



Public Interest Test Plan Review of Anti-Competitive Provisions

Proposed Local Law Amendments 2023

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**CAIRNS REGIONAL COUNCIL
PUBLIC INTEREST TEST PLAN**

1. BACKGROUND

In April 1995, the Commonwealth, State and local governments endorsed a package of legislative and administrative arrangements that underpin the National Competition Policy (**the NCP**). Under the NCP, all levels of government are committed to reviewing all legislation that contains measures that may restrict competition.

A Public Benefit Test is the mechanism for conducting the legislation review process.

The NCP is implemented by an inter-governmental agreement signed by the Council of Australian Governments (COAG) and includes the Competition Principles Agreement (CPA), which establishes the principles covering pro-competitive reform of government business enterprises and government regulation.

Under clause 5(1) of the CPA, all governments agreed to the principle that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

The Public Interest Test (PIT) will be conducted against the principles and objectives set by the CPA.

In reviewing legislation that restricts competition, clause 5(9) of the CPA requires that the review should:

- clarify the objectives of the legislation;
- identify the nature of the restriction on competition;
- analyse the likely effect of the restriction on competition and on the economy generally;
- assess and balance the costs and benefits of the restriction; and
- consider alternative means of achieving the same result including non-legislative approaches.

Without limiting the matters to be taken into account in a review, clause 1(3) of the CPA sets out matters which should be taken into account, as follows:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or of a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

2. PROPOSED LOCAL LAW AMENDMENTS

Cairns Regional Council (“**Council**”) is conducting a public interest test on possible anti-competitive provisions identified in proposed amendments to the following Local Laws and Subordinate Local Laws (“**the Proposed Local Law Amendments**”):

- *Local Law No. 1 (Administration) 2016;*
- *Local Law No. 2 (Animal Management) 2016;*
- *Subordinate Local Law No. 2 (Animal Management) 2016;*
- *Local Law No. 3 (Community and Environment) 2016;*
- *Subordinate Local Law No. 3 (Community and Environmental) 2016;*
- *Local Law No. 5 (Temporary Homes) 2016;*
- *Local Law No. 6 (Camping Grounds, Caravan Parks and Shared Facilities Accommodation) 2016;*
- *Local Law No. 7 (Human Remains and Cemeteries) 2016;*
- *Local Law No. 8 (Swimming Pools) 2016;*
- *Local Law No. 9 (Temporary Entertainment Events) 2016;*
- *Local Law No. 10 (Cane Railways) 2016;*
- *Local Law No. 11 (Local Government Controlled Areas and Roads) 2016;*
- *Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016;*
- *Local Law No. 12 (Parking) 2016;*
- *Subordinate Local Law No. 12 (Parking) 2016;* and
- *Local Law No. 14 (Town Water) 2016.*

Council is also conducting a public interest test on possible anti-competitive provisions identified in the following proposed new Local Law (“**the Proposed New Local Law**”):

- *Local Law No. 15 (Waste Management) 2023.*

A copy of the Proposed Local Law Amendments and the Proposed New Local Law can be:

- (a) Accessed on Council's website at: <http://www.cairns.qld.gov.au>; or
- (b) Viewed in person at Council’s Chambers located at: 119-145 Spence Street, Cairns.

3. GENERAL

Under section 38 of the *Local Government Act 2009*, a local government must not make a local law that contains an anti-competitive provision unless the local government has complied with the procedures prescribed under a regulation for the review of anti-competitive provisions.

Council is required to undertake a review of possible anti-competitive provisions in accordance with the ‘*National Competition Policy Guidelines for Conducting Reviews on Anti-Competitive Provisions in Local Laws, Version 1*’ (“**the Competition Policy Guidelines**”), prior to making or amending a local law.

The Competition Policy Guidelines have been published by the Department of State Development, Infrastructure, Local Government and Planning in 2013, and were updated in November 2022.

An anti-competitive provision within a local law (“**anti-competitive provision**”) means a provision that a regulation identifies as creating barriers to:

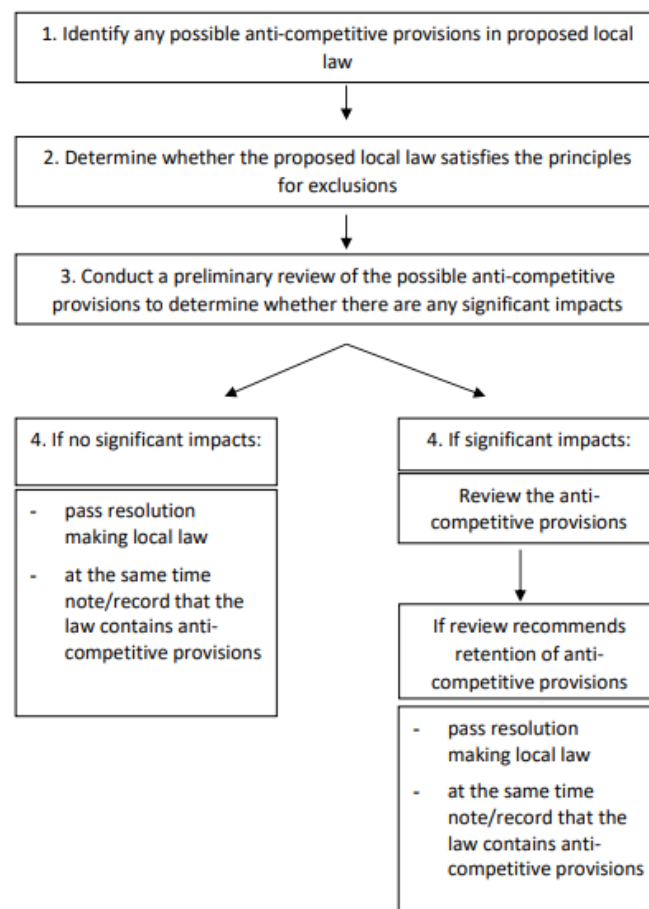
- (a) entry to a market; or
- (b) competition within a market¹.

Pursuant to section 15 of the *Local Government Regulation 2012*, a provision will be identified as creating a barrier to entry to a market or competition within a market if, in applying the Competition Policy Guidelines, the provision is identified as creating one of those barriers.

The Proposed Local Law Amendments and the Proposed New Local Law introduce a number of potentially anti-competitive provisions including:

- requiring approvals to carry on certain businesses;
- regulating the conduct of business; and
- prescribing quality/technical standards to be observed in the conduct of certain businesses.

The process for undertaking a review of anti-competitive provisions in a local law is set out in the Competition Policy Guidelines and shown below:



¹ *Local Government Act 2009* (Qld), Schedule 4 – Dictionary.

4. IDENTIFICATION OF ANTI-COMPETITIVE PROVISIONS – STEP 1

Barriers to Entering the Market

This type of anti-competitive provision in a local law involves either prohibiting particular business activities or placing obligations on the operators of business activities.

Restricting Competition in the Market

This type of anti-competitive provision in a local law involves giving some benefit or imposing some hindrance on particular business operators.

5. DETERMINATION OF EXCLUSIONS – STEP 2

In some cases, a local law or an amendment to a local law that is considered necessary may have some unintended impact on businesses that inadvertently creates a barrier from entering the market or restricts competition. In some cases, depending on the nature of the local law or the proposed amendment, the local government may not be required to conduct a review of any anti-competitive provisions.

The Competition Policy Guidelines confirm that the following types of local laws are excluded from a review of anti-competitive provisions:

- (1) local laws regulating the behaviour of individuals;
- (2) local laws dealing solely with internal administrative procedures of a local government;
- (3) local laws intended as a legitimate measure to combat the spread of pest and disease;
- (4) local laws to ensure accepted public health and safety standards are met; and
- (5) repealing local laws.

6. PRELIMINARY ASSESSMENT – STEP 3

Application of Steps 1 and 2

This part of the Review identifies anti-competitive provisions in the Proposed Local Law Amendments and the Proposed New Local Law proposed to be adopted by Council and determines whether any exclusion applies.

The possible anti-competitive provisions identified in the Proposed Local Law Amendments and the Proposed New Local Law are outlined in the table in Appendix 1.

Council has undertaken an analysis of these provisions in accordance with the Competition Policy Guidelines.

Where the proposed amendments do not seek to introduce a new approval requirement or framework, but are for clarifying purposes only, these are considered not to be possible anti-competitive provisions as no significant impacts were identified. For example, the proposed amendments to Part 4 of *Local Law No. 11 (Local Government Controlled Areas and Roads) 2016* (“**Local Law No. 11**”) which requires an approval for a ‘commercial use activity’, is an approval process that is currently undertaken under Council’s existing Local Laws as a ‘general activity’ and therefore the proposed amendments to Part 4 do not seek to change the existing framework. This analysis is contained in Appendix 1.

Having regard to this analysis, the only issue that requires further consideration as part of Step 3 is set out below. All other Proposed Local Law Amendments, as well as the Proposed New Local Law, fall within the scope of an exclusion following the determination in Step 2.

Local Law No. 11 (Local Government Controlled Areas and Roads) 2016

Context

Section 28 of Local Law No. 11 provides that the alteration or improvement to local government controlled areas and roads is a prescribed activity that requires an approval.

The proposed amendment to section 29 of Local Law No. 11 removes the exemption from obtaining an approval, which allowed a person to prune, trim or otherwise damage a tree on a road verge provided that it was undertaken in accordance with the required Australia Standards, Council's adopted master plans and carried out by a qualified arborist.

Whether this proposed amendment to this provision is anti-competitive, is considered below.

The factors that must be considered

Consideration	Impact, rating and rationale
Probability of impacts occurring	Although this proposed amendment potentially imposes additional requirements on businesses that wish to make alterations or improvements to local government controlled areas or roads, the impacts are not considered significant as they are only minor procedural requirements. The probability of impacts occurring are considered low.
The size and characteristics of the affected businesses	Landscape gardeners or contractors undertaking works on behalf of the local government are not affected by this proposed amendment. However, in all other circumstances those businesses that would ordinarily be engaged to conduct the pruning or trimming of trees of Council's road verge will likely be affected as they will now need to obtain an approval from the local government, given the removal of the exclusion.
The intensity of the potential impact on affected businesses	Businesses operate under a similar approval process at present for all other pruning or tree trimming where the exclusion does not apply, and local government approval is required. There is only a minor potential impact on businesses in applying for an approval and the regulation constitutes reasonable management action to ensure compliance with public safety requirements and amenity issues.
Where particular businesses will incur disproportionate impact	The local law is applied to all businesses and no disproportionate impacts were found.
Duration of the impact	The impact on businesses will be ongoing as the schedule allows for the approval and management of the activity.

Conclusion

In assessing this possible anti-competitive provision, it is determined that no significant impacts will exist if the provisions are adopted. Given the existing regulatory regime is substantially similar to the proposed local law and the impact on businesses is not substantial. All businesses will be regulated to the same extent. The requirement to obtain approval from Council prior to making alterations or improvements to local government controlled areas and roads constitutes reasonable management approach to public areas.

No significant impacts were identified.

In all other respects, Council has concluded that, apart from the proposed amendments to Local Law No. 11 identified above, that the relevant amendments can be treated as being excluded from the need to further review them because:

- the Proposed Local Law Amendments and the Proposed New Local Law regulate the behaviour of individuals; and further or alternatively
- the Proposed Local Law Amendments and the Proposed New Local Law are intended as legitimate measures to combat the spread of pests and disease; and further or alternatively
- the Proposed Local Law Amendments and the Proposed New Local Law are designed to ensure accepted public health and safety standards are met.

However, for the avoidance of doubt, Council has decided to continue with an assessment of the anti-competitive provisions, in order to ensure there is no dispute about the fact that Council has applied the relevant provisions of the *Local Government Act 2009* and the *Local Government Regulation 2012* to any anti-competitive provisions that may apply to the Proposed Local Law Amendments and the Proposed New Local Law.

The factors that Council must have regard to under the Competition Policy Guidelines when undertaking its assessment and determining whether significant impacts will exit, are:

- the probability of impacts occurring;
- the size and characteristics of the affected businesses;
- the intensity of the potential impact on affected businesses;
- whether particular businesses will incur a disproportionate impact; and
- the duration of the impact (for example ongoing or “one-off”).

Having embarked on that assessment and having regard to the factors Council must consider pursuant to the Competition Policy Guidelines, Council’s view is that no significant impacts are identified in those provisions of the Proposed Local Law Amendments and the Proposed New Local Law that are, on their face, anti-competitive.

Reasonable Alternatives to Proposed Anti-Competitive Provisions

Alternatives available to Council which may achieve the objectives of Proposed Local Law Amendments and the Proposed New Local Law identified as anti-competitive are listed and include the following:

- Performance based regulation
- Codes of conduct
- Standards
- Education programs
- Economic incentives
- Industry accreditation
- Negative licensing

Council has considered these alternatives but considers that the only viable alternative is regulation as provided for in the Proposed Local Law Amendments and the Proposed New Local Law.

In Council's view, alternative arrangements requiring voluntary compliance by businesses fails to provide the level of environmental protection, and protection of public health and safety standards Council is seeking to implement and maintain through the Proposed Local Law Amendments and the Proposed New Local Law.

7. TYPE OF REVIEW REQUIRED

The review of anti-competitive provisions in the Proposed Local Law Amendments and the Proposed New Local Law will be conducted as a minor review on the basis that:

- The Proposed Local Law Amendments and the Proposed New Local Law have been developed for social rather than economic objectives;
- The level of concern about the possible anti-competitive provisions are considered to be low and uncontroversial. The impact is on a very discrete number of possible local businesses and does not have state wide or national implications;
- The restrictions are introduced predominantly for health and safety reasons;
- A major review will have significant cost with little or no likely reform;
- The restrictions impact on the local market, but the impact on the participants is low;
- The number of stakeholders involved in the review is low and impacts on stakeholders are low;
- Public consultation with local residents and business will be conducted; and
- The complexity of the issues relating to the review is considered to be low and the level of uncertainty as to the impacts the changes will have on stakeholders is also considered to be low.

8. CONSULTATION PROCESS TO BE UNDERTAKEN

Consultation with the public will be conducted by giving public notice of the review in the Cairns Post, on Council's website and in person at Council Chambers by inviting submissions. Public notices will also be provided through media releases and Facebook posts seeking engagement from the public during the consultation period.

This PIT Plan, the Proposed Local Law Amendments and the Proposed New Local Law will be available for inspection on Council's website and at the Council Chambers in Cairns free of charge. Additionally, Council will make copies available for purchase at the Council Chambers during the consultation period.

9. KEY STAKEHOLDERS AFFECTED BY THE CURRENT SITUATION

The following key stakeholders have been identified as being affected by the current situation:

Stakeholders	Impact, rating and rationale
Commercial operators <i>Existing and potential businesses such as retailers</i>	Moderate/Negative – Increased burden of compliance and costs of licensing
State Government	Low/Negative – Increased compliance costs of regulation
Animal Welfare Groups/ Veterinarians	Low – Increased compliance costs of regulation
Public	Low – potential for increased non-compliance with minimum standards

10. CONTENT OF THE PUBLIC INTEREST TEST REPORT

At the conclusion of the public consultation, Council will propose a Public Interest Test Report to include the following:

- a summary of the consultation process;
- any alternatives to the existing anti-competitive provisions and whether they are viable; and
- any recommendations.

A copy of the Public Interest Test Report will be made available on Council's website, www.cairns.qld.gov.au.

APPENDIX 1

POSSIBLE ANTI-COMPETITIVE PROVISIONS Proposed Amended Local Laws and New Local Law

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<p><i>Local Law No. 1 (Administration) 2016</i></p>	<p>To provide a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and specified regulatory powers under legislation, and to provide for miscellaneous administrative matters.</p>	<p>Sections 8, 10 and 38 relating to deciding an application for an approval, imposing conditions on approvals and an offence provision.</p>	<p>These provisions could be considered possible anti-competitive provisions as they impose requirements to obtain an approval in respect of undertaking a prescribed activity, which may create barriers to entering the market.</p>	<p>These provisions have general application and Council is not proposing to amend these provisions, but there are a number of proposed new prescribed activities contained within some of the remaining Proposed Local Law Amendments and these will be reviewed for anti-competitive provisions by considering each proposed new prescribed activity under the applicable local law below.</p> <p>The balance of this Local Law does not create barriers to entering the market or restrict competition in the market.</p> <p>However, notwithstanding that conclusion, the balance of the Local Law deals solely with the internal administrative procedures of a local government, and on that basis would be excluded from further review in the event anti-competitive provisions were identified.</p>

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<i>Local Law No. 2 (Animal Management) 2016</i>	To regulate and manage the keeping and control of animals in the local government's area.	Sections 5 and 7 impose a requirement to obtain a permit for the keeping of animals and conditions that must be imposed on a permit.	<p>This provision could be considered anti-competitive to the extent it has the effect of regulating business activities by restricting the type and number of animals that can be kept on land. However, restrictions are intended to be placed on individuals, not on businesses.</p> <p>Businesses that do not require approval under the <i>Planning Act 2016</i> to operate a business that involves the keeping of an animal as identified in Schedule 2 of <i>Subordinate Local Law No. 2 (Animal Management) 2016</i>, will be required to obtain a permit.</p>	<p>The criteria and conditions proposed in approvals deals directly with measures to combat the spread of pest and disease and ensure acceptable public health and safety standards are met.</p> <p>Additionally, this Local Law is intended to regulate the behaviour of individuals, and as such this Local Law is excluded from further review.</p>
<i>Subordinate Local Law No. 2 (Animal Management) 2016</i>	To supplement <i>Local Law No. 2 (Animal Management) 2016</i> .	Nil	<i>Subordinate Local Law No. 2 (Animal Management) 2016</i> derives its authority from <i>Local Law No. 2 (Animal Management) 2016</i> .	<p>No anti-competitive provisions have been identified in the Subordinate Local Law that are unique to the Subordinate Local Law.</p> <p>Therefore, this Subordinate Local Law is excluded from a review of anti-competitive provisions similarly to the exclusions identified for <i>Local Law No. 2 (Animal Management) 2016</i>.</p>

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<i>Local Law No. 3 (Community and Environment) 2016</i>	To protect the environment and public health, safety and amenity within the local government's area.	Nil	N/a	The local law does not create a barrier to entering the market, nor restrict competition in the market. This Local law does not contain any anti-competitive provisions.
<i>Subordinate Local Law No. 3 (Community and Environmental) 2016</i>	To support <i>Local Law No. 3 (Community and Environment) 2016</i> .	Nil	N/a	The local law does not create a barrier to entering the market, nor restrict competition in the market. This Local law does not contain any anti-competitive provisions.
<i>Local Law No. 5 (Temporary Homes) 2016</i>	To regulate the use of a temporary home or camping that is not regulated under the planning scheme or <i>Local Law No. 6 (Camping Grounds, Caravan Parks and Shared Facilities Accommodation) 2016</i> .	Part 3 – prescribed activity of camping.	This proposed new prescribed activity could arguably affect businesses that offer camping on their premises and therefore could be considered anti-competitive. However, an application for this proposed new prescribed activity is specifically excluded if the activity is regulated by <i>Local Law No. 6 (Camping Grounds, Caravan Parks and Shared Facilities Accommodation) 2016</i> or the use is considered a material change of use under the <i>Planning Act 2016</i> .	This proposed new prescribed activity solely regulates individuals and does not apply to businesses. The criteria for granting approvals and conditions that will ordinarily be imposed on approvals deals directly with legitimate measures to combat the spread of pests and disease and ensures accepted public health and safety standards are met. On that basis, the amendments to this Local Law are excluded from further review.

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<p><i>Local Law No. 6 (Camping Grounds, Caravan Parks and Shared Facilities Accommodation) 2016</i></p>	<p>To enable the local government to regulate activities, excluding those regulated under the planning scheme, which relate to public health and safety that occur in the operation of camping grounds, caravan parks, and shared facilities accommodation.</p>	<p>Sections 8 and 9 – conditions that must and may ordinarily be imposed on approvals.</p>	<p>The proposed amendments to this Local Law do not seek to introduce a new approvals process or prescribed activity, but rather are clarifying amendments only.</p> <p>However, requiring an approval for the operation of camping grounds, caravan parks or shared facilities accommodation creates a barrier to entering the market and this Local Law may be considered anti-competitive.</p>	<p>The criteria and conditions proposed in approvals deal directly with legitimate measures to combat the spread of pest and disease, the behaviour of individuals and to ensure acceptable public health and safety standards are met.</p> <p>On that basis, the amendments to this Local Law are excluded from further review.</p>
<p><i>Local Law No. 7 (Human Remains and Cemeteries) 2016</i></p>	<p>To regulate the appropriate treatment of human remains in an appropriate and respectful way.</p>	<p>Section 33 – purchase of burial rights</p>	<p>The proposed amendments to this Local Law do not seek to introduce a new prescribed activity for the disposal or disturbance of human remains whether within or outside of a local government cemetery. Amendments made to the existing prescribed activities are for clarifying and administrative purposes only.</p> <p>However, the amendments do seek to introduce an approval process for the ‘purchase of burial rights’ over a grave site.</p> <p>The provision is unlikely to be considered anti-competitive.</p>	<p>The proposed amendment to this Local Law by inserting section 33 deals solely with internal administrative procedures of Council.</p> <p>Additionally, requiring an approval and imposing conditions for the burial or disturbance of human remains is not considered to be anti-competitive as it does not regulate business or create barriers to entering the market or restricting competition.</p> <p>Further, even if the amendments to this Local Law were considered anti-competitive, the provisions directly relate to ensuring acceptable public health and safety standards are met and as such, is excluded from further review.</p>

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<p><i>Local Law No. 8 (Swimming Pools) 2016</i></p>	<p>To enable the local government to regulate swimming pools for public health and safety, so that they comply with essential standards of health and safety, and to ensure that they are properly managed and supervised.</p>	<p>Section 5 – power to inspect a swimming pool; Section 6 – power to issue a compliance notice to a swimming pool operator; and Section 7 – imposes obligations on swimming pool operators.</p>	<p>The provisions of this Local Law do not require an approval to be obtained from Council to operate a swimming pool.</p> <p>However, the obligations imposed on swimming pool operators may be considered anti-competitive as it potentially creates a barrier to entering the market.</p>	<p>The obligations imposed within this Local Law deal directly with measures to combat the spread of pest and disease, and to ensure acceptable public health and safety standards are met.</p> <p>On that basis, the amendments to this Local Law are excluded from further review.</p>
<p><i>Local Law No. 9 (Temporary Entertainment Events) 2016</i></p>	<p>To enable the local government to regulate the operation of temporary entertainment events:</p> <p>(a) to ensure the risks associated with temporary entertainment events are appropriately managed and reasonably mitigated;</p> <p>(b) to ensure the health, safety and amenity of all persons attending the temporary entertainment event and the community; and</p> <p>(c) to protect the environment and prevent environmental harm.</p>	<p>Sections 8 and 9 impose requirements on persons seeking to undertake a temporary entertainment event.</p>	<p>The proposed amendments to this Local Law do not introduce the requirement for a new prescribed activity for operating a temporary entertainment event, however, they clarify that a small temporary entertainment event is not considered a prescribed activity, but an approval is still required from the local government and sets out criteria that must be considered on approvals and conditions that must or may ordinarily be imposed on permits.</p> <p>The proposed amendments to this Local Law could be considered anti-competitive as they create a possible barrier to entering the market.</p>	<p>The obligations imposed within this Local Law deal directly with measures to ensure acceptable public health and safety standards are met when conducting a temporary entertainment event.</p> <p>On that basis, the amendments to this Local Law are excluded from further review.</p>

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<i>Local Law No. 10 (Cane Railways) 2016</i>	To allow the local government to regulate the activities of cane railways to protect the safety of vehicles, pedestrians and infrastructure such as roads and bridges and avoid nuisance to other users of the infrastructure.	Section 4 – imposes the requirement to obtain a permit for a prescribed activity.	The proposed amendments to this Local Law do not introduce the requirement for a new prescribed activity for the operation of a cane railway. Amendments made to the existing prescribed activity are for clarifying purposes only.	The obligations imposed within this Local Law deal directly with measures to ensure acceptable public health and safety standards are met when operating a cane railway. On that basis, the amendments to this Local Law are excluded from further review.
<i>Local Law No. 11 (Local Government Controlled Areas and Roads) 2016</i>	To allow the appropriate use of local government controlled areas or roads by balancing the positive community benefit against the negative community outcome, and protecting the health and safety of persons using those areas and to protect the environment and amenity within the local government's area.	Part 3 imposes a requirement to obtain an approval for a public place activity. Part 4 imposes a requirement to obtain an approval for a commercial use activity.	The proposed amendments to this Local Law seek to separate the approval process for use of local government controlled areas or roads for either a public use activity, which is non-commercial in nature, and a commercial use activity, which involves a commercial purpose. Both activities require a permit from Council and enable Council to impose obligations on the permit holder through imposing conditions on those permits. Part 4 could be considered anti-competitive, to the extent that it affects activities of businesses. However, it should be noted that the requirement to obtain an approval for the activities that are captured by a 'commercial use activity' is already contained within the current local laws.	The proposed amendments to this Local Law deal directly with measures to ensure acceptable public health and safety standards are met when using local government controlled areas and roads, and to impose legitimate measures to combat the spread of pests and disease. On that basis, the proposed amendments to this Local Law are excluded from further review.

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
		Section 29 – alteration or improvement to local government controlled areas or roads.	<p>The proposed amendments to this provision of the Local Law will require any person or business seeking to prune, trim or otherwise damage a tree on Council’s road verge to obtain an approval.</p> <p>This creates a barrier to entering the market and could be considered anti-competitive.</p>	No exclusions apply. The proposed amendments to this provision is a possible anti-competitive provision.
<i>Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016</i>	To supplement <i>Local Law No.11 (Local Government Controlled Areas and Roads) 2016</i> in order to allow appropriate use of and to protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads, and preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads.	<p>Schedule 2 – Prohibited Activities for local government controlled areas or roads.</p> <p>Schedule 3 – Restricted Activities for local government controlled areas and roads.</p>	Schedule 2 and Schedule 3 could be considered anti-competitive, to the extent that it affects activities of businesses.	<p>The Schedules seek to regulate the behaviour of individuals, and to deal directly with measures to ensure acceptable public health and safety standards are met when using local government controlled areas and roads.</p> <p>On that basis, the schedule is excluded from further review.</p>

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<i>Local Law No. 12 (Parking) 2016</i>	To regulate parking to enable appropriate and fair access to car parking throughout the local government area and provide greater controls in areas where parking is in greater demand and through off-street regulated parking areas.	Section 9 imposes obligations on commercial vehicles or businesses seeking to obtain a parking permit to park contrary to an official traffic sign.	The proposed amendments to this Local Law are not seeking to introduce a new prescribed activity or impose additional obligations on commercial operators or businesses.	This Local Law is intended to regulate the behaviour of individuals, however it also regulates businesses seeking to park contrary to an official traffic sign. The proposed amendments to this Local Law do not operate as a barrier to entering the market and therefore the amendments proposed are not considered to be anti-competitive provisions.
<i>Subordinate Local Law No. 12 (Parking) 2016</i>	To support <i>Local Law No. 12 (Parking) 2016</i> to regulate parking on local government controlled areas and roads.	Schedule 2 imposes infringement notice penalty unit amounts for minor traffic offences.	The proposed amendments to this Local Law are not seeking to introduce a new prescribed activity or impose additional obligations on commercial operators or businesses. However, penalties are imposed on commercial operators or businesses who park contrary to an official.	The proposed amendments to this Local Law do not operate as a barrier to entering the market and therefore the amendments proposed are not considered to be anti-competitive provisions.
<i>Local Law No. 14 (Town Water) 2016</i>	To provide for the installation of water meters, read water meters, provide maintenance to and around water meters, calculate water usage, estimate water usage, charge for water usage and monitor water loss and wastage.	Section 20 imposes obligations on persons to obtain an approval from Council for the hire of a metered standpipe to draw water from Council's reticulated water supply.	The proposed amendments to this Local Law do not introduce a new requirement for an approval to hire a metered standpipe. Amendments made to this Local Law are for clarifying and administrative purposes only.	The obligations imposed within this Local Law deal directly with measures to ensure acceptable public health and safety standards are met when connecting to or using Council's town water supply. On that basis, the amendments to this Local Law are excluded from further review.

Proposed Local Law Amendment	Object/Purpose of Local Law	Possible Anti-Competitive Provision	Type of Anti-Competitive Provision/Criteria	Determination of Exclusions
<p><i>Local Law No. 15 (Waste Management) 2023</i></p>	<p>To protect the public health, safety and amenity related to waste management by:</p> <p>(a) regulating the storage, servicing and removal of waste; and</p> <p>(b) regulating the disposal of waste at waste facilities; and</p> <p>(c) protecting the environment and loss of amenity by the community, including preventing:</p> <p>(i) harm to human health, safety and/or personal injury; and</p> <p>(ii) property damage and/or or loss of amenity; and</p> <p>(iii) environmental harm or environmental nuisance.</p>	<p>Section 4 allows Council to designate areas within its local government area to conduct general waste or green waste collection and decide the frequency of collection.</p>	<p>This provision may limit particular business activities in specific areas. Businesses providing waste collection services may need to compete with Council services and comply with the requirements of this proposed new Local Law, restricting competition in the market and creating a barrier to enter the market.</p>	<p>This provision is a legitimate measure to combat the spread of pests and disease and ensures accepted public health and safety standards are met by designating areas that collection is mandated and ensuring waste is collected in a timely manner.</p> <p>On that basis, this provision is excluded from further review.</p>
		<p>Section 5 requires an owner or occupier to supply containers at the premises for the storage of waste.</p>	<p>This provision may restrict the conduct of businesses, creating a barrier to entering the market.</p>	<p>This provision is a legitimate measure to combat the spread of pests and disease by ensuring waste is stored to not attract pest and ensures accepted public health and safety standards are met by requiring a person to store all waste in an appropriate container.</p> <p>On that basis, this provision is excluded from further review.</p>
		<p>Section 6 requires general waste to be stored in accordance with prescribed requirements.</p>	<p>This provision may restrict the conduct of businesses, creating a barrier to entering the market.</p>	<p>This provision is a legitimate measure to combat the spread of pests and disease by ensuring waste is stored to not attract pests and ensures accepted public health and safety standards are met.</p> <p>On that basis, this provision is excluded from further review.</p>

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		Section 7 requires occupiers of serviced premises to keep waste containers in designated places.	This provision does not restrict competition in the market, or restrict competition, it merely requires a person to store a waste container at a specific location at a premises. This provision is not anti-competitive.	This provision is not anti-competitive.
		Section 9 requires persons to ensure certain obligations about storing waste at certain premises are met.	This provision may restrict the conduct of businesses, creating a barrier to entering the market.	This provision is a legitimate measure to combat the spread of pests and disease and ensures accepted public health and safety standards are met. As such, this provision is excluded from further review.
		Section 11 provides that persons of non-serviced premises may be required to dispose of their waste in certain ways.	This provision may restrict the conduct of businesses, creating a barrier to entering the market.	This provision is a legitimate measure to combat the spread of pests and disease and ensures accepted public health and safety standards are met. As such, this provision is excluded from further review.
		Sections 13 and 14 places obligations on occupiers of relevant premises where there is industrial waste to comply with certain requirements for dealing with industrial waste if required by the local government.	This provision may restrict the conduct of businesses, creating a barrier to entering the market.	This provision ensures accepted public health and safety standards are met by placing requirements on the storage of industrial waste. As such, this provision is excluded from further review.