative.

5.2 Designated Person in Charge

- (a) The Manager must ensure that an individual is continuously appointed by the Manager as the person who is primarily responsible for the day to day running, maintenance, lubrication and cleanliness of all swimming pools and water treatment plant at the Centre. This person is called the **"designated person"**.
- (b) The Manager must, on request, notify Council of the name of the designated person.
- (c) The Manager must ensure that the designated person:
- (i) is a person acceptable to Council; and
 - (ii) is not a person who Council has decided, on reasonable and lawful grounds, is not suitable to be the designated person.
- (d) The Manager must ensure that the designated person has successfully completed the following courses prior to the person's appointment as a designated person:
- (i) a Pool Plant Operations course or an equivalent course conducted by an accredited training organisation acceptable to Council or
 - (ii) another course acceptable to Council in its discretion.
- (e) The Manager must give Council a certificate of the successful completion of the course promptly after Commencement Date, the appointment of the designated person or the end of the course.

- (f) If the designated person ceases to be appointed by the Manager to be primarily responsible for the day to day running, maintenance, lubrication and cleanliness of all swimming pools and water treatment plant at the Centre, the Manager must within 7 days:
 - (i) notify Council of this fact;
 - (ii) appoint a new designated person; and
 - (iii) notify Council of the appointment.

5.3 Supervision of Pools

- (a) Without limiting clause 5.1(a), the Manager must employ or engage efficient, competent and appropriately qualified attendants to:
 - (i) supervise and monitor the use of each swimming pool in the Centre;
 - (ii) ensure the safety of people at or using the Centre; and
 - (iii) protect the Centre and the any of Council's assets within the Centre.
- (b) For the purposes of clause 5.3(a), a person is an appropriately qualified attendant if he or she:
 - (i) currently holds a Pool Lifeguard Certificate issued by The Royal Life Saving Society Australia (or an equivalent course offered by that organisation from time to time, with the organisation's certification of what is an equivalent course being final and determinative); and
 - (ii) currently holds a First Aid Certificate as referred to in clause 5.1(a)(i)(E); and
 - (iii) holds any further or other relevant qualifications specified by Council from time to time.
- (c) Without limiting clause 5.1(a) or 5.3(a), the Manager must ensure that:
 - (i) a specified person is always in charge of the swimming pools in the Centre whenever the Centre is open to the public; and
 - (ii) the specified person in charge is someone who:
 - (A) currently holds a Pool Lifeguard Certificate issued by The Royal Life Saving Society Australia (or an equivalent course offered by that organisation from time to time, with the organisation's certification of what is an equivalent course being final and determinative); and
 - (B) currently holds a First Aid Certificate as referred to in clause 5.1(a)(i)(E); and
 - (C) holds a current certificate of the qualifications covered in subparagraphs (A) and (B) from a qualified examiner who is acceptable to Council (acting reasonably); and
 - (D) is a competent swimmer; and

- (E) holds any further or other relevant qualifications specified by Council from time to time.

5.4 Employee Records

The Manager must keep a record of the names of the employees who are from time to time, or who have been, employed or engaged at the Centre. The Manager must include in that record:

- (a) the details of the qualifications, swimming and life saving ability, records and qualifications to show whether the Manager has complied with the requirements of this clause 5; and
- (b) the details of the days and hours worked by that person; and
- (c) any other details that Council lawfully directs the Manager to include.

6. HEALTH & SAFETY

6.1 Workplace Health & Safety

The Manager must:

- (a) at all times have in place a documented work health and safety management system ("WHSMS"); and
- (b) ensure that the WHSMS is at all times suitable for the nature of the activities carried on at or from the Centre so as to ensure compliance with all applicable laws relating to work health and safety and the requirements of any Government Authority (including, but not limited to, Council's safety policy);
- (c) ensure that the WHSMS includes (as a minimum) the following information:
 - (i) the identification of a person responsible for ensuring that work health and safety policies and procedures are implemented, and detailing that persons responsibilities;
 - (ii) details of Centre safety and emergency policies and procedures (including hazard/injury/incident reporting and reporting of notifiable incidents);
 - (iii) details of Centre training and induction policies and procedures;
 - (iv) the maintenance and control of safety records;
 - (v) details on hazard inspections and audit processes (including the testing of fire and other emergency equipment); and
 - (vi) details on risk management and the inclusion of a risk register;
- (d) give Council a copy of the WHSMS whenever Council asks for it;
- (e) give Council any evidence Council requests to demonstrate whether the Manager has complied with or is complying with the WHSMS; and
- (f) comply with a request under subparagraphs (d) and (e) promptly, and in any event, within 7 days.

6.2 Guidelines for Safe Pool Operations

- (a) The Manager must:
 - (i) at all times have in place documented policies and procedures to comply, as a minimum, with the Guidelines For Safe Pool Operations ("GSPO") published from time to time by The Royal Life Saving Society Australia;
 - (ii) give Council a full copy of those policies and procedures whenever the Council asks for it;
 - (iii) give Council any evidence Council requests to demonstrate that the Manager has complied with or is complying with those policies and procedures; and
 - (iv) comply with a request under subparagraphs (ii) and (iii) promptly, and in any event, within 7 days.
- (b) In this clause 6.2:
 - (i) a reference to The Royal Life Saving Society Australia includes a reference to any organisation that succeeds to the functions or role of The Royal Life Saving Society Australia if that organisation is disbanded or otherwise ceases to exist; and
 - (ii) a reference to the GSPO includes a reference to any substitute document, or set of guidelines, dealing with the same or substantially the same subject matter as is dealt with by the GSPO as at the Commencement Date.

6.3 Accidents

- (a) If an accident occurs at the Centre and a person is injured or appears to have suffered an injury or potential injury, the Manager must:
 - (i) immediately notify the nearest ambulance centre; and
 - (ii) then notify the Council Nominated Officer by the quickest available method.
- (b) If a danger or misadventure affecting or potentially affecting any person or property occurs at or affects the Centre (including any incident involving a water pipe or electrical light, wirings or fittings), the Manager must immediately notify the Council Nominated Officer.
- (c) If a major theft or loss of property occurs or is alleged to have occurred at or from the Centre, the Manager must:
 - (i) immediately notify the nearest police station; and
 - (ii) then notify the Council Nominated Officer by the quickest available method.
- (d) The Manager must keep records of any matters referred to in this clause 6.3.

6.4 Safety Equipment

- (a) The Manager is responsible for the supply, maintenance, repair and (where necessary) upgrade of all Safety Equipment, and for ensuring that all Safety

Equipment complies with all applicable laws and the requirements of any Government Authority.

(b) In this clause "**Safety Equipment**" includes (but is not limited to):

- (i) rescue boards and tubes;
- (ii) binoculars;
- (iii) whistles;
- (iv) spinal boards;
- (v) first aid kits;
- (vi) automated external defibrillator;
- (vii) air bag oxygen resuscitator (and oxygen required for the resuscitator);
- (viii) stiff neck collars;
- (ix) two way radio communications.

6.5 Lighting

- (a) The Manager must ensure that any swimming pool, administration building or other area used or able to be used by swimmers, spectators and other members of the public at the Centre are lit by adequate electric lighting during times when the Centre is open to the general public if:
 - (i) it is dark;
 - (ii) there is insufficient light for the safety and convenience of swimmers, spectators and members of the public at the Centre.
- (b) Subject to the obligations and responsibilities outlined in the Maintenance Schedule, the Manager must promptly replace all broken, burnt out or unserviceable lamps, bulbs or fluorescent tubes with lamps, bulbs or tubes of at least an equivalent quality and intensity.

7. MANAGER'S OUTGOINGS

- (a) The Manager must pay (or reimburse Council for):
 - (i) all Specific Statutory Charges;
 - (ii) all assessments for Services supplied to the Centre in the Manager's name;
 - (iii) all salaries, wages and related costs and expenses incurred in the employment or engagement of employees or contractors by or for the Manager at the Centre or in connection with the business of the Centre; and
 - (iv) any expenses incurred in complying with the Manager's obligations under this Agreement,excluding Electricity Costs (the "**Manager's Outgoings**").

- (b) If any Manager's Outgoings are charged to or payable directly by the Manager, the Manager must pay it on time.
- (c) If any Manager's Outgoings are charged to or payable by Council:
 - (i) Council may demand payment of the Manager's Outgoings from the Manager at any time after Council has incurred or ascertained the outgoings amount (even if the Council has not yet paid it) or at any time after the Council has paid the outgoings amount;
 - (ii) Council may make the demand by giving the Manager an invoice; and
 - (iii) the Manager must pay the invoice within 14 days.
- (d) Notwithstanding clause 7(b) or (c), where possible, and unless Council agrees otherwise in a particular case, the Manager must ensure that all accounts in relation to Manager's Outgoings are opened and maintained in the name of the Manager during the Term.
- (e) Council will have, and keep, accounts for Electricity Costs connected in its own name or in the name of another entity nominated by Council.
- (f) The Manager must pay Council's reasonable legal and other costs, charges and expenses (on a full indemnity basis) incidental to:
 - (i) an application for consent under this Agreement (even if consent is not given);
 - (ii) an assignment of this Agreement (even if the assignment does not proceed);
 - (iii) a rescission, termination or attempted termination of this Agreement;
 - (iv) a lawful notice given by Council to the Manager under this Agreement;
 - (v) any proceedings which Council brings to enforce the Manager's performance of this Agreement; and
 - (vi) any other costs which Council incurs because the Manager breaches this Agreement.

8. NOT USED

9. COUNCIL'S ASSETS

- (a) Council gives the Manager a right to use the Council's Assets during the Term.
- (b) The Manager must not remove, or allow to be removed, any of the Council's Assets from the Centre without written permission from Council.
- (c) The Manager may use Council's Assets only for the purpose of conducting the business of the Centre.
- (d) If any of Council's Assets are lost or destroyed:
 - (i) the Manager must replace them; and

- (ii) the replacement item then becomes Council's Asset for the purpose of this Agreement.
- (e) If any of Council's Assets are damaged, the Manager must repair the item to the condition and state of repair it was at the Commencement Date.
- (f) At the end of the Term, the Manager must:
 - (i) give back to Council all of Council's Assets; and
 - (ii) ensure, and do everything necessary to ensure, that all of Council's Assets are in working order and operational and otherwise in at least as good a condition and state of repair as they were at the Commencement Date.
- (g) If the Manager fails to comply with clause 9(f)(i) Council may recover from the Manager, as a debt due and owing, the higher of:
 - (i) any value for the Council's Assets which is specified in this Agreement (if any);
 - (ii) the actual value of the Council's Assets; or
 - (iii) the cost incurred by Council in replacing the Council's Assets, putting the assets in working order, making them operational and putting them in as good a condition and state of repair as they were in at the Commencement Date.

10. REPAIRS AND MAINTENANCE

10.1 General Repair and Maintenance Obligations

- (a) Without limiting any other provision of this Agreement, the Manager must:
 - (i) keep the Centre and the Council's Assets in good repair;
 - (ii) repair or replace all broken glass that is damaged by the wilful or negligent act of the Manager, the Manager's employees, agents, members, guests or invitees, with glass of the same or substantially similar quality;
 - (iii) promptly make good any damage to the Centre or the Council's Assets that it causes or that is caused by the Manager's employees, agents, members, guests or invitees, to the reasonable satisfaction of Council; and
 - (iv) comply in all respects with the obligations specified as being the responsibility of the Manager in the Maintenance Schedule.
- (b) For the purposes of subparagraph (a) 'good repair' is to be assessed having regard to the condition of the Centre (and Council's Assets) at the Commencement Date (or an earlier date, being the date that the Manager first took possession or entered into occupation of the Centre).

10.2 Maintenance Schedule

- (a) Both parties agree to comply in all respects with the obligations and responsibilities outlined in the Maintenance Schedule.

- (b) If there is any inconsistency between the terms of this Agreement and the Maintenance Schedule, the Maintenance Schedule will prevail to the extent of the inconsistency.

10.3 Manager Repair Obligations

- (a) The Manager must repair or reinstate any part of the Centre or the Council's Assets that are damaged or destroyed by:
 - (i) a risk for which the Manager is required by this Agreement to hold insurance (regardless of whether the Manager actually holds that insurance or can recover under that insurance);
 - (ii) an Insured Risk if the Manager caused or contributed to the damage or destruction such that Council is either unable to make an insurance claim or recover the full amount that would otherwise have been recoverable from the insurer,but otherwise, the Manager does not have to repair or reinstate a part of the Centre (or Council's Assets) damaged or destroyed by an Insured Risk.
- (b) This clause is to be read subject to each party's responsibilities outlined in the Maintenance Schedule.
- (c) In this clause, an "Insured Risk" means a risk for which the Council insures in respect of the Centre or the Council's Assets from time to time.

10.4 Structural Repairs and Maintenance

Subject to the obligations and responsibilities outlined in the Maintenance Schedule, the Manager is not required to undertake maintenance or repairs of a structural nature, unless required as a result of:

- (a) failure by the Manager to comply with its obligations under this Agreement;
- (b) the Manager's act, neglect or default;
- (c) a requirement under a law or a requirement of a Government Authority arising from or relating to the Manager's particular use of the Centre;
- (d) a requirement under a law or a requirement of a Government Authority arising from or relating to the characteristics of people at or using the Centre; or
- (e) a requirement reasonably imposed by Council to do such work in order to eliminate or reduce danger to the Centre, people at or who may enter or use the Centre or any neighbouring land or people at or who may enter the neighbouring land.

10.5 Alterations or Additions

- (a) The Manager must not:
 - (i) make any structural alteration or addition to the Centre (regardless of whether the Manager is required to do so under clause 10.4);

- (ii) install any electrical wiring, equipment or appliance to provide water, gas, lighting, air-conditioning, heating, cooling or ventilation to the Centre;
- (iii) install any partitions; or
- (iv) carry out any other works to the Centre (other than in compliance with its obligations under this Agreement),

without first obtaining Council's approval.

- (b) The Manager must ensure that any work it does at or to the Centre or the Council's Assets under clause 10.5 or otherwise in compliance with its obligations under this Agreement is done:

- (i) in a proper and workmanlike manner;
- (ii) by contractors approved by Council (Council must not unreasonably withhold its approval);
- (iii) without causing unreasonable disturbance to neighbouring property owners; and
- (iv) in accordance with:
 - (A) any conditions imposed by Council (including about what parts of the works are to remain or be removed and what is to be reinstated and to what condition when this Agreement ends);
 - (B) any plans or specifications or schedule of finishes approved by Council (Council must not unreasonably withhold its approval);
 - (C) all laws and the requirements of all Government Authorities; and
 - (D) Council's other reasonable requirements and directions.

10.6 Council's Inspection

Council (including a Council Nominated Officer) may enter the Centre (with or without notice):

- (a) at all reasonable times; and
- (b) if there is an emergency, at any time (and specifically without the need for any notice),

and may inspect and view the Centre and the Council's Assets (to ascertain their condition and state of repair), to comply with its obligations under the Maintenance Schedule or otherwise under this Agreement, to exercise its rights under this Agreement (including any right to inspect records required to be kept by the Manager), or to show the Centre to any prospective purchaser or manager.

10.7 Notice to Repair

- (a) Council may serve the Manager with a Notice requiring the Manager to repair or maintain, within a reasonable time, a defect, item or matter which is the Manager's responsibility under this Agreement.

- (b) If the Manager does not comply with a Notice given to the Manager under subparagraph (a) within the time specified in the Notice, Council may carry out the repair, the defect or maintain the item or complete the matter, at the Manager's expense.
- (c) The Manager must advise the Council of any repair or maintenance work required at the Centre or to the Council's Assets which is not the responsibility of the Manager under this Agreement as soon as the Manager becomes aware that the work is required.

11. INSURANCE, RISK AND INDEMNITY

11.1 Public Liability Insurance

- (a) The Manager must effect a public liability insurance policy with an insurer approved by Council, in the name of the Manager and noting the interests of Council, covering legal liability for any loss or damage to any property and for the injury (including death) of any person arising out of anything done or omitted on or about the Centre or any improvements thereon and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof. Such policy must:
 - (i) be for an amount of not less than twenty million dollars (\$20,000,000.00) in respect of all claims arising out of a single event or such higher amount as Council may reasonably require;
 - (ii) be effected on a 'claims occurring' basis so that any claim made by the Manager under the policy after the expiration of the period of policy cover but relating to an event occurring during the currency of the policy will be covered by the policy subject to the claim meeting the policy's other terms and conditions;
 - (iii) be effected on such other reasonable terms and conditions as may be required by Council; and
 - (iv) be maintained at all times during the Term.
- (b) The Manager must, as soon as practicable, inform Council, in writing, of the occurrence of any event that the Manager considers is likely to give rise to a claim under the policy and must keep Council fully informed of subsequent actions and developments concerning the claim.
- (c) The Manager must renew such policy, at the Manager's expense, each year during the Term and provide a certificate of currency to Council within 14 days of the commencement of each respective renewal period.
- (d) Upon receipt of a notice of cancellation, the Manager must immediately effect another insurance policy in accordance with clause 11.1(a).

11.2 Other Insurances

- (a) The Manager must:
 - (i) insure all plate and other glass in the Centre against breakages for which the Manager is responsible under this Agreement;

- (ii) insure against any other risk reasonably required by Council; and
 - (iii) have other insurances which are required by law,at all times during the Term.
- (b) The Manager must:
 - (i) effect each policy with an insurer approved by Council;
 - (ii) take out and maintain the policies in the name of the Manager and noting the interests of Council;
 - (iii) ensure that the cover under the policies includes loss or damage to property and death of or injury to persons; and
 - (iv) give Council a certificate of currency for each policy before the Commencement Date, and within 14 days of the commencement of each renewal period.

11.3 Council's Insurance

Without limiting the Manager's obligations under this clause 11, Council will take out and maintain at all times during the Term general insurance for the improvements, plant, equipment and chattels owned by Council within the Centre.

11.4 Additional Premiums

The Manager must pay any extra or additional premiums incurred by Council for any extra risk caused by the use of the Centre by the Manager.

11.5 Prejudice of Insurance

The Manager must not do or omit to do anything which may:

- (a) increase the premium on any insurances taken out by Council relating to the Centre; or
- (b) allow an insurer to refuse a claim under any insurances taken out by Council relating to the Centre.

11.6 Risk and Release

The Manager occupies and uses the Centre at its own risk. Council is not liable to the Manager for damage to the Manager's property or for loss of profits, regardless of the cause and including where caused by:

- (a) any defect in the Centre or Council's Assets;
- (b) any defect in the operation of Council's Assets, any facilities or the Services to the Centre; and/or
- (c) water, fire or other like cause.

11.7 Indemnity

- (a) The Manager indemnifies Council against any action, demand, proceeding, loss, expense or other liability arising during or after the Term from:
 - (i) the Manager not complying with the obligations imposed on the Manager under this Agreement;
 - (ii) the Manager's use of the facilities or Services to the Centre;
 - (iii) the escape of any substance from the Centre or a place within the Centre other than as a result of something done by Council; or
 - (iv) the Manager occupying or using the Centre.
- (b) This indemnity:
 - (i) extends to any action, demand, proceeding, loss, expense or other liability made or brought against Council by the Manager or by any other person, or incurred by Council in favour of the Manager or any other person;
 - (ii) extends to penalties and legal and other costs incurred by Council;
 - (iii) may be enforced by Council at or prior to the finalisation or establishment of the action, demand, proceeding, loss, expense or other liability to which it relates; and
 - (iv) does not apply to an action, demand, proceeding, loss, expense or other liability for personal injuries to the extent that it is caused by the Council and/or its respective servants and contractors.
- (c) Council's exemption from liability and indemnity extends to its respective servants and contractors.

11.8 No Supervision

The Manager acknowledges and agrees that Council:

- (a) is not subject to;
- (b) does not assume; and
- (c) will not be taken as a result of any act or omission to be subject to or have assumed,

any obligation to supervise or monitor the Manager in its use of the Centre or in its compliance or otherwise with its obligations under this Agreement.

11.9 Obligations Not Exhaustive

The Manager acknowledges and agrees that:

- (a) the Manager's obligations under this Agreement are not, and are not intended to be, an exhaustive code of the risk management and other measures that the Manager must employ in order to fulfil its duty of care and other legal responsibilities; and

- (b) the Manager is solely responsible for:
 - (i) determining or finding out whether it must employ other measures, in addition to fulfilling its obligations under this Agreement, in order to comply with its duty of care and its other legal obligations; and
 - (ii) employing and effectively carrying out those other measures.

11.10 Manager to Indemnify Council

The Manager specifically agrees that:

- (a) the indemnity contained in clause 11.7 extends to any action, demand, proceeding, loss, expense or other liability that could have been brought or made against or incurred by Council but for clause 11.8 or 11.9; and
- (b) despite anything else in clause 11.7, only the Manager will be taken to have caused an action, demand, proceeding, loss, expense or other liability even if:
 - (i) Council had but did not exercise the power, under this Agreement or otherwise, to direct or require the Manager to do something that would or could have prevented the action, demand, proceeding, loss, expense or other liability; or
 - (ii) Council had and did exercise such power, except to the extent that the action, demand, proceeding, loss, expense or other liability is a direct and inevitable consequence of the Manager doing something it was directed or required to do under that power (as distinct from merely being a consequence of the way the thing was done).

11.11 Council Released

If a person other than Council becomes the registered trustee of the Land and/or the owner of the Centre, then Council is released from all obligations under this Agreement.

12. PERFORMANCE MANAGEMENT

12.1 Submission of Business Plans

- (a) The Manager must:
 - (i) within 1 month after the Commencement Date; and
 - (ii) by no later than 30 April in each year,give Council a business plan ("**Business Plan**").
- (b) Each Business Plan must contain:
 - (i) a management plan incorporating detailed actions and strategies for the Centre for the forthcoming financial year;
 - (ii) a projection of Revenue that the Manager estimates will be derived in the forthcoming financial year;
 - (iii) a detailed marketing plan and promotion strategy for the Centre for the forthcoming financial year; and

- (iv) any other content that Council reasonably requires and notifies the Manager of from time to time.
- (c) Each Business Plan must be:
 - (i) of sufficient detail to comply with the reasonable requirements of Council;
 - (ii) in a form; and
 - (iii) given in the medium and in the manner,notified by the Council to the Manager from time to time.

12.2 Updating of Business Plans

- (a) The Manager:
 - (i) may at any time; and
 - (ii) if the Manager knows or ought to reasonably suspect that the content of its Business Plan (or any assumption on which any of the content is based) is or has become substantially obsolete, incorrect or incomplete, must, add to or delete content from its Business Plan by giving Council an updated version of its Business Plan incorporating the amendment, addition or deletion.
- (b) Council may, after being given a Business Plan (or an updated version of a Business Plan) notify the Manager that:
 - (i) it considers that the Business Plan is deficient in a stated way; or
 - (ii) it requires the Business Plan to be amended, added to or have content deleted in a stated way.
- (c) If Council exercises its rights under clause 12.2(b), the Manager must, within 14 days, give Council an updated Business Plan that:
 - (i) remedies the stated deficiency to Council's reasonable satisfaction; or
 - (ii) incorporates the stated amended, addition or deletion,as the case may require.
- (d) When the Manager gives Council a Business Plan (or an updated Business Plan), that Business Plan becomes the Manager's current Business Plan for the purpose of this Agreement.

12.3 Implementation of Business Plans

- (a) The Manager must:
 - (i) implement the Manager's current Business Plan; and
 - (ii) not depart substantially from the Manager's current Business Plan, in management and operation of the Centre.

- (b) The obligations contained in clause 12.3(a) are subject to the Manager's obligations under this Agreement.

12.4 Key Performance Indicators

- (a) Council may from time to time notify the Manager (in writing) of:
 - (i) key performance indicators ("KPI's") against which the Council proposes to assess the standard and quality of performance by the Manager in carrying out its obligations under this Agreement; and
 - (ii) the quantitative data or qualitative criteria to which Council proposes to have regard in making that assessment.
- (b) Unless and until Council notifies the Manager of any replacement, amended, altered or new KPI's (and, if relevant, the data or criteria to which Council proposed to have regard) the KPI's are those set out in Schedule 2.
- (c) The Manager acknowledges that it is a condition of this Agreement that the Manager meets the KPI's, and must, during the Term, achieve the KPIs to Council's satisfaction.
- (d) If a KPI or a performance indicator corresponding to a KPI is expressed as an obligation or expectation:
 - (i) the Manager must fulfil that obligation or achieve that expectation;
 - (ii) Council must act reasonably in determining whether the obligation has been fulfilled or the expectation has been met; and
 - (iii) if Council decides that the Manager has not fulfilled an obligation or achieved an expectation, then the Manager has committed a breach of this Agreement.
- (e) Neither the KPIs, nor anything done in administering the KPIs, reduces or abrogates any other obligation of the Manager under this Agreement or relieves the Manager from its obligations to comply with this Agreement.

12.5 Annual Performance Reviews

- (a) The Manager must, within 28 days after the end of each financial year, give to Council a report that:
 - (i) self-assesses the Manager's performance of its functions under the Agreement during the preceding year, with particular reference to the applicable KPI's during that year; and
 - (ii) contains other information or content that Council decides and notifies the Manager from time to time.
- (b) Council may, at the end of each financial year, conduct its own assessment of the Manager's performance of its functions under this Agreement during the preceding year, with particular reference to the applicable KPI's during that year.
- (c) In connection with an assessment by Council, Council may require the Manager to:

- (i) attend meetings, or have specified employees or agents of the Manager attend meetings, with representatives of Council;
 - (ii) give information to Council;
 - (iii) do other things which Council reasonably requires,
- and the Manager must comply with Council's requirements.
- (d) Council may, after it has either or both:
- (i) been given a report by the Manager on the Manager's performance of its functions under this Agreement; and
 - (ii) conducted its own assessment of the Manager's performance,
- give the Manager a report or a notice that specifies actions, processes, outcomes or objectives that Council requires the Manager to do, implement or achieve in the management and operation of the Centre and the Manager must comply with the report or notice.

12.6 Performance Monitoring Scheme

- (a) The Manager must, if requested by Council, on behalf of Council, subscribed to a performance monitoring scheme specified or approved by Council for either or both of the following purposes:
- (i) monitoring, measuring or improving the performance the Centre;
 - (ii) benchmarking the performance of the Centre against comparable centres or facilities.
- (b) The Manager must:
- (i) properly participate in the specified or approved performance monitoring scheme;
 - (ii) do, on time, all things that the operator of the scheme requires participants of the scheme to do; and
 - (iii) give Council a copy of any report or submission given by or to the Manager for the purposes of the scheme, immediately after the report or submission is given by or to the Manager.

13. FINANCIAL MANAGEMENT

13.1 Recording of Revenue and Manager's Outgoings

- (a) The Manager must maintain detailed records recording the Revenue of the Centre and the following categories of that Revenue:
- (i) Admission Fees and Hourly Fees;
 - (ii) carnival fees and special event fees;
 - (iii) pool / hall / room / facility hire;

-
- (iv) kiosk sales (food and beverage);
 - (v) kiosk sales (equipment, swimwear and sportswear);
 - (vi) income received from the following:
 - (A) learn to swim;
 - (B) squad;
 - (C) aqua aerobics;
 - (D) any other specialised activity;
 - (vii) other sundry income (including income received from third parties who may pay to use or hire any of the areas or facilities within the Centre, and including income received from any licensee of any part or part of the Centre);
 - (viii) any further or other categories that Council notifies to the Manager from time to time.
 - (b) The Manager must ensure that all Revenue of the Centre is accurately recorded and is recorded in the appropriate category of Revenue.
 - (c) The Manager must maintain detailed records recording expenditure in relation to the management and operation of the Centre, including the Manager's Outgoings.
 - (d) The Manager must ensure that the records required to be maintained under this Agreement are:
 - (i) prepared and compiled according to:
 - (A) any standards that Council decides and notifies to the Manager from time to time; and
 - (B) except to the extent that those standards otherwise require, the accounting standards applying from time to time under the *Corporations Act 2001*,
 - (ii) of sufficient detail to comply with any reasonable requirements of Council;
 - (iii) kept in a format the Council reasonably specifies from time to time;
 - (iv) kept at the Premises (unless Council consents otherwise);
 - (v) readily accessible and retrievable (so that the Manager can comply with its obligations under this Agreement, including under clause 13.2).
 - (e) Unless Council has specified otherwise, the records must be kept in the form of a document or book on paper, or electronically on a computer; and may consist of more than one document.
 - (f) The Manager must give all records to the Council at the end of the Term.
 - (g) The Manager:

- (i) warrants and represents to Council that each of the reports will be accurate, up-to-date, not incomplete in any material particular and not misleading; and
- (ii) is taken to repeat that warranty and representation every time the Manager gives Council one of those reports.

13.2 Inspection of books and accounts

- (a) Council may at any time after giving the Manager at least 5 days' notice, inspect the Manager's books and accounts recording or relating to the Revenue and expenditure (including Manager's Outgoings) of the Centre.
- (b) Council's notice must describe, in general terms, the books and accounts that Council wishes to inspect.
- (c) Following receipt of Council's notice, the Manager must:
 - (i) notify Council of the location of the books and accounts described in Council's notice;
 - (ii) ensure that on the date appointed for the inspection, those books and accounts are at the place that the Manager notifies Council;
 - (iii) let Council enter that place on the nominated date;
 - (iv) let Council inspect, copy and make reproductions of or take extracts from the books and accounts; and
 - (v) give any assistance, and provide any facilities, that Council reasonably requests in order to exercise its rights to inspect, copy and make reproductions of or take extracts from the books and account.
- (d) For the purposes of this Agreement, "**books and accounts**" includes:
 - (i) invoices, receipts, orders for payment of money, bills of exchange, cheques, promissory notes and vouchers;
 - (ii) documents of prime entry;
 - (iii) working papers and other documents needed to explain the methods by which any document or report the Manager is required to give Council under this Agreement is, has been or will be made up;
 - (iv) returns, financial statements and other documents that the Manager is required to lodge, or has lodged under any law; and
 - (v) registers, records or information and documents (including those in electronic form).

14. REPORTING

14.1 Monthly reporting

The Manager must, within 10 Business Days after the end of each calendar month, provide to Council a report containing:

- (a) the measures taken by the Manager during the month to achieve KPI's;
- (b) the Manager's assessment of its performance against the KPI's during the month;
- (c) the name and qualifications of the designated person under clause 5.2 at the end of the month;
- (d) details of the records kept by the Manager under clause 4.7(c) during the month;
- (e) daily totals, for each day during the month, of the number of adults and children entering swimming pool within the Centre;
- (f) changes or new entries required to be made by the Manager in the records kept under clause 6.3(d) during the month;
- (g) a statement, categorised in a way acceptable to Council, of Admission Fees, Hourly Fees and other Revenue received by the Manager during the month;
- (h) a statement of the amount payable by the Manager to Council under clause 13.3 for the month;
- (i) a statement categorised in a way acceptable to Council, of expenditure in relation to the management and operation of the Centre, including the Manager's Outgoings;
- (j) details of repairs, maintenance and any other work carried out to or at the Centre during the month;
- (k) details of any marketing and promotional activities carried out by the Manager for the Centre during the month;
- (l) details of any programs and activities developed, planned or cancelled at the Centre during the month; and
- (m) any other matter or information that Council notifies the Manager that it requires be included in the report from time to time.

15. DEFAULT AND TERMINATION

15.1 Remedy of breaches

- (a) If the Manager does not comply with any of the Manager's obligations under this Agreement, Council may give Manager a notice that tells the Manager:
 - (i) what obligation has not been complied with; and
 - (ii) what Council requires the Manager to do in order to remedy the non-compliance.
- (b) If the Manager does not comply with Council's notice within 7 days, or if the Manager does not comply with an obligation under this Agreement and Council reasonably considers that the non-compliance cannot be remedied, Council may:
 - (i) do anything reasonably necessary to remedy (or to remedy as far as possible) the Manager's non-compliance; and

- (ii) recover from the Manager, as a liquidated debt, the costs and expenses incurred by Council (including costs and expenses attributable to the use of Council's facilities and people) in doing so.

15.2 Termination

- (a) Council may terminate this Agreement if:
 - (i) the Manager does not comply with any of the Manager's obligations under this Agreement and does not comply with a notice given by Council under clause 15.1(a);
 - (ii) the Manager does not comply with an obligation under this Agreement and Council reasonably considers that the non-compliance cannot be remedied;
 - (iii) the Manager, being an individual, becomes bankrupt;
 - (iv) the Manager, being a corporation, becomes an Externally Administered Body Corporate;
 - (v) the Manager, being an incorporated association under the *Associations Incorporation Act 1981* (the "Act"):
 - (A) is wound up under the Act; or
 - (B) any resolution, proceeding or step is taken for the winding up of the Manager (regardless of whether it culminates in the winding up of the Manager); or
 - (C) has its incorporation under the Act cancelled,
 - (vi) all or any part of the Centre is compulsorily acquired or otherwise taken, given or dedicated for any other public purpose;
 - (vii) any form of tenure under which Council holds all or any part of the Centre is resumed, cancelled or forfeited, expires or otherwise comes to an end;
 - (viii) the Centre is destroyed; or
 - (ix) the Centre is damaged to the extent that Council considers the Centre to no longer be fully usable and Council decides not to fix the damage.
- (b) If Council exercises its right to terminate this Agreement, Council can still exercise any other right or power against the Manager arising from any conduct, act or omission that happened before the termination.

16. END DATE OBLIGATIONS

16.1 End of Term Condition

At the end of the Term the Manager must:

- (a) ensure that the Centre and the Council's Assets are in good repair (as that term is defined in clause 10.1(b) of this Agreement) and in a condition consistent with the Manager having complied with its obligations under this Agreement;

- (b) carry out any repairs and make good any damage to the Centre or Council's Assets which are the responsibility of the Manager under this Agreement;
- (c) ensure that all of the obligations specified as being the responsibility of the Manager in the Maintenance Schedule have been fully complied with;
- (d) if requested by Council, reinstate the Centre or the Council's Assets to their configuration, layout or condition (to the reasonable satisfaction of Council) prior to the Manager having made any approved alterations or additions in accordance with clause 10.5 of this Agreement;
- (e) if requested by Council, remove any of signs which have been installed by or at the request of the Manager, which are outside or inside the Centre, and repair any damage caused by their installation or removal to the reasonable satisfaction of Council; and
- (f) ensure that the Centre and the Council's Assets are clean and free from rubbish.

16.2 Manager's Property at end of Term

- (a) At the end of the Term the Manager must:
 - (i) remove all of the Manager's equipment and any third party equipment (which is plant, equipment and goods belonging to anyone other than Council and not Council's Assets); and
 - (ii) repair any damage caused by the installation or removal such equipment to the reasonable satisfaction of Council.
- (b) If the Manager does not remove any of the Manager's equipment or third party equipment in as required by this clause 16.2, then Council may (without liability to the Manager or any third party) treat the equipment as abandoned and Council may, at the expense of the Manager, remove, store and dispose of the equipment as Council sees fit.

17. GOOD NEIGHBOUR PROCESSES

17.1 Introduction

The Council and the Manager wish to work together to minimise inconvenience to, and complaints from, residents in the neighbourhood of the Centre who are affected by the Manager's use of the Centre ("residents"), including residents affected by noise coming from, or traffic connected with the Centre and to follow a procedure to resolve resident complaints in a way which satisfies the Manager, Council and the residents.

17.2 General Good Neighbour Processes

- (a) The Manager will use its best endeavours to work together with residents to minimise inconvenience to residents caused by the Manager's use of the Centre, and to develop close links between residents and the Manager.
- (b) The Manager will appoint an officer to represent the Manager in dealings with the residents (a "Community Liaison Officer") and will notify Council of the name and contact phone number of the Community Liaison Officer within 7 days of signing this Agreement. The Manager must keep this information current.

- (c) The Manager agrees to comply with the processes outlined in this clause (the **"Good Neighbour Processes"**). Council may vary or replace the Good Neighbour Processes from time to time. All variations bind the Manager when notice of such variation is given to the Manager in writing by Council.
- (d) Examples of the way in which the Manager will put Good Neighbour Processes into practice include:
 - (i) notifying residents in the neighbourhood of the Centre of the activities, especially of any major events to be held at the Centre;
 - (ii) appointing parking monitors to ensure that the Manager's employees, members, guests and invitees do not create undue noise when entering and leaving the Centre, or in neighbouring streets, and to ensure that resident access to driveways etc. is not obstructed;
 - (iii) circulating details of the Community Liaison Officer to residents and asking them to contact that person with any concerns or questions;
 - (iv) attending any seminars or meetings organised by Council about business activities in the community generally.

17.3 Complaint Handling Procedures

- (a) The Manager agrees to participate in any course of action proposed by Council under this clause.
- (b) If any person (the **"complainant"**) makes a complaint to Council which arises from the Manager's use of Centre, Council will refer the complainant to the Community Liaison Officer and will record that a **"resident notification"** has been made in relation to the Manager.
- (c) Council will contact the complainant to find out the result of the referral.
- (d) If, in the reasonable opinion of Council, the complaint has not been resolved by the Community Liaison Officer within 14 days of the complainant contacting the Community Liaison Officer, Council will record that a **"resident dispute"** has arisen and may propose a method of solving the resident dispute to the complainant and the Manager.

(For example, the method chosen may involve:

 - a meeting between the Manager, the complainant and Council;
 - mediation (including a programme provided by the Community Justice Programme of the Department of Justice and Attorney General);
 - referral of the resident dispute to the appropriate statutory authority (for example, in the case of a resident dispute in relation to lights used at the Centre, to the Community Health Branch of the Ipswich City Council); or
 - any other method determined by Council.)
- (e) The Manager agrees to be bound by the outcome of any method of solving the resident dispute chosen by Council.

- (f) If, in the reasonable opinion of Council, the method does not resolve the resident dispute, Council may require the Manager to participate in further attempts to resolve the resident dispute.
- (g) If, in the reasonable opinion of Council, the resident dispute is resolved, Council may require the Manager to enter into a legally enforceable agreement in a form satisfactory to the Manager.
- (h) Nothing in this clause affects any rights of Council under this Agreement to terminate the Agreement or take any other action.

17.4 Non-compliance with processes

The Manager acknowledges that the following will constitute a breach of this Agreement:

- (a) any breach of the Good Neighbour Processes;
- (b) three (3) resident notifications under the Good Neighbour Processes within any 12 month period;
- (c) three (3) resident disputes under the Good Neighbour Processes within any 12 month period.

18. DISPUTE RESOLUTION PROCEDURE

- (a) If the Manager or Council believes that a dispute (other than a resident dispute under the Good Neighbour Processes in clause 15) has arisen under this Agreement, that party may serve a notice upon the other party (a "**Dispute Notice**") requiring it to follow the procedure outlined in this clause and nominating a representative of that party with authority to settle the dispute.
- (b) Within 7 days of receiving the Dispute Notice, the party receiving the Dispute Notice must serve a notice on the other party (a "**Reply Notice**"), nominating a representative with authority to settle the dispute.
- (c) The representatives of each party will meet within 7 days of the receipt of the Reply Notice and will use their best endeavours to resolve the dispute.
- (d) If the dispute is not resolved to the satisfaction of both parties within 14 days of the receipt of the Reply Notice, the parties will refer the dispute to a Council Nominated Officer.
- (e) The Council Nominated Officer will decide the method of dispute resolution and the procedure to be adopted to resolve the dispute. For example, without limitation, the Council Nominated Officer may decide to:
 - (i) refer the dispute to arbitration under the *Commercial Arbitration Act 1990*;
 - (ii) refer the matter to the Community Justice Programme of the Department of Justice and Attorney General;
 - (iii) appoint an expert (whose decision will be final and binding on the parties) to decide the dispute; or
 - (iv) refer the dispute to mediation.

- (f) Each party will continue to perform its obligations under this document during any dispute.

19. GST

19.1 GST Exclusive Amounts

All amounts payable under or in connection with this document are exclusive of GST.

19.2 Payment of GST

- (a) A recipient of a taxable supply under or in connection with this document must pay to the supplier, in addition to the GST exclusive consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply ("**GST Amount**").
- (b) The recipient must pay the GST Amount to the supplier when the GST exclusive consideration or part of it is provided, except that the recipient need not pay the GST Amount unless the recipient has received a tax invoice (or an adjustment note) for that taxable supply.

19.3 Reimbursements

Where a supplier incurs a cost or expense for which it may claim payment, reimbursement or indemnity from another party under or in connection with this document, the amount to be paid or credited to the supplier is the cost or expense (reduced by the input tax credit that the supplier is entitled to claim in respect of that cost or expense) plus the amount in respect of GST payable by the recipient as calculated under clause 19.2.

20. NOTICES

20.1 Service of Notice

A Notice must be:

- (a) in writing, in English and signed by the party giving it, or by their agent; and
- (b) delivered or sent by prepaid post or fax to the party's address specified in this document, or any other address notified by a party to the other party as its address for service.

20.2 Effective Service

- (a) A Notice given in accordance with clause 20.1 takes effect when received, or at a later time specified in it.
- (b) A Notice is taken to be received at the time specified below:
 - (i) if hand delivered – when delivered;
 - (ii) if sent by prepaid post – on the second Business Day after the date of posting (or on the tenth Business Day after the date of posting if posted to, or from, a place outside Australia);
 - (iii) if sent by fax – when the sender's fax system generates a message confirming successful transmission of the entire document.

- (c) However, if the time at which a Notice is taken to be received is not on a Business Day, or is after 5.00pm on a Business Day, it is taken to be received at 9.00am on the next Business Day.

20.3 Ineffective Service

A Notice is taken not to be received if:

- (a) in the case of service by post, the Notice is returned to sender because the postal service was unable to deliver it;
- (b) in the case of service by fax, the sender's fax system generates a message stating that transmission was unsuccessful, or the Notice is not received in full and legible form.

21. MISCELLANEOUS

21.1 Special Conditions

The Special Conditions (if any) apply as terms of this Agreement. If there is any inconsistency between a Special Condition and a provision elsewhere in this Agreement, the Special Condition prevails to the extent of the inconsistency.

21.2 Assignment and other dealings

This Agreement is personal to the Manager and the Manager must not assign this Agreement or let or part with possession of any part of the Centre.

21.3 Council delegate

- (a) Council may:
 - (i) delegate any of its rights or powers under or relating to this Agreement to any person;
 - (ii) notify the Manager of the identity of the delegate; and
 - (iii) revoke the delegation and notify the Manager of the revocation.
- (b) Council's delegate may exercise any of Council's rights or powers under or relating to this Agreement.
- (c) Council may have more than one delegate.

21.4 Communication Protocols

- (a) The Manager must comply with any communication protocols that Council determines and notifies to the Manager from time to time.
- (b) Until and unless Council notifies the Manager otherwise, the communication protocol determined by Council is that the Manager must, in the first instance, refer any matter relating to the conduct, performance and monitoring of this Agreement to the employee of Council nominated by Council from time to time.
- (c) A communication protocol:

- (i) does not relieve or alter the Manager's obligations under this Agreement; but
- (ii) merely governs how the Manager is expected to communicate with Council about matters relating to the conduct, performance and monitoring of this Agreement.

21.5 Council's Consent

If this Agreement provides for or allows for the Council to give its consent or approval about any matter:

- (a) Council is not taken to have given its consent or approval unless it has given its consent or approval in writing by notice to the Manager;
- (b) Council may give or refuse to give its approval or consent in any way it considers appropriate (including by imposing conditions) (unless this Agreement expressly states otherwise); and
- (c) if Council gives its approval or consent conditionally, Council will not be taken to have given the approval or consent at all unless the Manager fulfils the conditions of the approval or consent.

21.6 No Warranty by Giving Consent

By giving its approval or consent, Council does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

21.7 Discretion in Exercising Rights

A party may exercise a right or remedy in any way it considers appropriate, unless this Agreement expressly states otherwise.

21.8 No Liability for Loss

A party is not liable to another party for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this document.

21.9 Remedies Cumulative

The rights and remedies provided in this document are in addition to other rights and remedies given by law independently of this document, except to the extent that those other rights and remedies are expressly excluded in this document.

21.10 Exclusion of Contrary Legislation

Any legislation that diminishes the obligation of a party, or adversely affects the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

21.11 Amendment

This document can only be amended, supplemented, novated or replaced by another document signed by the parties.

21.12 Waiver

A right under this document can only be waived by notice signed by the party or parties waiving the right. A party does not waive its rights under this document because it grants an extension or forbearance to any other party. A waiver of a right on one or more occasions does not operate as a waiver of that right if that right arises again. The exercise of a right does not prevent any further exercise of that right or of any other right. If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

21.13 No Merger

None of the rights and obligations of a party under this document merge:

- (a) on completion of any transaction contemplated by this document;
- (b) with any security interest, guarantee, judgement or other right or remedy that a party may hold at any time; or
- (c) as a consequence of anything done under this document,

and those rights and obligations at all times remain in full force and effect.

21.14 Survival of Rights and Obligations

The following survive termination or expiration of this document:

- (a) Rights accrued to a party up to the date of termination or expiration of this document.
- (b) Indemnities and obligations of confidence given by a party under this document.

21.15 No Payment Required to Claim Indemnity

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this document.

21.16 Giving Effect to this Document

Each party agrees, at its own expense, to do anything (including ensuring that its employees and agents do anything) that any other party reasonably requires (such as obtaining consents, signing and producing documents) as may be necessary or desirable to give full effect to the provisions of this document and the transactions contemplated by it.

21.17 Entire Agreement

This document embodies the entire agreement between the parties and supersedes all previous agreements, understandings, negotiations, warranties and representations on the subject matter of this document.

The parties acknowledge that they have not relied upon any representations or warranties in executing this document, except for those contained in this document.

21.18 Inconsistencies

If this document is inconsistent with any other agreement between the parties, this document prevails to the extent of the inconsistency.

21.19 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document.

21.20 Severability

If the whole, or any part, of a provision of this document is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this document has full force and effect, and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance materially alters the nature or intended effect of this document.

21.21 Costs and Expenses

Unless this Agreement specifies otherwise, each party will bear its own costs and expenses in relation to the negotiation, preparation, execution, delivery, registration and completion of this document and any related documentation.

21.22 Governing Law

This document is governed by the law in force in Queensland, Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Queensland, and any court that may hear appeals from any of those courts for any proceeding in connection with this document, and waives any right it may have to claim that those courts are an inconvenient forum.

21.23 Counterparts

This document may be executed in counterparts. A counterpart may be a copy of this document printed from a facsimile transmission. All counterparts together are taken to constitute one instrument. A copy of this document which has been executed by a party ("**Signatory**") may be relied upon by a party to the same extent as if it was an original of this document executed by the Signatory.

Schedule 1**Maintenance Schedule**

Asset Description	Task Description	Maintenance Responsibility	Frequency
Building Structures	General cleaning requirements for the building and structures	Manager	As required
Building Structures	Inspection and audit	Council	-
Building Structures	General repair breakage or damage, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Building Structures	Repair structural damage due to normal wear and tear	Council	-
Building Structures	Asset end of life replacement.	Council	-
Building Structures	Register and maintain asbestos and hazardous material report	Council	-
Pest Control(termites)	Pest control services termite control	Council	-
Pest Control(general)	General Pest control services	Manager	6 Monthly
Fire Services			
Fire safety installations and features	Inspect, service and maintain fire safety installations in accordance to Fire and Rescue Service Act 1990 and the Building Fire Safety Regulations 2008 requirements including but not limited to the Fire Board/Panel, Sprinklers and Smoke Alarms. Fire Brigade Call Outs resulting from false alarms exceeding one (1) per month will be oncharged to the Manager. Any unnecessary call outs as a result of the Manager business (such as damage to fire equipment, inappropriate use of the building etc.) may be oncharged to the Manager.	Council	-

Fire safety installations and features	Fire Safety Installations and Features including but not limited to Emergency Exit, Fire Extinguishers, Fire Blankets, Fire Hose Reels and Evacuation Diagrams and Plans. Any unnecessary call outs as a result of the Manager business (such as missing extinguishers, damaged exit lights etc.) may be on charged to the Manager	Council	-
Wardens and Fire Evacuation Training	Emergency Control Organisation and General Evacuation First Response Training	Manager	In accordance with legislative requirements
Electrical			
General Electrical Repairs and Maintenance	General Repairs and Maintenance	Council	-
External Lighting	Clean and relamp light fittings	Council	-
Internal Lighting	Clean and relamp light fittings	Manager	As required
Electrical Switchboards	Thermal scan/repair of switchboards	Council	-
Power poles and cables	Maintenance of all poles carrying light and power cable	Council	-
Electrical safety switch	Annual performance electrical leakage test	Council	-
Appliance electrical safety testing	Appliance electrical safety testing for portable appliances by qualified electrician	Manager	In accordance with legislative requirements
Pool Electrical Fittings	Inspection of Heat Pumps, Gas Heaters and Solar Panel fittings and fixtures	Manager	Daily
Pool Electrical Fittings	Servicing, maintenance and upgrade of Heat Pumps, Gas Heaters and Solar Fittings and Fixtures	Council	-

Mechanical Services			
Circulating Fans	Check operation of ceiling fan	Manager	As required
Lifts	Inspect, service and maintain lifts	Council	-
Automatic Doors	Service automatic door	Council	-
Cold & Freezer Rooms	Inspect and service freezer and cold-rooms plant and equipment	Manager	In accordance with Manufacturers Recommended specifications
A/C Unit	Inspect and service A/C unit includes filter cleaning	Council	-
Pool Equipment and Solar Heating	Inspections of pool equipment and solar heating	Manager	Daily
Pool Equipment and Solar Heating	Inspections/Repairs and Maintenance -service pool equipment and solar heating	Council	-
Windows and Doors			
Roller doors	Inspect and service roller doors	Council	-
Sliding windows	Inspect and service window rollers	Manager	As required
Sliding doors	Inspect and service door rollers	Manager	As required
Hollow core doors	Restore painted surfaces	Manager	As required
Windows and Doors	Inspect and service hardware in accordance with ICC key and locking system	Council	-
Windows and Doors	Glass Breakage except in cases of wilful damage, the Manager is responsible	Council	-

Landscaping			
Trees and Shrubs	Pruning of trees and shrubs	Manager	As required
Grassing and Turfing	General Landscape Maintenance	Manager	As required
Irrigation System Pumps	Inspect/ Service Pump	Manager	In accordance with Manufacturers Recommended specifications
Irrigation System Pumps	Replacement of Pumps	Council	-
Irrigation System	Inspect, Repair and Maintenance of Irrigation for Leaks (valves, etc).	Manager	In accordance with Manufacturers Recommended specifications
Irrigation System	Renewal of Irrigation System	Council	-
Exterior Works			
External Gate	Inspect gate and fittings	Manager	Daily
External Gate	Repairs and maintain gates and fittings	Council	-
Pool Gates	Inspect and service self-closing mechanism	Manager	Daily
Pool Gates	Repair self-closing mechanism	Council	-
External Fence	Inspect fence and fittings	Manager	Daily
External Fence	Repair and maintain fences and fittings	Council	-
Seats and Benches	Inspect, clean & ensure seat fitted securely. This applies to fixed seating only	Manager	Daily
Seats and Benches	Repair fixed seating	Council	-
Shade Structures	Inspect and identification of repairs and maintenance	Manager	Daily
Shade Structures	Cleaning, repairs and maintenance	Council	-

Concrete/ Pavement	Pressure clean surface	Manager	Daily
Hardstand Areas	Pressure clean surface	Manager	Daily
Roof	Clean and inspect and spot seal roof	Council	-
Gutter	Clean and inspect and spot seal gutter	Council	-
Downpipes	Restore protective coatings	Council	-
External taps	Service tapware washers, seats and O rings	Manager	As required
Stormwater Drains	Inspect/Clean S/water Drains in pathways	Council	-
Water Storage Tank	Inspect, service and clean first flush system	Council	-
Business Signage	Restore, repairs and maintenance painted surfaces	Manager	As required, but no less than 5 yearly
External Wall	Clean surfaces	Manager	As required
External Wall	Exterior wall painting	Council	-
Tennis Court Surface	Maintain court surface to installer instructions	Manager	-
Tennis Court Surface	Upgrade court surface in accordance with asset lifecycle plan	Council	As required
Netball Court Surface	Maintain court surface to installer instructions	Council	As required
Pools	Test and Maintain water quality to installer instructions. This includes the provision of all equipment necessary to conduct the testing	Manager	In accordance with legislative requirements
Pools	Repairs and maintenance, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-
Pools	Upgrade pool in accordance with asset lifecycle plan	Council	-

Hot Water System	Inspect, test and service pressure relief valve	Manager	As required
Hot Water System	Replace Hot Water System	Council	-
Regulatory Signage	Inspect, service and maintain regulatory signage	Council	-
Pool Tiles	Inspection and identification of repairs and maintenance	Manager	Daily
Pool Tiles	Repairs and maintenance, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-
Pool Blankets	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Pool Blanket Rollers	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Lane Ropes	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Lane Rope Reels	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Pool Autovac	Initial supply by the Council. Service, maintenance, repair and replacement	Manager	As required
Manual Pool Vacuum	Initial supply by the Council. Service, maintenance, repair and replacement	Manager	As required
Two way radio communication	Supply, repair, maintenance and upgrade	Manager	As required

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Rescue Boards	Supply, repair, maintenance and upgrade	Manager	As required
Rescue Tubes	Supply, repair, maintenance and upgrade	Manager	As required
Binoculars	Supply, repair, maintenance and upgrade	Manager	As required
Whistle	Supply, repair, maintenance and upgrade	Manager	As required
Spinal Boards	Supply, repair, maintenance and upgrade	Manager	As required
First Aid Kits	Supply, repair, maintenance and upgrade	Manager	As required
Automated external defibrillator	Supply, repair, maintenance and upgrade	Manager	As required
Air bag oxygen resuscitator	Supply, repair, maintenance and upgrade	Manager	As required
Oxygen for air bag oxygen resuscitator	Supply	Manager	As required
Stiff Neck Collars	Supply, repair, maintenance and upgrade	Manager	As required
Interior Finishes			
Internal ceilings and walls	Restore painted surfaces ceiling and walls except in cases of damage or misuse caused by the Manager	Manager	As required
Drinking Fountains	Inspect and service Zip Chillmaster	Council	-
Tap Water Heater	Inspect and service Zip Hydroboil	Council	-
Grease Traps	Pump out and maintain grease traps	Manager	In accordance with legislative requirements

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Floor - Tile	Heavy duty scrub clean floor surfaces	Manager	As required but no less than annually
Floor - Vinyl	Inspect, repair and buff floor surfaces	Manager	As required
Floor - Vinyl	Replacement of vinyl, except in cases of wilful damage, misuse or neglect caused by the Manager, the Manager is responsible	Council	-
Floor - Carpet	Heavy duty deep pile special cleaning	Manager	As required
Floor - Carpet	Replacement of carpet, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-
Kitchen Exhaust System	Inspect and service kitchen exhaust	Manager	As required
Kitchen Exhaust System	Heavy Duty Deep Clean kitchen exhaust	Manager	In accordance with manufacturers specifications and recommended requirements
General Internal Repairs	General repairs, except in cases of wilful damage, neglect or misuse caused by the Manager, the Manager is responsible	Council	-
Plumbing			
WC Toilet/cistern and Urinal	Inspect and service flushing mechanisms	Manager	As required
WC Toilet/cistern and Urinal	Clearing of blockages	Manager	As required
WC Toilet/cistern and Urinal	Repair and Maintenance, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-

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Tapware	Service Taps, rewasher, reseal, replace as necessary	Manager	As required
Temperature Control Valves	Inspect, service and clean thermostatic mixing & tempering valves	Council	-
Temperature Control Valves	Deep clean thermostatic mixing & tempering valves.	Council	-
Pipeworks	Service and maintain internal and external plumbing network	Manager	As required
Pipeworks	Repair and Replace internal and external plumbing pipeworks	Council	-
Security			
CCTV & Security Systems	Test and service Security Systems. Any editing or addition of alarm codes for the Manager, and any damage caused to the security system will be at the Manager's cost	Council	-
CCTV & Security Systems	CCTV Monitoring and Maintenance	Manager	Ongoing
CCTV & Security Systems	Security Patrols. Patrol Call Outs that result from False Alarms exceeding one (1) per month will be payable by the Manager	Council	-
CCTV & Security Systems	Access Cards, Keys, Locking Systems. Access Cards/Keys are the Manager responsibility however, if the access cards/keys are lost, damaged or stolen, replacements will be issued by the Council with the cost payable by the Manager	Council	-

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Schedule 2

Key Performance Indicators (KPIs)

Objective	Performance Indicator	Minimum Performance Requirement
Facility marketing	Range of marketing/advertising tools used	Monthly report – 2 days after end of month
Training records	Staff development records	Results of staff training/career opportunities within aquatics to be supplied within 28 days of 31 March and 30 October
Incidences	All reportable incidents (when QAS/QPS are onsite) ASAP	Mandatory
Maintenance Operation Responsibility	Number of Defaults reported to Council or noted by Council on random quality inspections	Number of defects not rectified in a reasonable specified time: no more than 2 per annum
Council Equipment	Record Maintenance conducted under Manager Responsibilities	Maintenance not conducted no more than 2 per annum
Programs	The range and number of Programs offered at the Premises	Increased Programs or participation
Maintenance	Minor Maintenance to be undertaken by Manager	Number of repairs not rectified: no more than 3 per season having been given reasonable time to remedy
Attendance	Based on average annual attendances supplied by the Council for the subject premises or similar centre	A minimum 85% of that average annual attendance without request to provide written explanation on cause
Customer Satisfaction	Number of complaints received and number of complaints not dealt with to Council's reasonable satisfaction	Number of Complaints received: no more than 10 per year. Number of unresolved complaints: no more than 3 per year
Customer Satisfaction	Annual Customer Satisfaction Survey	Survey carried out as agreed with Council and results within agreed benchmarks to reasonable satisfaction of Council
Random Quality Inspections by Authorised Council Officers	A minimum of 10 inspections to be conducted per year	Manager must not receive 2 consecutive unsatisfactory assessments of the same criteria after random quality inspections are undertaken
Community Access	Opening Hours to meet Community needs and be similar to other comparable facilities	A minimum of 85 hours per week in summer season and minimum of 65 hours per week in winter season

Key Performance Indicators (KPIs) cont'd

Objective	Performance Indicator	Minimum Performance Requirement
Community Access	Fees and Charges schedule to be based benchmarking similar facilities within South East Queensland and no more than 5% variance from the medium range of the fees and charges at those other facilities	Proposed schedule submitted before 31 March annually
Administration Responsibilities	Attendance figures	Monthly report – 2 days after end of month
Administration Responsibilities	Water testing (as per Current Council Policy)	Monthly report – 2 days after end of month
Administration Responsibilities	Schedule of Works	Within 60 days of end of Financial Year
Administration Responsibilities	Financial Report showing Liquidity ratios to demonstrate ongoing viability	Within 60 days after end of Financial Year
Administration Responsibilities	Operational / Business Plan including Marketing Plan	Within 28 Days of 31 March provide a report that compares the performance against the plans
Administration Responsibilities	Insurance Certificate/ Licence/ Qualifications	Within 7 days of receipt of certificate/ licence/ qualifications or renewal to provide copy to Council
Administration Responsibilities	Workplace Health and Safety Plan	Supplied Annually

Schedule 3

Council's Assets - Inventory

Item	Quantity
Large Filter Tank	1
Pool Blanket Roller	1
P.A. Equipment	1
Ropes Assembled	5
Storereel	1
Aquatic Machinery Leichhardt Swimming Pool	1
Heat Exchanger - Part Of Gas Heaters	2
Vacuum Cleaner	1
Pool Blanket	1
Mushrooms - Within Pool	3
Water Cannons - Within Pool	2
Air Blower - Within Pool	1
Lazy River - Within Pool	1
Pool Vacuum Auto	1
Thermal Blanket	1
Solar Collector System	1
Gas Heaters	2
Filtration System	1
Lane Ropes	1
Leichhardt Pool Kiosk	1
Change Room	1
Demountable Bldg First Aid	1
25x13m Pool	1
Wading Pool - Fountain	1
Chlorine System	1
Pool Cleaner	1
Submarine Play unit with Staircase and Tunnel	1
4 Way Rocker	1

Item 13 / Attachment 2.

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Surfboard Rocker	1
Fish Rocker	1

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Execution

Executed as an agreement.

SIGNED for IPSWICH CITY COUNCIL by
its duly authorised officer, in the presence
of:

JFL
Signature of witness

THERESE FLYNN
Name of witness (BLOCK LETTERS)

[Signature]
Signature of officer

GARY RUSSELL KELLAR
Name of officer (BLOCK LETTERS)

ACTING CHIEF EXECUTIVE OFFICER
Office held (BLOCK LETTERS)

16.4.18
Date signed

EXECUTED by AUSTRALIAN CRAWL
(GOODNA) PTY LTD A.C.N. 120 208 255:

[Signature]
Signature of director

JUSTIN LEMBOLD
Name (BLOCK LETTERS)

[Signature]
Signature of director/secretary/
sole director/sole director & secretary*
*delete whichever is not applicable

JUSTIN LEMBOLD
Name (BLOCK LETTERS)

26/3/18
Date signed

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Annexure A

Special Conditions

1. AVAILABILITY OF CENTRE TO COUNCIL

- (a) Council may notify the Manager that Council requires the Manager to make the Centre (or any part of the Centre) available to Council (free of charge) for an event that Council wishes to hold or allow to be held at the Centre.
- (b) Council may exercise its rights under this special condition no more than [twice] in each calendar year and for no more than 2 days in each calendar year.
- (c) If Council exercises its rights under this special condition, the Manager must make the Centre (or part of the Centre) available (free of charge) on the date or dates designated by Council for the event.
- (d) The Manager is not released from its obligations under this Agreement on the designated date or dates, unless Council specifically specifies or agrees in writing.
- (e) A reference in this special condition to making the Centre available 'free of charge' does not apply to any kiosk or sporting goods outlet in the Centre.

2. AVAILABILITY OF CENTRE TO RESIDENT SWIM CLUB

- (a) The Manager must allow Ipswich Swimming Clubs (**Swim Clubs**) and all members and guests of Swim Clubs to use the Centre during the Designated Hours.
- (b) The Manager must not allow people who are not members or guests of the Swim Clubs to use the swimming pool(s) in the Centre during the Designated Hours unless the Swim Clubs agree.
- (c) The Manager's obligations under this Agreement continue during the Designated Hours.
- (d) Nothing in this special condition prevents the Manager from charging the Swim Clubs, or members or guests of the Swim Clubs, Admission Fees or Hourly Fees if the Manager could otherwise charge them under this Agreement.
- (e) The "**Designated Hours**" are:
 - (i) the hours that are agreed between the Manager and the Resident Swim Club from time to time; or
 - (ii) if Council specifies a period not exceeding half a day in each week that will be the Designated Hours (for example, between specified hours on a set day in every week) by notice to the Manager – each of those specified periods.

3. USE OF CENTRE BY SWIMMING CLUBS, SCHOOLS, ETC.

- (a) The Manager:
 - (i) may, with the approval of Council; and

-
- (ii) must, if directed to do so by Council,

allow swimming clubs, schools and other bodies approved or specified by Council from time to time (all called "**swimming clubs**") to access and use the Centre, and to access and use the swimming pool(s) in the Centre, to the exclusion of members of the general public:

- (iii) for club swims, carnivals and similar events; and
- (iv) for the length of time and on the day or days and on the conditions approved by or directed by Council.

- (b) Nothing in this special condition prevents the Manager from charging the swimming clubs Admission Fees or Hourly Fees if the Manager could otherwise charge them under this Agreement.

4. CAPITAL WORKS

4.1 Manager Capital Works

- (a) The Manager may undertake the Manager Capital Works at the Centre:
 - (i) in accordance with and without breaching the requirements of clause 10.5(b) of this Agreement;
 - (ii) after obtaining Council's approval to the scope of works and the manner of undertaking the Manager Capital Works; and
 - (iii) in accordance with any conditions imposed by Council when giving that approval.
- (b) The Manager will be permitted to remove or deconstruct the Manager Capital Works at the end of the Term.
- (c) Ownership of the Manager Capital Works shall remain with the Manager during the Term.
- (d) If the Manager does remove or deconstruct the Manager Capital Works at the end of the Term, it must repair any damage caused by such removal or deconstruction, to the reasonable satisfaction of Council.
- (e) If the Manager does not remove or deconstruct the Manager Capital Works at the end of the Term, Council may (without any liability to the Manager) treat the Manager Capital Works as abandoned and may, at Council's election, treat the ownership of the Manager Capital Works as having vested in Council and/or remove, store and dispose of the Manager Capital Works as the Council sees fit.
- (f) "**Manager Capital Works**" means capital improvements made or to be made to the Centre by the Manager during the Term including but not limited to:

Manager Capital Works	Estimated Cost
Office Fit Out	\$10,000.00
Pool Furniture Fit Out	\$10,000.00
Miscellaneous	\$5,000.00
Total	\$25,000.00

4.2 Agreed Capital Works

- (a) The Manager must submit a written proposal (including a scope of works, draft design brief, draft plans and specifications, draft schedule of finishes, proposed time line and indicative costings) to Council outlining the Manager's proposed capital improvements to the Centre (other than the Manager Capital Works) during the Term (the "**Capital Works Proposal**") on or before 1 June 2018.
- (b) Council will review the Manager's Capital Works Proposal and provide a response on the proposal to the Manager within 30 days of receipt of the proposal.
- (c) The parties agree to collaborate in good faith in relation to the proposed capital improvements and the Capital Works Proposal. The Manager acknowledges that Council has a masterplan for the Centre and may be desirous to undertaking additional or other capital improvements to the Centre.
- (d) Council may (acting reasonably):
 - (i) approve the Manager's Capital Works Proposal;
 - (ii) require amendments to the Manager's Capital Works Proposal;
 - (iii) impose conditions on any approval of the Manager's Capital Works Proposal (including on any amended Capital Works Proposal); or
 - (iv) not approve the Manager's Capital Works Proposal.
- (e) If Council approves the Manager's Capital Works Proposal (including any amended Capital Works Proposal):
 - (i) the Manager's proposed capital improvements (as per the Capital Works Proposal) will be the "**Agreed Capital Works**" for the purposes of this special condition;
 - (ii) the Manager must undertake the Agreed Capital Works at the Centre during the Term:
 - (A) to a minimum guaranteed spend amount of \$100,000 (exclusive of GST). In this regard, the Manager must provide to Council, as and when requested, evidence of the expenditure of funds, including for example, copies of invoices and receipts for payment;
 - (B) in accordance with and without breaching the requirements of clause 10.5(b) of this Agreement; and

-
- (C) in accordance with any conditions imposed by Council when giving that approval.
 - (iii) the ownership of the Agreed Capital Works shall be with the Manager during the Term, but shall vest in Council on termination of this Agreement. The Manager must do all things reasonably possible to ensure that Council obtains the benefit of any warranties relating to the Agreed Capital Works; and
 - (iv) the Manager will not be permitted to remove or deconstruct the Agreed Capital Works at the end of the Term. For the purpose of clause 16 of this Agreement, the Agreed Capital Works will form part of the Centre and/or the Council's Assets at the end of the Term.
- (f) If:
- (i) Council does not approve the Manager's Capital Works Proposal; or
 - (ii) Council approves the Manager's Capital Works Proposal but the Manager does not carry out and complete the Agreed Capital Works in the manner required by this special condition by 1 April 2021,
- the Manager must pay to Council the sum of \$100,000 plus GST within 30 days of receipt of a valid tax invoice from Council.
- (g) Nothing in this special condition prohibits Council from undertaking its own capital improvements to the Centre and/or utilising the funds received from the Manager in accordance with special condition 4.2(f) towards its capital improvements to the Centre.

4.3 Disputes

If a dispute arises between the parties in relation to the operation of this special condition 4, such dispute shall be managed in accordance with clause 18 of this Agreement.

5. TRUSTS

If the Manager is at any time acting in the capacity of trustee of any trust (the Trust) then whether or not Council may have notice of the Trust the Manager covenants with Council as follows:

- (a) the Manager is the sole trustee of the Trust;
- (b) this Agreement extends to all rights of indemnity which the Manager has against the Trust;
- (c) the Manager has power and authority to enter into this Agreement and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Manager against the Trust and the Manager will not breach that right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
- (d) the Manager will be and at all times remain personally liable to Council for the due performance fulfilment and observance of the obligations in this Agreement;
- (e) the Manager will not without the consent in writing of Council allow any of the

following events to happen:

- (i) the removal replacement or retirement of the Manager as sole trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust;
 - (iv) any resettlement of the trust property.
- (f) It will be an event of default under this Agreement if the Manager is guilty of any breach of trust in respect of the Trust or ceases to be the sole trustee of the Trust.

6. NOT USED

7. LICENSING

7.1 Right to Grant Licence

The Manager may, subject to first obtaining the written consent of Council, grant to third parties a non-exclusive licence to use and occupy part or parts of the Centre on terms satisfactory to Council, and otherwise in accordance with this provision.

7.2 Council's Consent

Council's consent to a licence arrangement contemplated by this provision (a **Licence**) will not be unreasonably withheld or delayed if the following conditions are satisfied:

- (a) the Manager gives to Council reasonable prior written notice of the Manager's desire to grant a Licence, details of the nature of the proposed Licence and the name of the proposed licensee;
- (b) the Manager gives to Council upon demand such further information financial reports or other material as Council may reasonably require in respect of the proposed Licence and proposed licensee;
- (c) the proposed licensee is a respectable and financially responsible person who has the ability to meet all relevant obligations of the Manager contained in this Agreement (having regard to the nature and extent of the proposed Licence);
- (d) the use to which it is proposed that the licenced area will be put is not inconsistent with the nature and character of the Centre, and will not detract from the good management of the Centre or the standard or quality of the facilities offered at the Centre;
- (e) the Manager is not in breach of this Agreement;
- (f) if required by Council, the proposed licensee agrees to enter into a covenant with Council that the proposed licensee will observe and perform all relevant obligations conditions and restrictions (having regard to the nature and extent of the proposed Licence) contained in this Agreement on the part of the Manager to be observed and performed;
- (g) the Manager pays Councils reasonable legal and other costs incurred in

connection with considering the proposed Licence (whether or not Council's consent is granted and whether or not the proposed Licence proceeds) including the cost of enquiries made by or on behalf of Council regarding the solvency fitness and suitability of the proposed licensee;

- (h) if the proposed licensee is a limited liability company, one (1) or more directors or shareholders of the proposed licensee as may be reasonably required by Council will provide personal guarantees in the form reasonably required by Council and to the effect that:
 - (i) the proposed licensee will observe and perform all relevant obligations conditions and restrictions (having regard to the nature and extent of the proposed Licence) contained in this Agreement on the part of the Manager to be observed and performed; and
 - (ii) they will indemnify Council against all loss damages costs and expenses arising by reason of any default by the proposed licensee;

7.3 Licence Terms

Every permitted Licence must be granted at a licence fee equal to the then current market licence fee value of the area being licensed (the **Licensed Area**) and will contain covenants:

- (a) for the review of the licence fee reserved on an annual basis;
- (b) prohibiting the licensee from doing or allowing any act or thing inconsistent with or in breach of this Agreement; and
- (c) not to assign or sub-licence the Licensed Area.

7.4 Performance Management, Financial Management and Reporting

Without limiting special condition 7.3, the Manager must ensure that every permitted Licence contains terms and obligations to be performed on the part of the licensee that mirror (as applicable, having regard to the nature and extent of the Licence) those covenants contained in this Agreement relating to:

- (a) performance management (as contained in clause 12 of this Agreement);
- (b) financial management (as contained in clause 13 of this Agreement); and
- (c) reporting (as contained in clause 14 of this Agreement),

so as to enable the Manager to comply with its obligations under those provisions of this Agreement and to include, where applicable, all relevant information in respect of the Licence (including income generated by the licensee, and licence fees or other amounts payable by the licensee to the Manager) in all records and reports the Manager is required to keep, maintain and provide to Council under the terms of this Agreement.

7.5 Licence Fees as Revenue

For avoidance of doubt, all amounts received by the Manager from the licensee under any permitted Licence will be considered Revenue of the Centre for the purposes of this Agreement, and in particular, under clause 13 of this Agreement.

8. BANK GUARANTEE

8.1 Application

This Special Condition 8 applies unless the Manager provides Council with a Security Bond in accordance with Special Condition 9.

8.2 Provision of Guarantee and Review

The Manager must:

- (a) on or before executing this Agreement arrange for the issue of an unconditional Australian bank guarantee in favour of Council, on terms and issued by a bank acceptable to Council, for the amount of \$5,000.00 (**Bank Guarantee**) to secure performance by the Manager of its obligations under this Agreement;
- (b) ensure that any Bank Guarantee is kept current and enforceable and that it has no expiry date; and
- (c) if Council is paid an amount under the Bank Guarantee following a demand provide Council with a replacement or additional bank guarantee for the amount paid out.

8.3 Recourse to Bank Guarantee

If the Manager does not comply with any of its obligations under this Agreement Council may call on the Bank Guarantee to the extent of the Manager's default.

8.4 Transfer by Council

- (d) If Council sells or transfers the Centre, it may:
 - (i) assign the Bank Guarantee to the transferee; or
 - (ii) require the Manager to provide a replacement Bank Guarantee in favour of the transferee.
- (e) If the Manager does not comply with a request to provide a replacement Bank Guarantee within 14 days, Council may present the Bank Guarantee and deliver the proceeds to the transferee to hold as a security deposit until the Manager provides a Bank Guarantee to the transferee and on doing so, Council will be discharged from any legal responsibility to the Manager or any other person in relation to the Bank Guarantee.

9. SECURITY BOND

9.1 Application

This Special Condition 9 applies unless the Manager provides Council with a Bank Guarantee in accordance with Special Condition 8.

9.2 Amount

The Manager must on or before executing this Agreement pay a security bond to Council in the amount of \$5,000.00 (**Security Bond**) to be held by Council as security for the performance of the Manager's obligations under this Agreement.

9.3 Holding of the Security Bond

The Security Bond will, at Council's discretion, be held by Council or in Council's solicitor's or managing agent's trust account.

9.4 Charging of the Security Bond

The Manager:

- (a) charges of Security Bond in favour of Council for the Term with the performance by the Manager of all its obligations under this Agreement;
- (b) authorises Council to make withdrawals from the Security Bond; and
- (c) must sign any documents that Council requires to enable Council to be paid any part of the Security Bond.

9.5 Application of the Security Bond

Council may apply the Security Bond towards the payment of any money payable by the Manager to Council under this Agreement.

9.6 Maintenance of Security Bond

If Council applies the Security Bond under this special condition, the Manager must within 14 days of being so requested pay any deficiency so that the Security Bond is reinstated to its full amount.

9.7 Not to Prejudice Other Rights

The application of the Security Bond by Council does not prejudice Council's other rights under this Agreement or by law. Council's failure to apply the Security Bond does not constitute a waiver.

9.8 Bank Fees

Council is not legally responsible for any bank fees or charges GST or other tax on any interest bearing account in which the Security Bond is deposited. Any bank fees or charges GST or other taxes will be deducted from the Security Bond. If requested by Council, the Manager will provide its tax file number for disclosure to the relevant bank. Nothing in this special condition obliges Council to invest the Security Bond in an interest bearing account.

9.9 Payment of Security Bond

Council must pay the balance of the Security Bond to the Manager (including any interest) within one (1) month after the later of the following:

- (a) if there is a dispute between Council and Manager pertaining to this Agreement when this Agreement ends – the date when that dispute is resolved or determined; or
- (b) otherwise – when all the Manager's obligations under this Agreement have been fulfilled.

9.10 Assignment of Security Bond

If Council sells or transfers the Centre, it may pay the Security Bond or assign its interest in it to the buyer or transferee and on doing so, Council will be discharged from any legal responsibility to the Manager or any other person in relation to the Security Bond.

10. GUARANTEE AND INDEMNITY

10.1 Application

If the Manager is a corporation as defined in the *Corporations Act 2001*, the Manager must at the same time as execution of this Agreement, arrange for the execution of the guarantee and indemnity contained in this Agreement by its directors and principal shareholders, as reasonably required by Council.

10.2 Guarantee and Indemnity

In consideration of Council entering into this Agreement with the Manager, the Guarantor covenants and agrees with Council that:


- (a) it will be legally responsible jointly and separately with the Manager for the due performance by the Manager of all the obligations terms and conditions of this Agreement on the part of the Manager to be performed;
- (b) the Guarantor indemnifies Council against all losses damages costs and expenses which Council may incur from any breach or non observance of this Agreement by the Manager;
- (c) the legal responsibility of the Guarantor is not affected by:
 - (i) Council exercising any rights under this Agreement;
 - (ii) Council terminating this Agreement;
 - (iii) the Manager that is a corporation being wound up or dissolved;
 - (iv) the Manager who is a natural person being declared bankrupt;
 - (v) a transfer of the Manager's interest in this Agreement;
 - (vi) a variation of this Agreement;
 - (vii) any failure by Council to exercise its rights or any delay in doing so;
- (d) the Guarantor is treated as a primary debtor and contractor together and separately with the Manager;
- (e) this guarantee and indemnity does not depend upon the enforceability of the obligations and agreements of any other person and remains binding even if another person does not sign this Agreement or this guarantee and indemnity;
- (f) if the Manager enters into liquidation (or being a natural person enters into bankruptcy) and the liquidator or trustee in bankruptcy disclaims this Agreement the Guarantor must accept from Council an agreement for a period equal to the remaining Term of this Agreement, the agreement to contain the same conditions

as are in this Agreement;

- (g) notices to be given to the Guarantor may be signed by the solicitors for Council or any officer of Council and may be given by post at the Guarantor's last known address;
- (h) if any part of this guarantee and indemnity is unenforceable that will not affect the enforceability of any other part of this guarantee and indemnity;
- (i) if the Guarantor is more than one person the liabilities of each of those persons are joint and separate;
- (j) this guarantee and indemnity takes effect immediately upon its signing and continues to be of full effect. References to **this Agreement** include any agreement arising upon signing or acceptance by the Manager of the document to which this guarantee and indemnity is attached or forms part;
- (k) if the Licensor transfers the Centre or otherwise transfers Council's rights under this Agreement Council's rights under this guarantee and indemnity will be treated as transferred to any future owner of the Centre or other transferee.

Executed by the Guarantor as a deed.


SIGNED SEALED AND DELIVERED by
JUSTIN WILLIAM LEMBERG, in the
presence of:



Signature of witness

Roslyn Schunkins

Name of witness (BLOCK LETTERS)

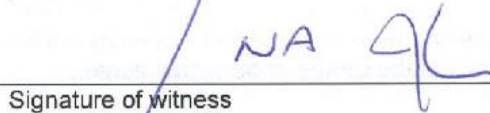


Signature of party

28.3.18

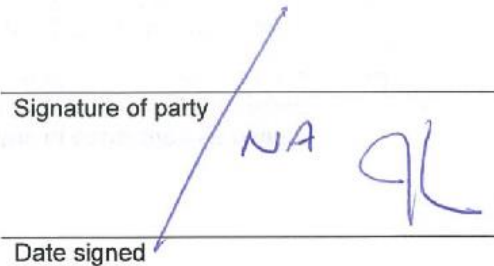
Date signed

SIGNED SEALED AND DELIVERED by
WILLIAM HARRY LEMBERG, in the
presence of:



Signature of witness

Name of witness (BLOCK LETTERS)



Signature of party

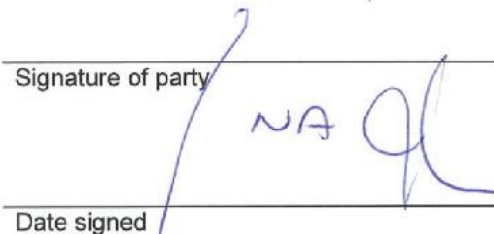
Date signed

SIGNED SEALED AND DELIVERED by
ELIZABETH ANN LEMBERG, in the
presence of:



Signature of witness

Name of witness (BLOCK LETTERS)



Signature of party

Date signed

Item 13 / Attachment 3.

QUEENSLAND LAND REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

FORM 14 Version 4
Page 1 of 2



711932933

NO FEE

19/09/2008 11:31

BE 608

NO FEE

1. Nature of request REQUEST TO REGISTER MANDATORY STANDARD TERMS FOR A TRUSTEE LEASE	Lodger (Name, address, E-mail & phone number) SLAM – Policy GPO Box 2454 Brisbane Q 4001 SLAMPolicyCHQ@nrw.qld.gov.au	Lodger Code BE 2268
--	--	-------------------------------

2. Lot on Plan Description NOT APPLICABLE	County	Parish	Title Reference
---	---------------	---------------	------------------------

3. Registered Proprietor/State Lessee
NOT APPLICABLE

4. Interest
NOT APPLICABLE

5. Applicant
DEPARTMENT OF NATURAL RESOURCES AND WATER

6. Request
I hereby request that: PURSUANT TO SECTION 318A OF THE LAND ACT 1994 THE ATTACHED MANDATORY STANDARD TERMS DOCUMENT FOR A TRUSTEE LEASE BE REGISTERED.

7. Execution by applicant

17 19 2008
Execution Date


Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant
Graham Nicholas, A/Director, State Land Asset
Management, Department of Natural Resources
and Water a duly authorised delegate of
the Minister under the current Land Act
(Ministerial) Delegation

QUEENSLAND LAND REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

**SCHEDULE / ENLARGED PANEL /
ADDITIONAL PAGE / DECLARATION**

Form 20 Version 2
Page 2 of []

Title Reference []

eLVAS Case Id[]

**Mandatory standard terms for a Trustee Lease
(Sections 318, 318A Land Act 1994)**

For the *Land Act 1994*, this document contains provisions that are treated as terms of a further document, and applies to a document, that is a trustee lease under that Act. Those provisions are:

1. INTRODUCTION

- 1.1 This Trustee Lease is subject to the provisions of the Act and if any clause or condition of this Trustee Lease is inconsistent with the Act, the provisions of the Act prevail.
- 1.2 A mandatory standard terms document for a trustee lease under the Act forms part of this Trustee Lease under the Act.
- 1.3 If there is a conflict between the Mandatory Standard Terms Document and the terms of another document for this Trustee Lease, the Mandatory Standard Terms Document prevails as provided for under section 320A of the Act.

2. DEFINITIONS

2.1 In this Trustee Lease, unless the context requires otherwise:

- (a) **"the Act"** means the *Land Act 1994* (Q), as amended from time to time and if that Act is repealed, any Act which replaces that Act;
- (b) **"Approval"** means any approval, consent or permission required by law, including under the Act;
- (c) **"Business Day"** means any day in the State of Queensland which is not a Saturday, Sunday or public holiday either in the locality of the Premises or in Brisbane.
- (d) **"Commencement Date"** means the commencement date stated in Item 6 of the Form 7;
- (e) **"Form 7"** means the Form 7 lease which forms part of this Trustee Lease;
- (f) **"Improvements"** means all improvements, fixtures and fittings as constructed on the Premises from time to time;
- (g) **"Mandatory Standard Terms Document"** means the mandatory standard terms document lodged by the Minister in the land registry for a trustee lease under the Act;
- (h) **"Minister"** means the Minister administering the Act;
- (i) **"Parties"**, other than in clause 15 (Release and Indemnity), means the Trustee and the Trustee Lessee;
- (j) **"Premises"** means the premises described in Item 5 of the Form 7 and the Improvements on those premises;
- (k) **"Rent"** means the rent stated in Item 7 of the Form 7;
- (l) **"Term"** means the term stated in Item 6 of the Form 7;
- (m) **"Trust Land"** means the land described in Item 2 of the Form 7;
- (n) **"Trustee"** means the lessor stated in Item 1 of the Form 7 and any trustee appointed under the Act in place of that lessor. Where the context permits, the definition also includes all of the Trustee's officers, employees, agents, contractors, consultants and invitees;
- (o) **"Trustee Lease"** means the Mandatory Standard Terms Document and any other document (including the Form 7, any schedule, plans and attachments) for a lease by the Trustee to the Trustee Lessee of the Premises for the Term;
- (p) **"Trustee Lessee"** means the lessee stated in Item 3 of the Form 7 and includes any personal representative or successor in title to the Trustee Lessee. Where the context permits, the definition also includes all of the Trustee Lessee's officers, employees, agents, contractors, consultants and invitees.

3. SUPERSEDED ACTS ET CETERA

- 3.1 Where a law, person or body or other thing referred to in this Trustee Lease is renamed, superseded or replaced with another law, person or body or other thing (as the case may be), references in this Trustee Lease will be taken to be changed in a corresponding manner, except where the context requires otherwise.

QUEENSLAND LAND REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

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4. MINISTERIAL APPROVAL

4.1 This Trustee Lease is subject to and conditional on:

- (a) the Minister's written 'in principle' approval to the Trustee Lease under section 57(1) of the Act;
- (b) endorsement of the Minister's approval on this Trustee Lease under section 57(4) of the Act;
- (c) compliance with any conditions of an approval of the Minister that must be complied with before the Trustee may lease the Premises to the Trustee Lessee under this Trustee Lease; and
- (d) registration under the Act, as required by section 57(3) of the Act, of this Trustee Lease in the land registry.

Until paragraphs (a), (b), (c) and (d) are satisfied and despite the definitions of "Commencement Date" and "Term" in clause 2.1, the (purported) Trustee Lease does not take effect as a lease of the Premises and the Trustee Lessee has no right to the possession, occupation or use of the Premises.

5. GRANT OF TRUSTEE LEASE

5.1 Subject to clause 4.1, the Trustee leases the Premises to the Trustee Lessee for the Term under this Trustee Lease.

6. USE AND DEVELOPMENT, ACCESS AND SERVICES

6.1 The Trustee Lessee may only use or develop the Premises:

- (a) according to all relevant laws including, without limitation, any planning and environmental laws and any local laws;
- (b) where an Approval of any entity is required to undertake or carry out a use or development of the Premises, with the prior Approval of the relevant entity and according to that Approval;
- (c) subject to the terms of this Trustee Lease, according to any management plan for the Trust Land under section 48 of the Act.

6.2 Without limiting clause 6.1, if the purpose of this Trustee Lease is inconsistent with the purpose for which the Trust Land was dedicated or granted, all Improvements built or placed by the Trustee Lessee on the Premises must first be approved by the Minister under section 59(2) of the Act.

6.3 In clause 6.1, 'develop' includes the construction of Improvements on the Premises.

6.4 Despite anything else, the Trustee Lessee holds this Trustee Lease so that the Trust Land (including the Premises) may be used for the purpose for which the Trust Land was dedicated or granted without undue interruption or obstruction.

6.5 Clause 6.4 does not apply to a building permitted to be built on the Trust Land.

6.6 If the Trustee Lease does not adjoin a dedicated road, or have some other legal access, the Trustee Lessee may access and provide services (including electricity, telephone, water and like services) to the Trustee Lease and Premises through the Trust Land via the most convenient route or location as determined by the Trustee and on any terms and conditions of the Trustee.

7. DECLARED PEST PLANTS AND ANIMALS

7.1 The Trustee Lessee must control pest plants and animals on the Premises during the Term in accordance with the *Land Protection (Pest and Stock Route Management) Act 2002* and any requirements of the local government in whose local government area the Premises are situated.

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8. CLEARING OF VEGETATION

8.1 The Trustee Lessee may only clear, remove or destroy any native vegetation ('clear') on the Premises if the:

- (a) clearing is permitted or not prohibited by law or, if required by law, the Trustee Lessee may under a development permit under the *Integrated Planning Act 1997* clear; and
- (b) Trustee has given its consent to the clearing.

9. ENVIRONMENT PROTECTION AND DUTY OF CARE

9.1 The Trustee Lessee must not dispose of or allow to be disposed of, any substance or thing (including refuse, garbage, oil or chemical) into any watercourse, the sea or onto the Trust Land (including the Premises). For this clause and without limitation, a substance or thing is disposed of if it leaks, or is washed, blown or otherwise enters, into any watercourse, the sea or onto the Trust Land (including the Premises).

9.2 Without limiting clause 9.1, the Trustee Lessee must:

- (a) store and keep all trade refuse and trade garbage in proper containers; and
- (b) dispose of all refuse and trade garbage regularly and hygienically at an approved rubbish dump without causing pollution or damage to the Trust Land (including the Premises), any land adjoining the Trust Land, a watercourse or the sea.

For this clause and without limitation, trade refuse and trade garbage includes debris from building works, chemicals from chemical works, medical waste and other waste of this nature but does not include general refuse and garbage that is collected regularly by or for the relevant local government.

9.3 The Trustee Lessee must:

- (a) use all reasonable endeavours to overcome and minimise any harmful effects on the environment arising from its use of the Premises; and
- (b) rehabilitate the Premises, and any watercourse, the sea, the Trust Land and any other land (the "affected areas") if there is any damage caused to the Premises and the affected areas by its use of the Premises and any other area of the Trust Land.

9.4 The Trustee Lessee has a responsibility for a duty of care for the Premises.

10. LIQUOR OR GAMING AND OTHER LICENCE

10.1 The Trustee Lessee must not store, sell or supply, or allow to be stored, sold or supplied, any liquor on or from the Premises:

- (a) except with the prior written consent of the Trustee and the Minister; and
- (b) according to any required licence or other authority under the *Liquor Act 1992*.

10.2 The Trustee Lessee must not operate the Premises under a gaming machine licence (as defined in the *Gaming Machine Act 1991*) without the prior written consent of the Trustee and the Minister.

10.3 The Trustee Lessee must not operate KENO facilities on the Premises. With the prior written consent of the Trustee and the Minister, this clause 10.3 will not apply if KENO facilities have been operating on the Premises under a previous lease from the Trustee for the Premises and where all necessary Approvals were obtained.

10.4 The Trustee Lessee must not operate TAB facilities on the Premises. With the prior written consent of the Trustee and the Minister, this clause 10.4 will not apply if TAB facilities have been operating on the Premises under a previous lease from the Trustee for the Premises and where all necessary Approvals were obtained.

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11. TRANSFER, MORTGAGE OR SUBLEASE

- 11.1 The Trustee Lessee may not transfer, mortgage or sublease this Trustee Lease without the prior Approval of the Trustee and the Minister.

12. NO HOLDING OVER AND OTHER DEALINGS

- 12.1 The Trustee Lessee may not:

- (a) hold over, possess or occupy the Premises after the expiry of this Trustee Lease;
- (b) renew this Trustee Lease;
- (c) convert this Trustee Lease to another form of tenure; or
- (d) buy the Premises.

13. THE MINISTER AND STATE OF QUEENSLAND NOT BOUND

- 13.1 The Parties may not bind or subject the Minister or the State of Queensland to any agreement, or liability for costs, fees or expenses under this Trustee Lease.

14. INSURANCE

- 14.1 The Trustee Lessee must effect a public liability insurance policy with an insurer authorised under the *Insurance Act 1973* (Cth) or, in any other case, to the satisfaction of the Minister, naming the Trustee Lessee as the insured covering legal liability for any loss of or damage to any property and for the injury (including death) to any person arising out of anything done or omitted on or about the Premises and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof subject to the terms and conditions of the insurance policy.

Such policy must:

- (a) be for an amount of not less than twenty million dollars (\$20,000,000.00) in respect of all claims arising out of a single event or such higher amounts as the Minister may reasonably require; and
 - (b) be effected on a "claims occurring" basis so that any claim made by the Trustee Lessee under the policy after the expiration of the period of policy cover but relating to an event occurring during the currency of the policy will be covered by the policy subject to the claim meeting the policy's other terms and conditions; and
 - (c) be maintained at all times during the currency of this Trustee Lease, and upon receipt of any Notice of Cancellation, the Trustee Lessee must immediately effect another public liability insurance policy in accordance with the terms and conditions of this Trustee Lease.
- 14.2 The Trustee Lessee must forward a certificate of currency to the Trustee within 10 business days of the commencement of each respective renewal period.
- 14.3 The Trustee must, within 10 business days of becoming aware of any of the following occurrences, inform the Minister in writing, of any such occurrences:
- (a) the Trustee Lessee's failure to renew the public liability insurance cover as required under the terms and conditions of this Trustee Lease;
 - (b) the Trustee Lessee's failure to forward to the Trustee within 10 business days after the commencement of a renewal period for such cover, a copy of the certificate of currency as required under this Trustee Lease;
 - (c) receipt by the Trustee of a Notice of Cancellation in relation to such cover.
- 14.4 Clauses 14.1 to 14.3 will be satisfied if the Trustee Lessee is the State of Queensland or a statutory authority eligible for cover under the Queensland Government Insurance Fund and is insured and continues to be insured by the Queensland Government Insurance Fund.

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- 14.5 Clauses 14.1 to 14.3 will be satisfied if the Trustee Lessee is the Commonwealth of Australia or a statutory authority eligible for cover under the Comcover Insurance Fund and is insured and continues to be insured by Comcover.
- 14.6 Clauses 14.1 to 14.3 will be satisfied if the Minister approves by separate letter a replacement clause or clauses for inclusion in another document that forms part of this Trustee Lease. For this clause 14.6 to have effect, the replacement clause or clauses must be included in that other document and the original of the letter of approval must have been lodged in the land registry with a document that forms part of this Trustee Lease.
- 14.7 The Trustee Lessee must, as soon as practicable, inform the Minister and Trustee, in writing, of the occurrence of any event that the Trustee Lessee considers is likely to give rise to a claim under the policy of insurance effected and must ensure that the Minister and Trustee are kept fully informed of subsequent actions and developments concerning the claim.
- 14.8 To remove doubt, the requirements of clause 14 apply to any other area of the Trust Land used by the Trustee Lessee.

15. RELEASE AND INDEMNITY

- 15.1 The Trustee Lessee indemnifies and agrees to keep indemnified the Minister, the State of Queensland, and the Trustee ("the Indemnified parties") against all actions, suits, proceedings, claims, demands, costs, losses, damages and expenses ("Claim") arising out of or in any way connected to or resulting from the granting of this Trustee Lease to the Trustee Lessee or which is connected to or resulting from the Trustee Lessee's use and occupation of the Premises (all of which are referred to as "the indemnified acts or omissions") save to the extent that the Claim arises as a result of any negligent act or omission of the Indemnified parties, however, any negligent act or omission of one of the Indemnified parties does not negate the indemnity to any of the other Indemnified parties.
- 15.2 The Trustee Lessee hereby releases and discharges the Indemnified parties from any Claim relating to the indemnified acts or omissions which may be made against the Indemnified parties, save to the extent that the Claim arises as a result of any negligent act or omission of the Indemnified parties, however, any negligent act or omission of one of the Indemnified parties does not negate the release and discharge in favour of any of the other Indemnified parties.
- 15.3 To remove doubt, the Trustee Lessee specifically agrees that the indemnity provided by the Trustee Lessee in this clause 15 extends to any Claim (as defined by this clause 15) arising from the use of any other area of the Trust Land by the Trustee Lessee.

16. POWER OF ATTORNEY

- 16.1 The Trustee Lessee, other than if the Trustee Lessee is the Commonwealth of Australia or the State of Queensland, appoints the Trustee to act as the Trustee Lessee's attorney and authorises the Trustee to execute all such documents and to perform such acts on the Trustee Lessee's behalf as are necessary to procure the registration of a surrender of this Trustee Lease to the Trustee.
- 16.2 The Trustee must not use its power pursuant to this clause unless:
- (a) the Trustee Lessee has breached a term or condition of this Trustee Lease;
 - (b) the Trustee has given written notice of the breach to the Trustee Lessee and has allowed the Trustee Lessee 20 business days (or such other time as the Trustee may allow after taking into account what needs to be done and the time required to remedy the breach) from the delivery of that written notice to remedy the breach; and
 - (c) the Trustee Lessee has not remedied the breach by the expiration of the 20 business day period (or such other time as the Trustee has allowed);

and the Trustee is entitled to end this Trustee Lease as provided for under this clause 16 and take possession of the Premises.

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17. SURRENDER

- 17.1 The Trustee Lessee, with the Trustee's consent, may, at any time during the Term, surrender this Trustee Lease. On surrender, clause 18 applies.

18. TRUSTEE LESSEE'S OBLIGATIONS AT THE END OF THIS TRUSTEE LEASE

- 18.1 At the end of this Trustee Lease, if the Trustee Lessee removes its Improvements from the Premises under this Trustee Lease or otherwise, the Trustee Lessee must restore and otherwise make good the Premises to a similar condition the Premises were in before the Commencement Date to the satisfaction of the Trustee.
- 18.2 At the end of this Trustee Lease, the Trustee Lessee must leave the Premises in a clean and tidy condition to the satisfaction of the Trustee.
- 18.3 The Trustee Lessee must maintain any insurance it is required to effect under clause 14 during any period in which it may remove its Improvements (the 'removal period').
- 18.4 During the removal period, the Trustee Lessee indemnifies, releases and discharges those persons stated in clause 15 to the same extent provided for under clause 15.

19. CANCELLATION OF TRUSTEE LEASE

- 19.1 If this Trustee Lease is cancelled under section 65 of the Act:
- (a) this Trustee Lease ends and no person has a right to a claim for compensation; and
 - (b) any Improvements not removed from the Trust Land become the property of the Trustee.

20. REVOCATION OF DEDICATION OF WHOLE OR PART OF RESERVE OR CANCELLATION OF A DEED OF GRANT IN TRUST

- 20.1 If the Trust Land is a reserve under the Act:
- (a) the Minister may revoke the dedication of all or part of the reserve under section 33 of the Act;
 - (b) on revocation of all or part of the reserve, this Trustee Lease, in relation to the land the subject of the revocation, is cancelled from the day the revocation of the dedication of the reserve takes effect under section 34D of the Act;
 - (c) if this Trustee Lease is cancelled, no person has a right to a claim for compensation for the revocation (as provided under section 34F(f) of the Act), and the Trustee Lessee must immediately vacate the Premises as required under section 34G of the Act;
 - (d) on cancellation of this Trustee Lease under section 34F, improvements (as defined in the Act) that have not been removed from the Trust Land become the property of the State subject to section 34H of the Act.
- 20.2 If the Trust Land is a deed of grant in trust under the Act:
- (a) the Governor in Council may cancel the deed of grant in trust under section 38 of the Act;
 - (b) on cancellation of the deed of grant in trust, this Trustee Lease is cancelled from the day the cancellation takes effect under section 38(6) of the Act;
 - (c) if this Trustee Lease is cancelled, no person has a right to a claim for compensation for the cancellation (as provided by section 38E(e) of the Act) and the Trustee Lessee must immediately vacate the Premises as required under section 38F of the Act;
 - (d) on cancellation of this Trustee Lease under section 38E, improvements (as defined in the Act) that have not been removed from the Trust Land become the property of the State subject to section 38G of the Act.

END OF DOCUMENT

Your reference
Our reference 425/2019/MCU
Contact Officer Sue Taylor
Telephone (07) 3810 6986



Ipswich City Council

45 Roderick St
PO Box 191
Ipswich QLD 4305
Australia

Tel (07) 3810 6666
Fax (07) 3810 6731
Email council@ipswich.qld.gov.au
Web www.ipswich.qld.gov.au

Just Sports N Fitness
aaron@poolshopqld.com.au

4 February 2019

Dear Sir/Madam

Re: Action Notice
Application No: 425/2019/MCU
Proposal: Material Change of Use - Recreation Use (Outdoor Recreation - Swimming Pool)
Property Location: 19A Toongarra Road, LEICHHARDT QLD 4305

I refer to your application submitted to Council on 23 January 2019 for Material Change of Use - Recreation Use (Outdoor Recreation - Swimming Pool) to be carried out on land situated at the above referenced property.

Section 51 of the *Planning Act 2016* specifies requirements for an application to be deemed "properly made". You are advised that the above referenced application is not properly made for the following reasons:

- The correct owner's consent has not been provided in accordance with section 51(2) of the *Planning Act 2016*. Specifically, the State Government is the owner of the land over which the application has been submitted, however no written land owners consent has been submitted with the application;
- The mandatory supporting information, as prescribed on the application forms, has not been supplied in accordance with section 51(1)(b)(i) of the *Planning Act 2016*. Specifically, no town planning assessment report has been submitted with the application. Further the submitted development application forms do not correctly define the proposal in accordance with the Schedule 1 'Dictionary' of the Ipswich Planning Scheme. The proposal would be correctly defined as a Recreation Use (Extension to Outdoor Recreation – New Swimming Pool) under the provisions of the Ipswich Planning Scheme;
- The application was not accompanied by the correct fee in accordance with section 51(1)(b)(ii) of the *Planning Act 2016* and pursuant to Council's Fees and Charges Schedule. The application fee is calculated based on the area of the use being applied for. In this instance, it would be calculated based on the area of the pool and any other new structures or buildings proposed. The applicant is requested to confirm the area of the use being applied for as it is unclear exactly what is proposed. The required fee applicable to the

proposal is either \$3,650 based on a use area of 200m² or less, or \$3,675 plus \$2.50 per m² over 200m². As at the date of this letter, Council has received an amount of \$0.00.

In order to comply with section 51 of the *Planning Act 2016*, you must undertake the following actions for the application to be considered properly made:

- Provide signed and dated land owners consent. As the State Government owns the land, it is recommended you approach Council's property branch in the first instance to obtain further direction and advice with respect to the acquisition of owners consent. The property department may be contacted on propertyrequests@ipswich.qld.gov.au and 3810 6617;
- Pay the relevant application fee. You can pay over the phone by contacting 3810 6888;
- Provide an amended DA Form 1 'Development Application Details', correctly defining the proposal as Recreation Use (Extension to Outdoor Recreation – New Swimming Pool);
- Provide a town planning assessment report clearly outlining the development proposed and how the proposal complies with the relevant provisions of the Ipswich Planning Scheme and the State Planning Policy. Relevant provisions of the Ipswich Planning Scheme which should be addressed include:
 - ☐ The Recreation Zone Code (Part 4, division 17);
 - ☐ The Recreation and Entertainment Code (Part 12, division 11);
 - ☐ The Parking Code (Part 12, division 9)
 - ☐ The Development Constraint Overlay Code (Part 11)
- ☐ A copy of the state planning policy and interactive mapping can be viewed at <https://planning.dsdmip.qld.gov.au/planning/spa-system/plan-making-under-spa/state-planning-under-spa/state-planning-policy>

Council will not formally receive your application until such time as the above mentioned items are adequately provided to Council. You are requested to submit the above items within 20 business days of receipt of this notice, in order to make the application properly made. **A further period may be agreed in writing by the Assessment Manager upon written request for an extension.**

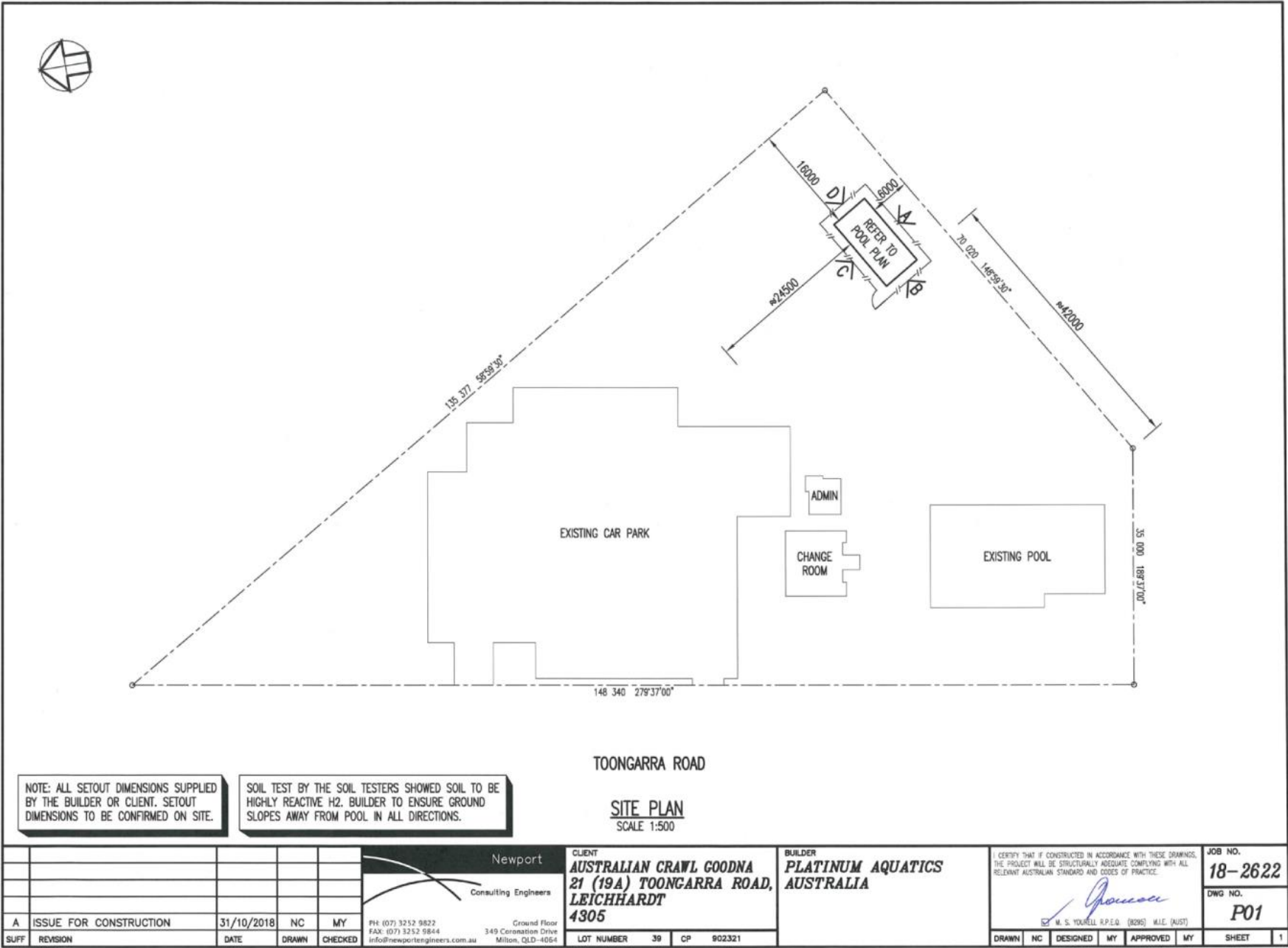
Pursuant to section 3.7 of the Development Assessment Rules under the *Planning Act 2016*, failure to respond to this notice within the designated time may result in the application being taken to have not been made. In this instance, Council will arrange to have your application returned and a refund of any application fee paid, less any applicable administration costs.

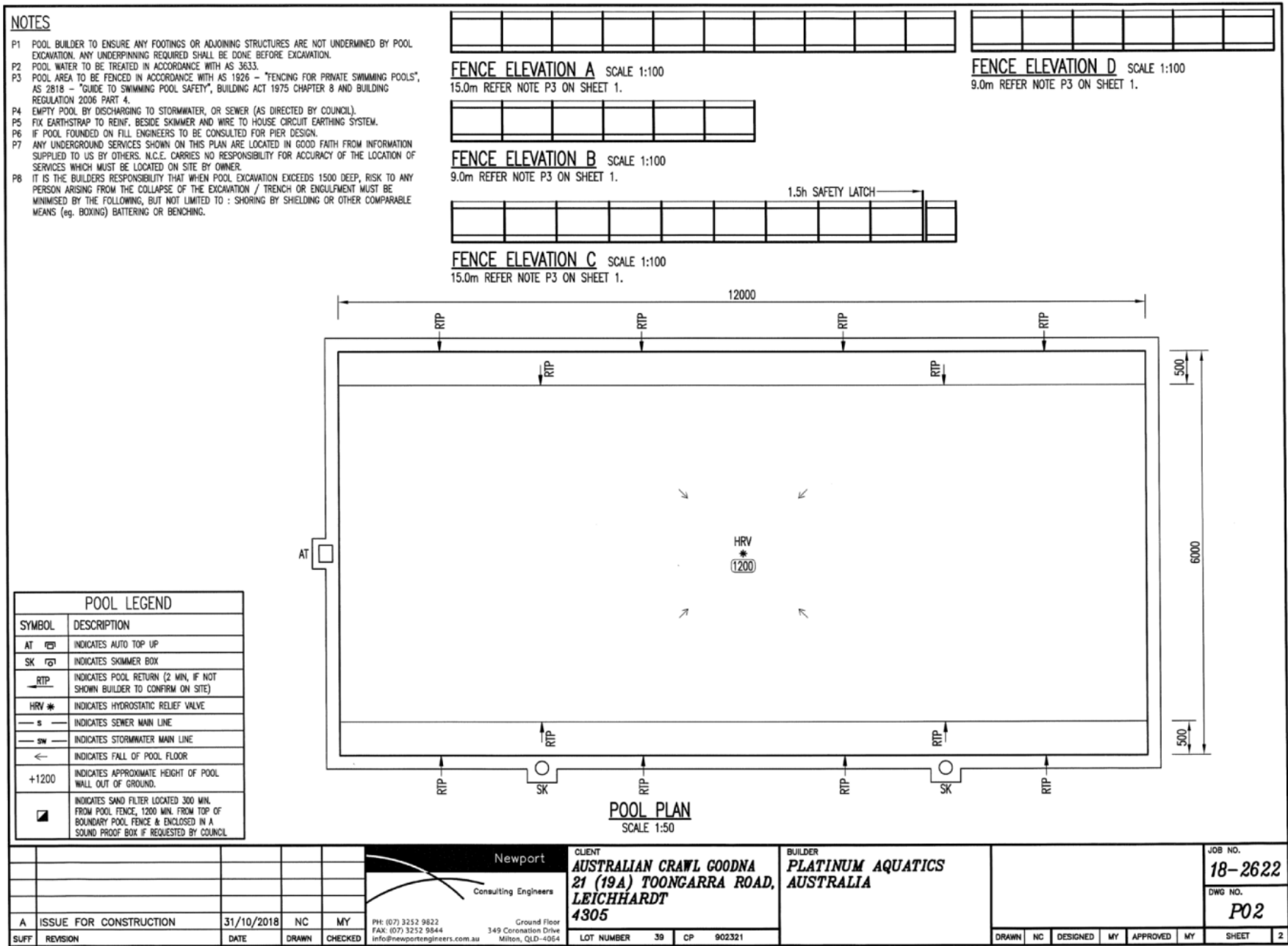
If you have any queries regarding this Action Notice, please contact Sue Taylor (Planner – Development) on the telephone number listed above.

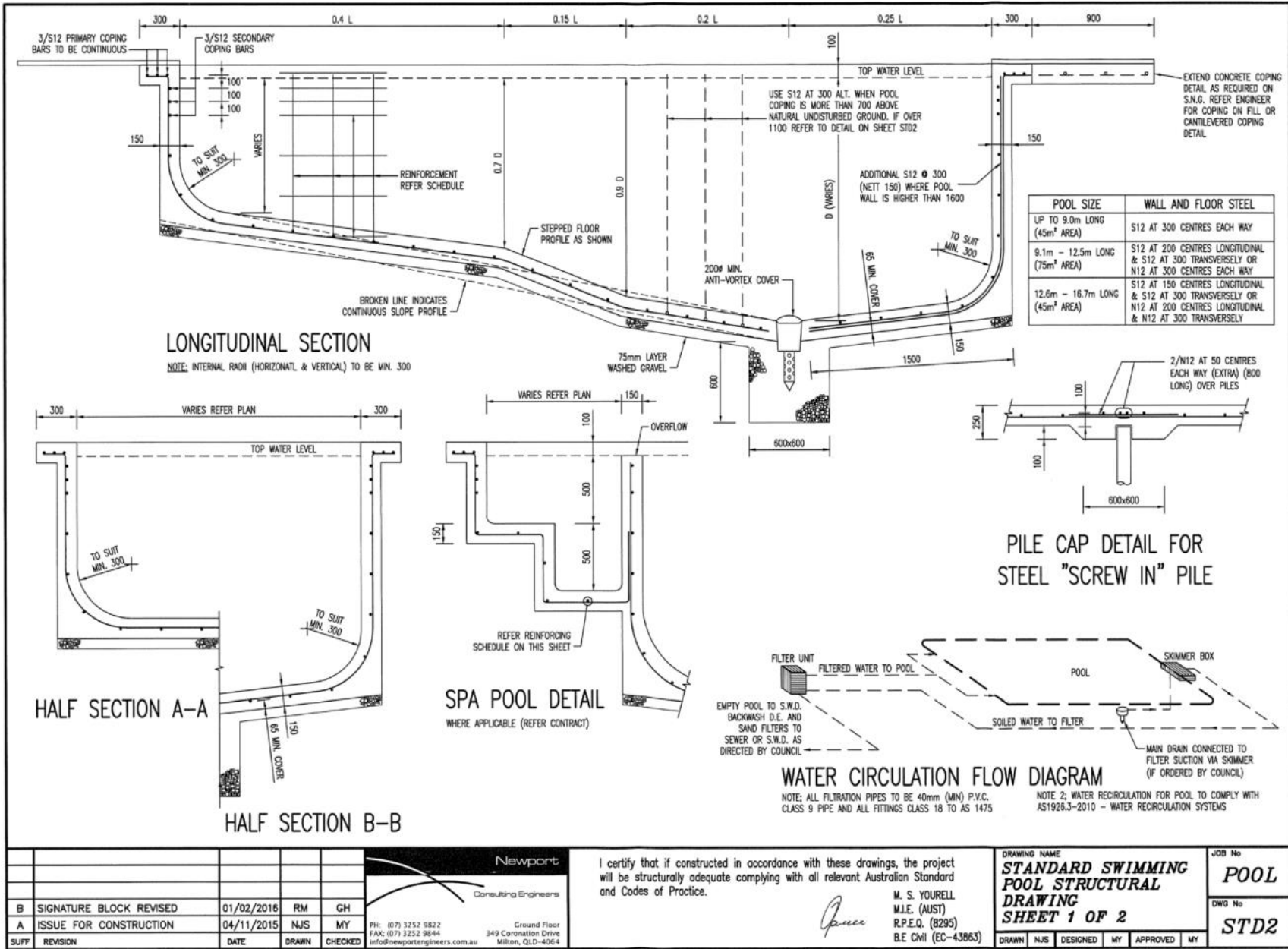
Yours faithfully

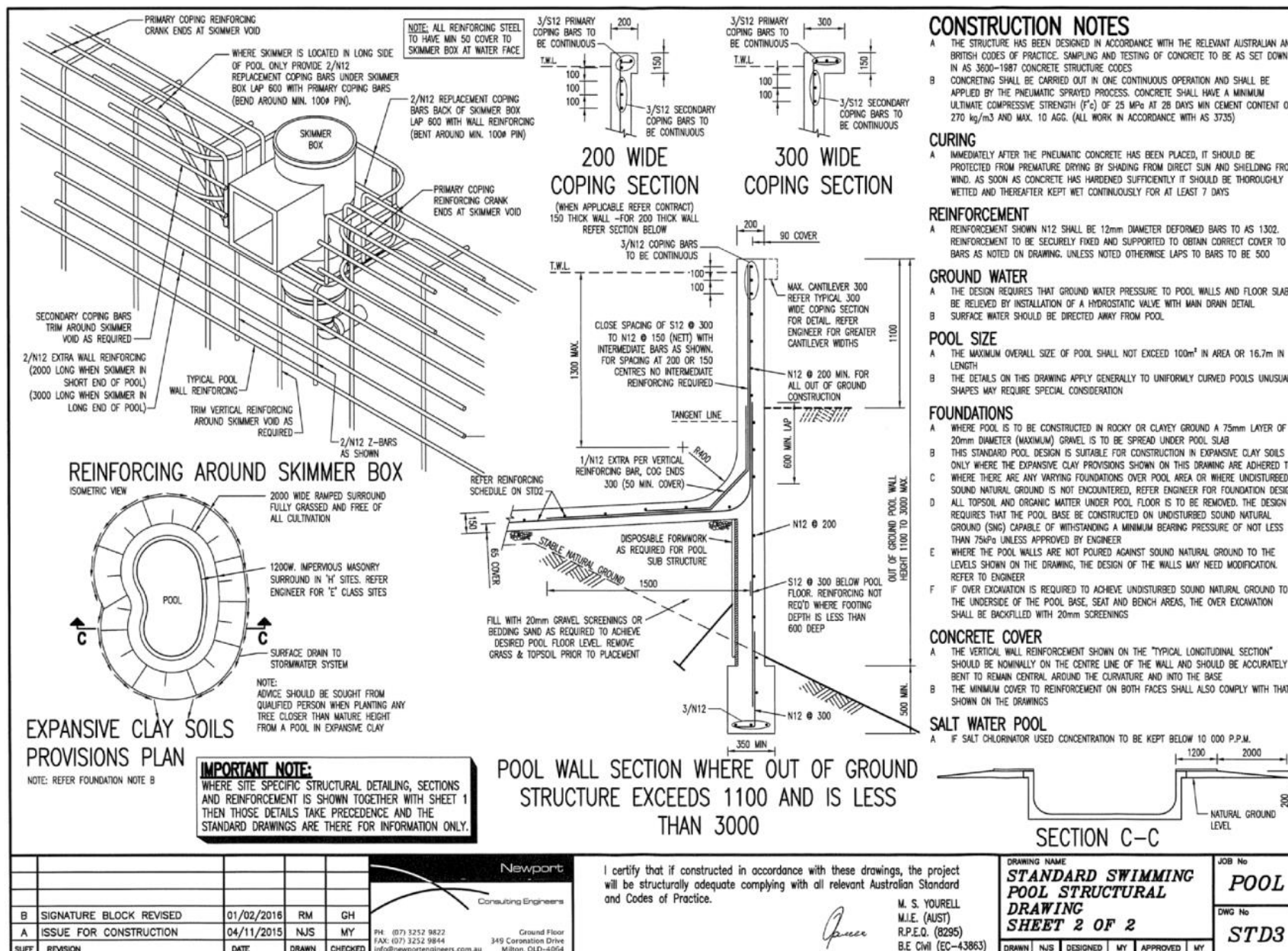


Nikki Morrison
SENIOR PLANNER (DEVELOPMENT)









Doc ID No: A5577657

ITEM: 14

SUBJECT: ACQUISITION OF PART OF STATE LAND LOCATED AT 61 NICHOLAS STREET,
IPSWICH AND THE DISPOSAL OF COUNCIL FREEHOLD LAND LOCATED AT LOT
311 CLAY STREET, IPSWICH FOR PARK PURPOSES

AUTHOR: PROPERTY OFFICER

DATE: 7 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the acquisition of part of Reserve land owned by the State of Qld (the State) and the disposal of Council freehold land to be dedicated as Park, to resolve the encroachment of a deck and a historical encroachment of part of buildings on Reserve land.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council (Interim Administrator of Ipswich City Council) having duly considered this report dated 7 June 2019, be of the opinion that the following property ('the land') be acquired:**
 - a. Part of Lot 5 on Crown Plan I16205, 61 Nicholas Street, Ipswich**

- B. That Council (Interim Administrator of Ipswich City Council) resolve pursuant to section 236(2) of the *Local Government Regulation 2012* (the Regulation) that the exception referred to in section 236(1)(b)(i) of the Regulation applies to Council for the disposal of the following property ('the land') to be dedicated to the State of Queensland as Park:**
 - a. Lot 311 on SP304375, Lot 311 Clay Street, Ipswich**

- C. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the acquisition and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the Local Government Act 2009.**

- D. That a further report be presented to Council (Interim Administrator of Ipswich City Council) on the preferred option for the disposal of Part of Lot 5 on Crown Plan I16205 located at 61 Nicholas Street, Ipswich.**

RELATED PARTIES

The parties related to this matter included:

The Infrastructure and Environment Department (Internally) have been consulted on this matter.

ADVANCE IPSWICH THEME LINKAGE

Managing growth and delivering key infrastructure

PURPOSE OF REPORT/BACKGROUND

The land owner of 88 Nicholas Street Ipswich (the Developer) made a Development Application (7608/2018/OW) for the construction of a deck adjoining their freehold land. The deck was proposed to be constructed over Lot 5 on CP I16205 being a Reserve for Park Purposes located at 61 Nicholas Street, Ipswich (the Reserve). Council is the Trustee of the Reserve and purported to provide owner's consent to the Development Application under section 51(2) of the *Planning Act 2016*. It was later discovered that Council had no authorisation to provide Owner's Consent for an inconsistent use (commercial activity) on a Reserve. The Owner's Consent can only be provided by the State in the instance where improvements are inconsistent with the purpose of the Trust land.

On 15 February 2017 an application was made to Council by the developer for a Trustee Lease over part of the Reserve for the area of the deck to be used for commercial purposes that would service the adjoining restaurant. Property Services processed the request and was advised by the Department of Natural Resources, Mines and Energy (DNRME) that the proposed Trustee Lease was inconsistent with the purpose of the Reserve. The State Policy for Secondary use of Trust Land does not permit commercial activity on State land.

The developer constructed the deck before receiving consent from DNRME while Property Services continued to obtain approval for the Trustee Lease from the Minister of DNRME. Council issued a Permit for the deck in the interim to allow the developer to continue operation over the deck until the matter could be resolved with DNRME.

DNRME advised Council by letter dated 16 May 2017 that the application for a Trustee Lease for the deck over the Reserve was not approved. Council withdrew the application for the Trustee Lease by letter dated 1 June 2017.

DNRME advised Council by letter on 4 July 2017 that the construction of the deck in the Reserve was unacceptable and required the deck to be removed by Council. Despite numerous attempts by Council to resolve the matter with DNRME, they advised Council to

seek approval from the State to revoke the area of the reserve occupied by the deck structure. Council would be required to purchase the land at full market value on the provision that the council complied with the following:

- Provide an offset area for dedication as a community purpose reserve for park purposes, which has similar value and utility to the community purpose designation and located in the vicinity of the existing park reserve. The offset area must be land that does not already have a community purpose designation.
- Confirm that the area of encroachment by the deck onto the reserve is surplus to the requirements of the reserve due to the establishment of the additional reserve area, with clear demonstration that the community has been consulted on this position.
- Facilitates the sale of the land at full market value to the adjoining freehold landowner or retains the land and leases the deck area.
- Administer a covenant over the land to protect the community interest, particularly for the use of the deck by the RSL or other community groups, on the newly created freehold title.

Council advised DNRME by letter on 22 August 2017 that as Trustee, supported the terms defined by DNRME along with the decision to excise off both the encroachment on the Reserve by the deck and the historic encroachment of the adjoining building. Council then provided five possible options of land that Council owned with the Ipswich CBD for consideration as an offset area for dedication as a community purpose reserve. DNRME advised that the land options provided were not suitable to their requirements.

A portion of land (Part of 18 Clay Street, Ipswich) was being acquired by Council as part of the Western Ipswich Bikeway Link project to be dedicated as road (33m²). The land was adjacent to an existing Council park and the landowner enquired whether Council would acquire an additional portion of 366m² of land. The landowner was in the initial stages of making a development application to split the property from one lot into two lots and advised that the taking of the 33m² for the bikeway would impact on the ability to do this. Council accepted the proposal to purchase the remaining land (366m²) to make available for additional parkland. Council provided this land as an option to DNRME as a suitable offset area to be dedicated as a Reserve for Park Purposes.

In November 2018, DNRME accepted this land as a suitable offset area to be dedicated to the State as a Reserve for Park Purposes in lieu of Council acquiring the Reserve land in which the deck encroached. Council has now acquired and owns the 399m² of land located at 18 Clay Street and described as Lot 311 on SP304375.

The next step in the process to resolve this matter with the State is to declare the land at 18 Clay Street, West Ipswich described as Lot 311 on SP304375 as surplus to Council's needs. In parallel, Council will make an application to the State to purchase the Reserve land occupied by the deck at 61 Nicholas Street, Ipswich and described as Lot 5 on CPI16205. Council will also need to undertake public consultation on the above proposal and provide supporting evidence to the State.

FINANCIAL/RESOURCE IMPLICATIONS

Council will be required to pay market value for the encroachment area occupied by the deck at 61 Nicholas Street, Ipswich and this is to be determined by the State Valuation Service. DNRME have also advised Council that the legacy encroachments over the Reserve from the adjoining building will need to be resolved as well. Council will purchase the additional encroached land from the State and on sell to the adjoining owner when the deck matter is settled. The reason DNRME have requested this is to resolve all of the land issues in one combined process.

Council paid market value for the land located at Clay Street, Ipswich and described as Lot 311 on SP3040375, determined by an independent registered valuer. The value apportioned for the additional portion of 366m² of land was \$50,000.

There will be additional project costs in relation to the purchase of the deck area including; legal costs, survey plan costs, settlement costs and costs associated with coordinating the community consultation.

RISK MANAGEMENT IMPLICATIONS

The existing risk is that Council is not complying with their obligation as Trustee of the Reserve under the *Land Act 1994*. If Council do not make an application to DNRME to acquire the land, DNRME will require the deck to be removed from the land. Acquisition of the portion of land where the encroachment exists will remove the risk of the removal of the deck.

There is also reputational risk to Council given that there has not been any community consultation undertaken for the deck to be located on State Reserve and whether this proposal is in the public's interest.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Land Act 1994

Land Regulations 2009

Local Government Regulation 2012

Local Government Act 2009

COMMUNITY AND OTHER CONSULTATION

Community consultation is a requirement of DNRME prior to the acquisition of the Reserve land, therefore it is imperative that this is undertaken by Council. The Returned Services League of Australia (RSL) on the adjoining land have shown an interest in utilising the deck for Anzac Services for two days every year and it is expected that this will feature in the feedback from the community.

OPTIONS

It is proposed that a further report be submitted to a future Committee for adoption on the preferred option of disposal of the land occupied by the deck and existing building

encroachments to the developer, pursuant to section 236 (2) of the *Local Government Regulation 2012* and the exemption referred to in section 236 (1)(c)(iv) to allow the land to be disposed of to the adjoining landowner. Direction is sought from Council on the below proposed disposal options:

1. LEASE

Lease the portion of land occupied by the deck to the adjoining owner for a commercial rent set by Council giving consideration to the market value determined by an independent registered valuer.

2. SALE

Sell the portion of land occupied by the deck to the adjoining landowner for a commercial value negotiated with Council giving consideration to the market value determined by an independent registered valuer.

3. COVENANTS

In disposing the land to the adjoining landowner the following covenants be placed on the title of the land occupied by the deck for the following:

COMMUNITY EVENTS

To ensure that the RSL may still utilise the land for ANZAC Services two days a year. If the community consultation undertaken results in other public interest for use of the deck, then the covenant may be required to include this as well.





VEGETATION MANAGEMENT

As there is a significant tree located on the land and the deck surrounds the tree, it is proposed that an appropriate covenant addressing vegetation management is registered so as to not cause environmental harm or an environmental nuisance except to the extent allowed under the Act.

CONCLUSION

It is recommended that Council support the proposal to make an application to DNRME with the accompanying community consultation, to acquire the land described as Lot 5 on CPI16205 wherein occupied by the deck and existing building encroachments. In lieu of acquiring this parkland, Council dispose of the land at Clay Street described as Lot 311 on SP304375 as surplus to Council's needs and dedicated to the State as park and recreation for community use.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Property Plan - 61 Nicholas Street, Ipswich ↓ 
2.	Indentification Survey IS272382 - Plan identifying building encroachments - 61 Nicholas Street, Ipswich ↓ 
3.	Survey Plan - Lot 311 SP304375 located at Lot 311 Clay Street, Ipswich ↓ 
4.	Previous Committee Report - Proposed Acquisition of Land for Western Ipswich Bikeway Project ↓ 
	CONFIDENTIAL
4.1	Confidential Report from previous committee report - Proposed Acquisition of Land for Western Ipswich Bikeway Project

Kerry Perrett

PROPERTY OFFICER

I concur with the recommendations contained in this report.

Brett McGrath

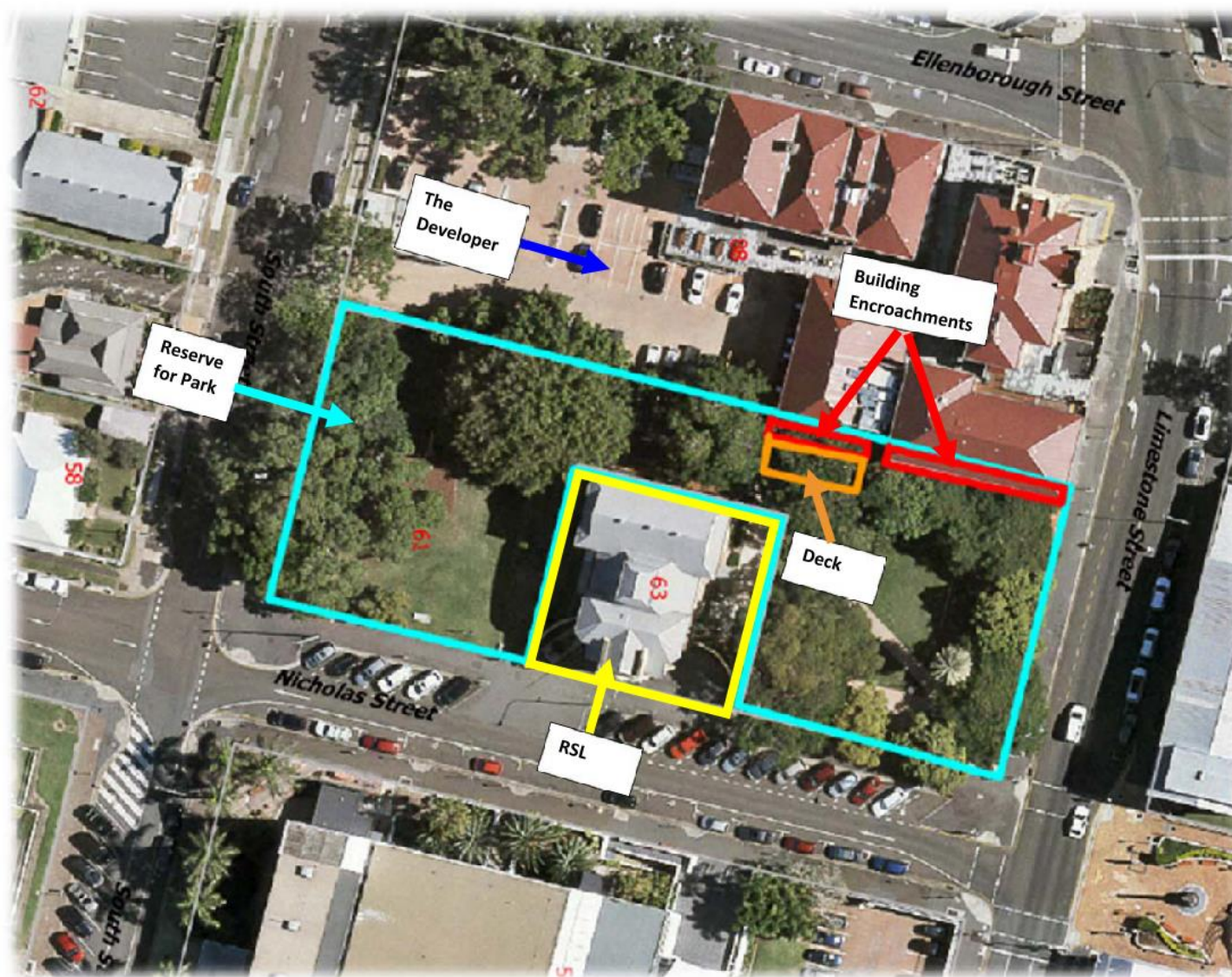
SENIOR PROPERTY OFFICER

I concur with the recommendations contained in this report.

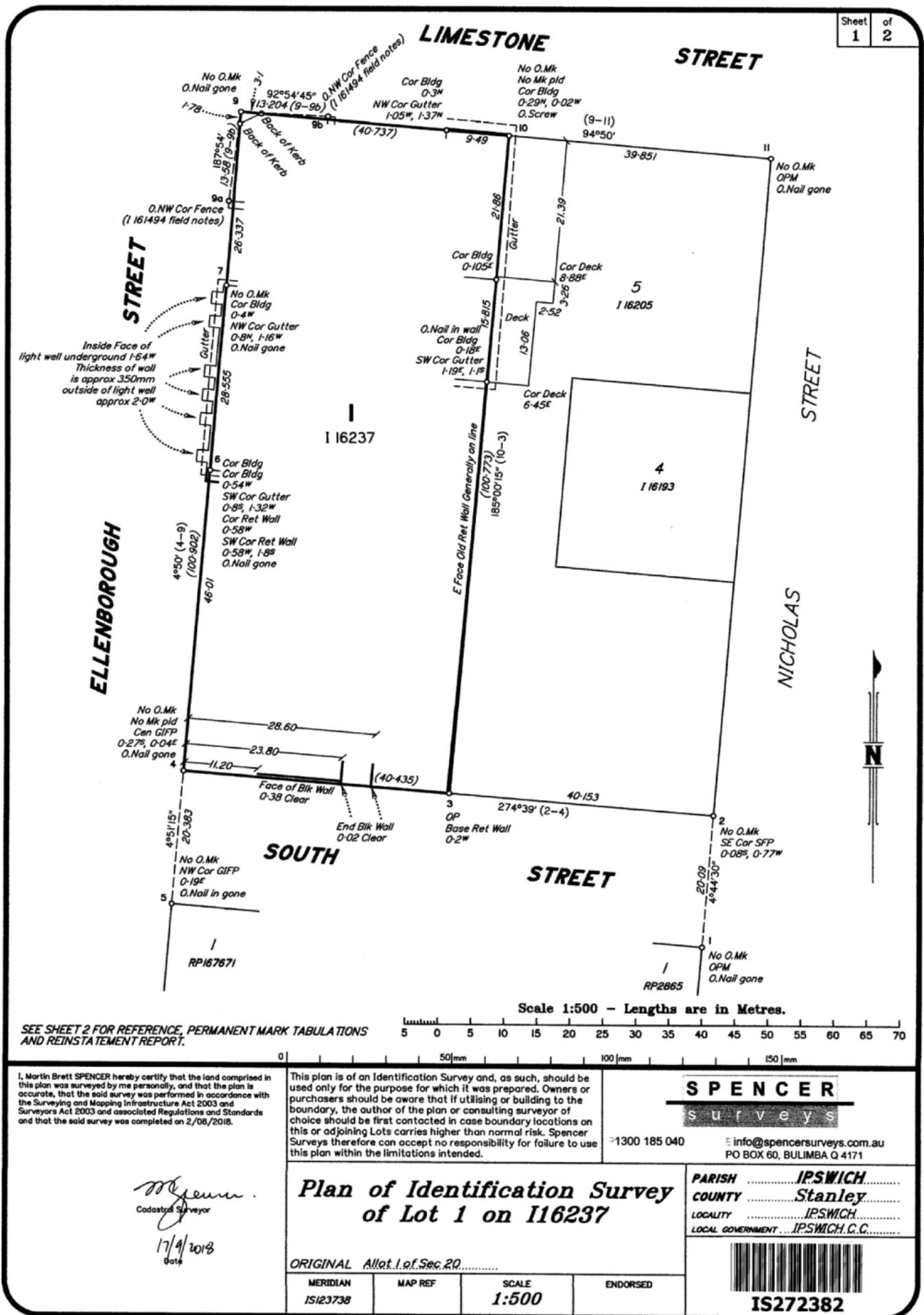
Andrew Knight

GENERAL MANAGER - CORPORATE SERVICES

“Together, we proudly enhance the quality of life for our community”



Property Plan – 61 Nicholas Street, Ipswich



REINSTATEMENT REPORT

Original Plans perused – I16237, I16193, I16205, RP167671 & IS258587

Original reference marks were found at Stns 1, 2, 9, 10 & 11.

Original Occpn found at stns 4, 5, 9 & 10.

Survey in agreeance with IS123738 with slightly shorter distances between stns 4–9 and 3–10.

Building encroachments found along Ellenborough and Limestone streets and the eastern boundary of lot.

ENCROACHMENT NOTICE

Encroachment notice issued to owners of lot 5 I16205 and Ellenborough and Limestone Streets on 17/9/2018 in accordance with s.18 of the Survey and Mapping Infrastructure Regulation 2014

PM	ORIGIN	BEARING	DIST	NO	TYPE
I–OPM	IS139417	345°28'15"	2.962	69753	Standard
II–OPM	IS123738	89°50'	1.087	32033	Standard

REFERENCE MARKS

STN	TO	ORIGIN	BEARING	DIST
1	O.Nail in F/Path gone	IS258587	334°45'	1.743
1	O.Nail in F/Path gone	IS258587	4°46'	1.846
1	O.Nail in F/Path gone	IS258587	584°29'	2.51
1	O.Screw in kerb	IS258587	28°34'	16.59
2	O.Screw in Conc gone	IS123738	163°19'	2.225
2	Nail in Bit		142°33'	2.383
3	Nail in Kerb		168°59'	3.608
4	Nail in Kerb		282°24'	3.33
5	O.Nail in Kerb gone	IS258587	355°42'	3.53
5	OIP (Not Searched) (Under Fence)	RP167671	184°55'	5.0
6	O.Nail in Bit gone	IS123738	274°50'	1.5
7	O.Nail in Bit gone	IS123738	274°50'	1.5
9	O.Nail gone	IS123738	359°48'40"	17.132
9	Nail in Bit		121°47'	4.85
9	Nil in Bit		204°49'	5.754
10	O.Screw	IS123738	5°43'	3.885
11	O.Nail gone	IS123738	228°28'	1.666

Item 14 / Attachment 3.

FINAL 141199-1 (EC/IPW)

Land Title Act 1994 : Land Act 1994
Form 21 Version 3

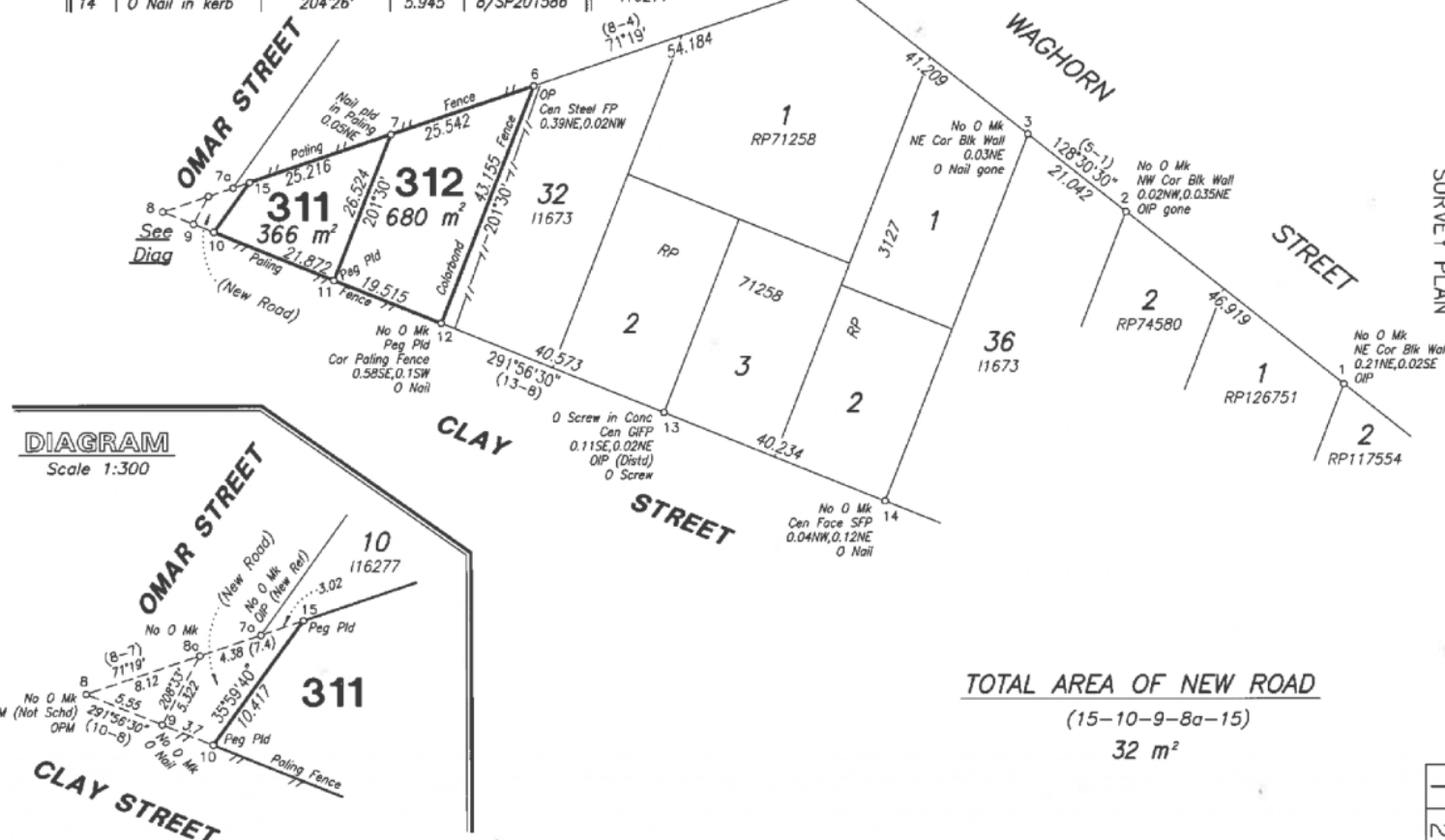


PERMANENT MARKS				
PM	BRG	DIST	No.	REMARKS
8-OPM	5°43'30"	69.605	31628	12/SP201586
8-OPM	14°28'50"	73.084	51322	12/SP201586

(New Ref)
(New Ref)

REFERENCE MARKS				
STN	TO	BRG	DIST	REMARKS
1	OIP	30°37'30"	0.61	5/SP201586
2	OIP gone	34°05'30"	0.98	4/SP201586
2	Screw in kerb	28°07'30"	4.582	
3	O Nail in Bit gone	23°02'30"	3.66	3/SP201586
4	Screw in Conc	34°50'	8.377	
5	O Spike in Bit gone	64°29'	9.832	1/SP201586
6	Pin	34°17'	0.787	
7a	OIP	36°49'	0.978	5/116277
8	OIP gone	at	Stn	12/SP201586
8	Screw in Conc	261°04'	18.901	
9	O Nail in Conc	215°12'	1.698	11/SP201586
11	Nail Fd in kerb	259°26'	10.964	
12	O Nail in kerb	252°17'	9.294	10/SP201586
13	OIP (Distd)	198°19'	0.612	9/SP201586
13	O Screw in kerb	207°12'30"	5.93	4/IS267209
14	O Nail in kerb	204°26'	5.945	8/SP201586

(New Ref)



TOTAL AREA OF NEW ROAD
(15-10-9-8a-15)
32 m²

Sheet
1 of 2

RP5 Australia East Pty Ltd (ACN 140 282 762) hereby certify that the land comprised in this plan has been surveyed in accordance with the provisions of the Land Title Act 1994 and the Land Act 1994, and that the plan is a true and correct copy of the original plan as filed with the Registrar of Titles.

31/01/2019 Date

Authorised Delegate

PLAN OF
LOTS 311 & 312
Cancelling Lot 31 on SP201586

LOCAL GOVERNMENT: IPSWICH CITY LOCALITY: IPSWICH

Meridian: SP201586

Survey Records: NO

Format: STANDARD

SP304375

BM:KP
A5170095

Governance Committee	
Mtg Date: 27.11.18	OAR: YES
Authorisation: Jeffrey Keech	

5 November 2018

MEMORANDUM

TO: ACTING CHIEF OPERATING OFFICER (FINANCE AND CORPORATE SERVICES)

FROM: SENIOR PROPERTY OFFICER

RE: PROPOSED ACQUISITION OF LAND FOR WESTERN IPSWICH BIKEWAY PROJECT
DIVISION 7

INTRODUCTION:

This is a report by the Senior Property Officer dated 5 November 2018 concerning the proposed compulsory acquisition of land for strategic road purposes to facilitate the Western Ipswich Bikeway Link.

BACKGROUND:

Council have completed the detailed design for the construction of a commuter bikeway from Roderick Street through to Brisbane Road along Hooper, Pound and Omar Streets, West Ipswich.

Works for the bikeway will include:

- Construction of a new concrete 2.5-3m wide shared pathway;
- Raised priority road crossing points with lighting;
- Associated minor retaining walls, road, kerb and channel works; and
- Service relocation works

The Western Ipswich Bikeway Project will form an essential link between the Ipswich CBD and pedestrian and cycle facilities to be constructed in the future on Old Toowoomba Road, One Mile, providing access to the Ipswich Western suburbs.

This is an iGO initiative, which forms the City of Ipswich Transport Plan, Council's masterplan for Ipswich's sustainable Transport future.

To facilitate the construction of the project, the following property acquisitions are required:

Part of Lot 31 on SP201586, 18 Clay Street, Ipswich (33m²) (refer to Attachments A and B)
Part of Lot 45 on RP887269, 7 Hooper Street, West Ipswich (1m²) (refer to Attachments C and D)

The negotiations to date between Council and the owner of 18 Clay Street, Ipswich have been detailed in the Confidential Background Paper attached.

OPTIONS:

Council has two (2) options to progress the acquisition of land:

1. Resumption Agreement (if agreement with the Owner can be reached)
Compulsory acquire the property by agreement under the *Acquisition of Land Act 1967 (ALA)*. Council and the Owner collectively agree to the compulsory acquisition by way of a resumption agreement.
2. Resumption (if agreement with the Owner cannot be reached)
Resume the land from the Owner under the *ALA*. Compensation will be payable to the Owner through the Land Court when agreement on compensation cannot be reached.

BENEFITS TO COMMUNITY AND CUSTOMERS:

The bikeway is a link forming part of Council's broader Ipswich Bikeway Network Plan and the Department of Transport and Main Road's Principal Cycle Network to increase safety and connectivity for both pedestrians and cyclists across the city.

CONCLUSION:

On this basis it is intended that Council proceed with the compulsory acquisition of the following properties as a "constructing authority" under the *Acquisition of Land Act 1967*:

Part of Lot 31 on SP201586, 18 Clay Street, Ipswich (33m²)
Part of Lot 45 on RP887269, 7 Hooper Street, West Ipswich (1m²)

Council will seek to acquire the land by agreement with the property owner, however if this is unsuccessful, Council will exercise its power under the *Acquisition of Land Act 1967* and make application to the relevant Minister for the land to be taken.

ATTACHMENTS:

Name of Attachment	Attachment
Acquisition Plan – 18 Clay Street, Ipswich	Attachment A
Property Plan -18 Clay Street, Ipswich	Attachment B
Acquisition Plan – 7 Hooper Street, West Ipswich	Attachment C
Property Plan -7 Hooper Street, West Ipswich	Attachment D

CONFIDENTIAL BACKGROUND PAPERS

Confidential Background Papers	Background Papers
Confidential Background Paper	Attachment E

RECOMMENDATION:

That the Interim Administrator of Ipswich City Council resolve:

- A. That the Interim Administrator of Ipswich City Council ("Council"), having duly considered this report dated 5 November 2018, be of the opinion that the following properties (shown in Attachments A and C) ('the Land') are required for strategic road purposes.
 - a. Part of Lot 31 on SP201586, 18 Clay Street, Ipswich (33m²)
 - b. Part of Lot 45 on RP887269, 7 Hooper Street, West Ipswich (1m²)
- B. That the Interim Administrator of Ipswich City Council ("Council") exercise its power as a "constructing authority" under the *Acquisition of Land Act 1967* and acquire the Land, (as described in recommendation A of this report dated 5 November 2018) for strategic road purposes.
- C. That the Chief Executive Officer be authorised to negotiate compensation and perform any other matters, arising out of the *Acquisition of Land Act 1967* or otherwise, and to do any other acts necessary to implement the Interim Administrator of Ipswich City Council's decision in accordance with section 13(3) of the *Local Government Act 2009*, to acquire the Land.
- D. That the Chief Executive Officer be authorised to negotiate by agreement to purchase additional land of 366m² of part of Lot 31 on SP201586, 18 Clay Street, Ipswich for the reasons outlined in the Confidential Background Paper (Attachment E) to implement the Interim Administrator of Ipswich City Council's decision in accordance with section 13(3) of the *Local Government Act 2009*, to acquire the Land.

Brett McGrath
SENIOR PROPERTY OFFICER

I concur with the recommendations contained in this report.

Tony Dileo
ACTING CHIEF OPERATING OFFICER (INFRASTRUCTURE SERVICES)

I concur with the recommendations contained in this report.

Jeffrey Keech
ACTING CHIEF OPERATING OFFICER (FINANCE AND CORPORATE SERVICES)