

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—

- (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 *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,

- (6) Section 6, subsections (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 (ii), 'the local government controlled area' –

omit, insert –

a local government controlled area or road

- (17) Section 7(1), subsection (n), '.' –

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).

(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' –

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)

- (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

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
 - (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
 - (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
 - (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 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 identity 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 last known 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.

16 Amendment of div 4, hdg (Use of parks)

Division 4, heading, after 'use of' –

omit, insert –

² Section 38A of *the Local Government Act 2009* (Qld) applies to the disposition of the proceeds of sale.

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 –

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
 - (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 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
- (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, subsections (4) and (5) –

renumber as subsections (3) and (4), respectively

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

- (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' –

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 a road and adjacent land, but does not include a bicycle path, footpath or shared path.

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*, subsections (c) to (f) –

renumber as subsections (d) to (g), respectively

- (6) Schedule 1, definition *local government controlled area*, subsection (b), ‘; and’ –

omit, insert –

.

- (7) Schedule 1, definition *local government controlled area*, subsection (c) –

omit.

- (8) 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 –

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.