Cairns Regional Council
Local Law No. 1 (Administration) 2016

Current as at 9 September 2019
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Part 1 Preliminary

1 Short title
This local law may be cited as Local Law No. 1 (Administration) 2016.

2 Purposes and how they are to be achieved
(1) The purposes of this local law are 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.

(2) The purposes are to be achieved by providing for:
   (a) consistent and comprehensive processes for the local government to grant and regulate permits to undertake prescribed activities and other non-prescribed activities;
   (b) authorised persons for enforcing local laws;
   (c) review of certain decisions made under local laws;
   (d) enforcement of local laws;
   (e) matters relating to legal proceedings; and
   (f) miscellaneous administrative matters relating to meetings, fees, abandoned goods and seized and impounded items.

3 Definitions—the dictionary
The dictionary in Schedule 1 defines particular words used in all of the local government’s local laws and subordinate local laws.

4 Relationship with other laws
This local law:
   (a) provides process for development where specifically authorised by legislation, and development subject to the local laws is exempt development under the Cairns Region Planning Scheme;
   (b) applies to each of the local government’s local laws and subordinate local laws subject to any specific provision in a local law or subordinate local law that expressly states otherwise and then only to the extent expressly stated;
   (c) is made under Chapter 3 of the LGA; and
   (d) is made under the Transport Operations (Road Use Management) Act 1995.
Part 2 Applications and permits

5 Application

These provisions apply to all local law applications to be made to the local government.

6 Meaning of prescribed activity

*Prescribed activity* means:

(a) an activity described as a prescribed activity in a local law; or

(b) an activity for which a Local Government Act authorises the local government to grant an approval or permit but does not make any other provision, except a provision that is consistent with this part, about the process for the local government to grant the approval or permit.

7 Permits

(1) A permit is required for a prescribed activity.

(2) A permit required for a prescribed activity or other non-prescribed activities under a local law must be obtained under this part.

8 Applications

(1) An application for a local government permit must be made on an approved form under this local law and any other approved form identified in the local laws.

(2) Applications can be made in writing or electronically where the local government provides that service.

(3) When completing the approved form under this local law an applicant must identify each other approved form required to be completed to allow all aspects of the activity to be assessed in an application.

(4) The application must be accompanied by:

(a) documents and materials identified in the approved forms;

(b) proof that the applicant currently holds any separate approval relating to the activity that is required under another law; and

(c) the prescribed fee.

*Example for paragraph (a):*

The local government may require an application to include site plans, management plans, relevant consents, evidence of public liability insurance etc.

*Example for paragraph (b):*

A prescribed activity may require approvals under another Act in relation to development, building, liquor, carriage of goods, business licensing etc.
(5) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.

(6) The notice under subsection (5) must state:
(a) the grounds on which the request is made;
(b) an outline of the facts and circumstances forming the basis for the grounds;
(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.

(7) If the applicant does not, without reasonable excuse, 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.

(8) However, the local government may extend the period for the applicant to provide the further information, and will give notice of any such extension to the applicant (including the date to which the extension has been granted).

(9) A person must not provide information in or in connection with an application that is, to the person’s knowledge, false or misleading.

Maximum penalty for subsection (9)—20 penalty units.

9 General criteria for assessing permits

(1) The local government may grant a permit only if it is satisfied that:
(a) a separate approval under an Act, a law of the Commonwealth or the local government’s planning scheme is required, the separate approval has been granted and the conditions of the approval have been or will be complied with;
(b) the proposed operation and management of the activity is adequate to protect public health, safety and amenity, and prevent environmental harm;
(c) the grant of the permit would be consistent with the purpose of any relevant local law;
(d) the proposed operation and management of the activity would be consistent with any additional criteria prescribed for the activity under a local law;
(e) the proposed operation and management of the activity would be consistent with best practice management;
(f) the application relates to trust land, the grant of the permit would be consistent with the terms and conditions of the trust;

(g) the application relates to a prescribed activity mentioned in section 6(b), the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval or permit;

(h) the granting of the permit is beneficial for the good rule and governance of the local government area;

(i) the granting of the permit would not be detrimental to the good rule and governance of the local government area;

(j) if the applicant has not been convicted of a breach of a local law relevant to the subject matter of the application within the last 3 years;

(k) the granting of the permit would be reasonable in the circumstances;

(l) whether an approval for the same or similar activity was given under the repealed local laws; and

(m) if the application is substantially the same as an application for which the local government has already made a decision refusing the permit, whether the granting of the permit is reasonably required.

Example for paragraph (a):
An application for commercial use of a local government controlled area that is held in trust by the local government under the Land Act 1994 may require registration of a trustee lease or issue of a trustee permit prior to the approval being granted for commercial use of the area.

(2) The local government may, by written notice to the applicant:

(a) grant the permit unconditionally;

(b) grant the permit subject to conditions determined in accordance with section 10; or

(c) refuse to grant the permit.

Examples for paragraph (b):
If an application for which the local government’s permission is required may result in damage to property, the local government may, as a condition of giving a permit, require the applicant to give reasonable security (which may include a deposit of money, a guarantee or an insurance bond) to ensure that the damage is made good.

The local government may grant a permit subject to standard conditions pursuant to a local law.

(3) The local government’s powers in deciding the application are subject to the provisions of any relevant local law.

(4) The local government must give the applicant an information notice if the local government:

(a) refuses to grant a permit for a prescribed activity; or
(b) grants a permit for a prescribed activity subject to a non-standard condition.

10 Conditions of a permit

(1) A permit may be granted on conditions the local government considers appropriate.

(2) The conditions must:
    (a) indicate the activity cannot commence until such time as all other necessary approvals have been obtained;
    (b) be reasonably necessary to ensure that the operation and management of the activity will be adequate to protect public health, safety and amenity and prevent environmental harm;
    (c) be consistent with the purpose of any relevant local law;
    (d) if the approval is for a prescribed activity mentioned in section 6(b), be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval or permit;
    (e) not conflict with the conditions of any other relevant approval issued under an Act;
    (f) ensure the permit will benefit the good rule and governance of the local government area;
    (g) ensure the permit will not be detrimental to the good rule and governance of the local government area; and
    (h) require the permit holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the prescribed activity under an Act within 3 days of the relevant approval being suspended or cancelled.

(3) Despite subsections (1) and (2) a local law may prescribe the type of conditions that must be imposed or that will ordinarily be imposed as standard conditions.

(4) To remove any doubt, it is declared that a condition of a permit may authorise an act or omission that:
    (a) contravenes a noise standard; or
    (b) causes an environmental nuisance.

*Example for paragraph (a):*

A condition of a permit for operation of a temporary entertainment event may authorise the operation of an amplifier device at specified times that would otherwise be a contravention of the noise standard in the Environmental Protection Act 1994, section 440Y.
(5) In this section:

environmental nuisance see Environmental Protection Act 1994, section 15.
noise standard see Environmental Protection Act 1994, section 440K.

11 Term of permit

(1) The normal term for a permit will be:
   (a) 5 years for a commercial recreation permit;
   (b) 10 years for a cane railway permit; and
   (c) 1 year for all other permits.

(2) The local government may, in its discretion, provide for a shorter or longer term than the normal term for a permit, and in exercising this discretion the local government may have regard to the matters mentioned in section 9.

(3) Unless sooner cancelled or suspended, a permit remains in force for:
   (a) the term provided on the permit; or
   (b) if there is no term provided on the permit, one year from the date the permit is granted.

12 Application for renewal

(1) A permit holder may, before the end of the term of the permit, apply to the local government to extend the term of the permit for:
   (a) a further term provided for the activity under a local law; or
   (b) if there is no term provided for under a local law, a further term equal to the current term of the permit.

(2) A permit holder may not apply to renew or extend the permit where the local government has given the permit holder reasonable written notice that the permit is one of a class of permits that the local government does not intend to renew or extend.

Example:
The local government might give notice to the permit holder that, in order to prevent environmental harm to an endangered ecosystem, it does not intend to grant, renew or extend any permits for the activity in a specified part of the local government area.

(3) The application under subsection (1) must be:
   (a) made on an approved form; and
   (b) accompanied by the prescribed fee.

(4) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.

(5) Sections 8(6) to (9) apply to the notice as if it was a notice under section 8(5).
6. The local government may, by written notice to the applicant:
   (a) grant the application;
   (b) grant the application and amend the conditions of the permit; or
   (c) refuse the application.
7. In deciding under subsection (6), the local government may have regard to:
   (a) the matters mentioned in section 9; and
   (b) whether the conditions of the approval are being complied with by the applicant.
8. The local government must give the applicant an information notice if the local government:
   (a) refuses an application in relation to a prescribed activity; or
   (b) grants the application in relation to a prescribed activity and amends the permit to include non-standard conditions.
9. The local government may amend the conditions of the permit under subsection (6)(b) without following the procedure in section 16.
10. If a permit holder applies to renew or extend the permit, the permit remains in force until:
    (a) the date the application is granted, with or without amendment of the conditions;
    (b) the application in relation to a prescribed activity is refused and the applicant applies for a review of the decision under Part 4, the date the applicant is given notice of the review decision;
    (c) the application in relation to a prescribed activity is refused and the applicant has not applied for a review of the decision under Part 4, 14 days after the date the applicant is given notice of the refusal; or
    (d) the application in relation to a non-prescribed activity is refused, 14 days after the date the applicant is given notice of the refusal.

13 Transfer of permit
1. The holder of a permit together with another person may apply to the local government for transfer of the permit to the other person (the proposed transferee).
2. A permit cannot be transferred under this section if it is of a category or type of permit declared as non-transferable under a local law.
3. The application under subsection (1) must be:
   (a) made on an approved form; and
   (b) accompanied by the prescribed fee.
(4) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.

(5) Section 8(6) to (9) applies to the notice as if it was a notice under section 8(5).

(6) The local government may grant an application to transfer a permit only if it is satisfied about the matters mentioned in section 9(1).

(7) The local government may, by written notice to the permit holder and the proposed transferee:
   (a) grant the application to transfer the permit; or
   (b) refuse the application to transfer the permit.

(8) If the local government decides to grant the application to transfer the permit, the local government may amend the existing conditions of the permit.

(9) The local government may amend the conditions of the permit under subsection (8) without following the procedure in section 16.

(10) The local government must state, in the notice given under subsection (7)(a), any amendments to the conditions of the permit and the day that they take effect.

(11) The local government must give the permit holder and the proposed transferee an information notice if the local government:
   (a) refuses an application in relation to a prescribed activity; or
   (b) grants an application in relation to a prescribed activity and amends the permit to include non-standard conditions.

14 Amending conditions at request of permit holder

(1) A permit holder may apply to the local government to amend the conditions of the permit:
   (a) not more than once in a calendar year; and
   (b) not within 6 months of the expiry of the permit.

(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 permit holder written notice of the amended conditions and the day that they take effect.
(5) If the local government refuses to amend a non-standard condition in relation to a prescribed activity, the local government must give the permit holder an information notice.

(6) The local government may amend the conditions of the permit under this section without following the procedure in section 16.

15 Grounds for amending, suspending or cancelling permit

Each of the following is a ground for amending, suspending or cancelling a permit:

(a) amendment, suspension or cancellation is necessary:
   (i) for the protection of public health or safety;
   (ii) to prevent environmental harm;
   (iii) to prevent property damage or loss of amenity;
   (iv) to allow for works on roads or local government controlled areas;
   (v) to improve access to a road; or
   (vi) to improve the efficiency of vehicle or pedestrian traffic.

(b) another permit required for the prescribed activity under an Act has been suspended or cancelled;

(c) in undertaking the activity, the permit holder has failed to comply with a local law or an Act;

(d) the permit holder has failed to comply with a condition of the permit;

(e) the permit holder has failed to comply with a notice under sections 25 or 26 that relates to the conduct of the prescribed activity or has failed to comply with a stop order under section 28;

(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.

16 Show Cause Notice for amending, suspending or cancelling permit

(1) This section applies if the local government considers there is a ground under section 15 to amend, suspend or cancel a permit (the \textit{proposed action}).

(2) Before taking the proposed action, the local government must give the permit holder a written notice (the \textit{show cause notice}) stating:

(a) the proposed action;

(b) the grounds for the proposed action;

(c) an outline of the facts and circumstances that are the basis of the grounds;
(d) if the proposed action is suspension of the permit, the proposed suspension period; and

(e) that the permit holder may make written submissions, within a stated reasonable time of at least 21 days after the notice is given, why the proposed action should not be taken.

(3) If, after considering all submissions made within the stated reasonable time, the local government decides that a ground no longer exists to cancel, amend or suspend the permit, the local government must take no further action about the show cause notice and give written notice to the permit holder about the decision.

(4) If, after considering all submissions made within the stated reasonable time, the local government still considers there is a ground to take the proposed action, the local government may:

(a) if the proposed action was to amend the permit, amend the permit;

(b) if the proposed action was to suspend the permit, suspend the permit for no longer than the period stated in the notice; or

(c) if the proposed action was to cancel the permit, amend the permit, suspend it for a period or cancel it.

(5) If the local government decides to amend, other than by inclusion of a standard condition, suspend or cancel a permit in relation to a prescribed activity the local government must give the permit holder an information notice.

(6) The decision takes effect on the day the written notice mentioned in subsection (3) or (5) is given to the permit holder, or if a later day of effect is stated in the notice, the later day.

17 Procedure for immediate suspension of permit

(1) Despite section 16, the local government may immediately suspend a permit if the local government forms an opinion 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 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 16;

(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 16(3) or (5) of its decision about the show cause notice;

(iii) 14 days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice;

(iv) 14 days have passed since the permit holder notifies the local government that it has made its final written submissions regarding the show cause notice.

18 Third party certification

(1) In deciding an application in relation to a prescribed activity under this part, the local government may accept the certificate of a third party certifier identified in a subordinate local law for this section as evidence about those criteria.

Example:

A local law might specify that a criterion to be met by applicants for approval to operate a public swimming pool is a management plan that complies with the Royal Life Saving Society’s Guidelines for Safe Pool Operation. A subordinate local law could state that compliance with this requirement is a matter about which a third party certifier may provide certification. In deciding an application, the local government may then accept a certificate of a third party certifier (approved under a subordinate local law pursuant to subsection (2) – e.g. the Royal Life Saving Society) as evidence that this criteria has been met.

(2) In this section:

third party certifier means:

(a) an individual or organisation declared under a subordinate local law for this paragraph as a third party certifier for a criterion of a particular application; or

(b) An individual or organisation that has the qualifications prescribed under a subordinate local law for this paragraph as necessary to provide a certificate about a criterion for a particular application.

Part 3 Authorised persons

19 Appointment

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

20 Threatening etc. an authorised person

A person must not threaten, insult or use abusive language to an authorised person. Maximum penalty—20 penalty units.
Part 4 Review of decisions

21 Application for review

(1) A person who is given, or is entitled to be given, an information notice for:
   (a) a decision under a local law (an original decision); or
   (b) a compliance notice under sections 25 or 26;
may apply to the chief executive officer for an internal review of the decision under this part.

(2) The application (a review application) must be made within 14 days:
   (a) if the person is given an information notice for the decision, the day the person is given the notice; or
   (b) if paragraph (a) does not apply, the day the person otherwise becomes aware of the original decision.

(3) The local government may, at any time, extend the time for making a review application.

(4) The review application must be in writing and:
   (a) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and
   (b) supported by enough information to enable the local government to decide the application.

(5) Only one review application can be made for the internal review.

(6) This section only applies in relation to prescribed activities and compliance notices.

22 Review decision

(1) The local government must review the original decision or compliance notice within 28 days after receiving a review application and make a decision (the review decision) to:
   (a) confirm the original decision or compliance notice;
   (b) amend the original decision or compliance notice; or
   (c) substitute another decision for the original decision or compliance notice.

(2) The application must not be dealt with by:
   (a) the person who made the original decision; or
   (b) a person in a less senior office than the person who made the original decision, unless the original decision was made by the chief executive officer.

(3) The local government must, within 5 days of making the review decision, give the applicant notice of the decision (the review notice).
(4) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.

(5) If the local government does not give the review notice within the 5 days, the local government is taken to have made a review decision confirming the original decision.

23 Stay of operation of original decision or compliance notice

(1) A review application does not stay the original decision or compliance notice that is the subject of the application.

(2) The applicant may, immediately after being given the information notice about the original decision or compliance notice, apply to the person who will make the review decision for a stay of the original decision or compliance notice.

(3) The person who will make the review decision may stay the original decision or compliance notice to secure the effectiveness of the review.

(4) A stay may be granted on conditions the person making the review decision considers appropriate.

Part 5 Enforcement

24 Production of records

(1) This section applies where an authorised person has entered a property under the LGA to find out whether the conditions of a permit have been complied with.

(2) The authorised person may require the occupier of the property to produce for inspection records that are required by the conditions of a permit.

(3) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

25 Compliance notice for contravention of local law or permit condition

(1) Subsection (2) applies if an authorised person is satisfied on reasonable grounds that:

(a) a person:

   is contravening a local law or a condition of a permit; or

   has contravened a local law or a condition of a permit in circumstances that make it likely the contravention will continue or be repeated;

(b) a matter relating to the contravention can be remedied; and

(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 a permit, 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 a permit, 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.

(3) The compliance notice must state the following:

(a) the particular provision of the local law or condition of a permit the authorised person believes is being, or has been, contravened;

(b) briefly, the facts and circumstances upon which it is believed the provision of the local law or condition of a permit is being, or has been, contravened;

(c) the time by which the recipient must remedy the contravention;

(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;

(b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm posed by the contravention; and

(c) how long the 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 from taking an action that is prohibited by a local law or condition of a permit.

(6) The recipient must comply with the compliance notice.

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

(7) The local government must give the person an information notice.

### 26 Compliance notice authorised by local law

(1) This section applies if:

(a) a local law provides that an authorised person may give a compliance notice to a person; and

(b) the authorised person gives a compliance notice to the person (the **recipient**).
(2) The compliance notice must state the following:
   (a) the provision of the local law that authorises the authorised person to give a compliance notice;
   (b) the specified action that the recipient must take to comply with the notice;
   (c) the time by which the recipient must comply with the notice;
   (d) that it is an offence to fail to comply with the notice; and
   (e) the maximum penalty for failing to comply with the notice.

(3) The specified action in subsection (2)(b) must not be inconsistent with action required, by a remedial notice, to be taken under another Local Government Act.

(4) The time under subsection (2)(c) must be reasonable having regard to the risk to public health and safety, the risk of damage to property or loss of amenity, and the risk of environmental harm that may result from failure to comply with the notice.

(5) The recipient must comply with the compliance notice.

(6) A compliance notice issued under Local Law No. 11 (Local Government Controlled Areas and Roads) 2016 in relation to intoxicating liquor must require compliance within fifteen (15) minutes with a requirement under a compliance notice and does not have to comply with subsections (3) and (4) above.

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

(7) The local government must give the person an information notice.

27 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;
   (b) a structure has been erected or installed in, on, across, under or over a road in contravention of a local law;
   (c) a person has failed to comply with a compliance notice that required the removal of a structure or goods within the time specified in the compliance notice;
   (d) a vehicle or tram has been:
      (i) abandoned on a road;
      (ii) left on a road unattended whether temporarily or otherwise for a time or in a place, condition, way or circumstances where its presence is hazardous; or
      (iii) found on a road in a place, condition, way or circumstances where its presence is hazardous;
and the driver of the vehicle or tram:

(iv) cannot readily be located; or

(v) has failed to immediately remove the vehicle or tram when required by the local government to do so; or

(e) for the avoidance of doubt, a structure or other material thing under this section includes a vehicle or tram, and items within a vehicle or tram.

(2) Where section (1)(d) applies, an authorised person may remove the vehicle or tram from the road and impound it at a place for safe keeping.

(3) An authorised person may seize (by dismantling if necessary) and impound the structure or thing if its immediate removal is necessary or becomes necessary:

(a) in the interests of public health or safety; or

(b) to prevent environmental harm, property damage or loss of amenity.

(4) Where subsections (2) or (3) do 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 compliance notice requiring the owner or person to remove it and the time for internal review has passed; or

(b) the owner or person in possession of the structure or thing has been prosecuted and found guilty of an offence against the Local Laws about the structure or thing.

(5) 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).

(6) In this section:

(a) thing does not include an animal.

(7) For subsection (1)(d), the presence of a vehicle or tram on a road is hazardous if it is causing, or is likely to cause, danger, hindrance or obstruction to traffic or is preventing, hindering or obstructing, or is likely to prevent, hinder or obstruct, the use of the road or a part of the road for a lawful purpose.

28 Stop orders

(1) An authorised person may give a relevant person an order to immediately stop an activity regulated under a permit given under the Local Laws 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 environmental harm, 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; or
   (ii) the local government immediately suspends the permit for the
        activity under section 17.
(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;
and
(6) In this section:
    **relevant person** means the permit holder for the activity or an employee or
    agent of the permit holder currently conducting the activity.

29 **Chief executive (transport) may disclose information**
(1) This section applies if an authorised person asks the chief executive
    (transport), where the authorised person is reasonably satisfied that vehicle
    registry information may be used to identify a person involved in an offence or
    their current address, in an investigation under the Local Laws about offences,
    including:
    (a) illegal camping;
    (b) vehicles displayed for sale;
    (c) bringing motor vehicles into local government controlled areas or roads;
    (d) bringing prohibited vehicles into motor vehicle access areas;
    (e) depositing a structure, thing, goods or materials on a local government
        controlled area or road; and
    (f) vehicles or trams in a local government controlled area or road.
(2) The chief executive (transport) may disclose the information to the authorised
    person if:
    (a) the chief executive (transport) reasonably considers that the information
        may be used to identify the relevant person or their address; or
    (b) the disclosure is authorised by the person to whom the information
        relates.
(3) In this section:
chief executive (transport) means the chief executive of the department in which the Transport Operations (Road Use Management) Act 1995 is administered.

vehicle registry information means information kept in the register of registered vehicles under a regulation under the Transport Operations (Road Use Management) Act 1995.

30 Service of documents

(1) The local government may give or serve a document to or upon:

(a) a person by:

(i) delivering the document to the person;
(ii) leaving the document at the person’s address for service;
(iii) forwarding the document by post in a prepaid letter addressed to the person at the person’s postal box or other address recorded in the local government’s database;
(iv) forwarding the document by post in a registered letter addressed to such person at the person’s address for service;
(v) delivering a copy of the document to a person, other than a minor, who is in control of the premises at which the person ordinarily resides or is employed; or
(vi) fixing a copy of the document on some conspicuous part of the premises at which the person ordinarily resides or is employed if there is no person, other than a minor, in control of the premises to whom the document can be given or served.

(b) a person in that person’s capacity as the owner or occupier of premises by:

(i) delivering the document to the person;
(ii) delivering a copy of the document to some person, other than a minor, at the premises; or
(iii) fixing a copy of the document on some conspicuous part of the premises if there is no person, other than a minor, on the premises to whom the document can be given or served.

(c) a person in that person’s capacity as the owner or occupier of property, including a vehicle, other than a premises, by:

(i) delivering the document to the person;
(ii) delivering a copy of the document to some person, other than a minor, in control of the property; or
(iii) fixing a copy of the document on some conspicuous part of the property if there is not person, other than a minor, in control of the property to whom the document can be given or served; or

(d) a person as an owner of rateable land, in accordance with section 239 of the LGA.

(2) If the local government has given or served a document to or on a person pursuant to subsection (1), it is sufficient proof that the document has been given or served to or upon the person, for an officer of the local government to:

(a) in the case of a document given or served to or upon a person pursuant to subsection (1)(a)(iii):
   (i) produce a copy of the document; and
   (ii) give testimony that the document was properly stamped and addressed and put into the post.

(b) in the case of a document given or served to or upon a person pursuant to subsection (1)(a)(iv):
   (i) produce a receipt purporting to be on the registered receipt of the registered letter; and
   (ii) give testimony as to the contents of the registered letter; or

(c) in all other cases:
   (i) produce a copy of the document; and
   (ii) give testimony as to the manner in which the document was given or served to or upon the person.

(3) A document is taken to have been properly given or served to or upon the owner or occupier of property, if:

(a) the document is required to be given or served to or upon the owner or occupier of the property;

(b) the name of the owner or occupier of the property is not known;

(c) the document 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

(d) the document is given or served to or upon the person in accordance with subsection (1).

(4) A document forwarded by post in a prepaid letter is taken 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.
31 **Rewards**

(1) The local government may, by public notice, offer a reward for information leading to the conviction of 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 resolution of the local government.

32 **Direction to leave a local government controlled area or road**

(1) If an authorised person believes on reasonable grounds a person on a local government controlled area or road is contravening or has just contravened a provision of a local law the authorised person may direct the person to:

(a) leave the local government controlled area or road:

(i) within a stated reasonable time; or

(ii) immediately if the authorised person believes on reasonable grounds the contravention is serious or is a flagrant disregard for the provision of a local law.

(b) not to re-enter the local government controlled area or road 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 32(1) (Direction to leave a local government controlled area or road) of this local law, unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (2) – 50 penalty units

(3) A person given a direction under section 32(1) of this local law to leave a local government controlled area or road must not re-enter the local government controlled area or road unless the person has a reasonable excuse for the re-entry with the period stated in the direction.

Maximum penalty for subsection (3) – 20 penalty units

(4) A person who has been given a direction under section 32(1)(b) (Direction to leave a local government controlled area or road) of this local law may make a written request for permission from the local government to re-enter the local government controlled area or road.

(5) If the local government receives a written request under section 31(3) (Direction to leave a local government controlled area or road) of this local law, the local government must grant a permission where it reasonably believes that the person will not commit a further contravention of a local law.
33 Directions generally

(1) An authorised person 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 an authorised person to ensure that the person does not commit a breach of this local law.

(2) A person must comply with a direction of an authorised person made pursuant to this local law.

   Maximum penalty for subsection (2) – 50 penalty units

Part 6 Offences and matters relating to legal proceedings

34 Proceedings in the name of the local government

Summary proceedings for the recovery of any penalties or moneys payable in respect of any offence against any local law of the local government or any other Act or Regulation, local law or statutory instrument which the local government administers, superintends, or enforces, may be instituted by the local government under the *Justices Act 1886-1980* by the complaints of the local government.

35 Proceedings other than summary proceedings

The local government may, if in its opinion summary proceedings would afford an inadequate or ineffective remedy, and notwithstanding that summary proceedings have not previously been taken or that such proceedings having been commenced have not been adjudicated upon, cause any proceedings to be taken against any person in the Supreme Court:

   (a) to enforce the abatement or prohibition or restraint of any breach of the local laws of the local government or of any Act or regulation administered by the local government;
   
   (b) to enforce compliance with any order made under any Act, local law or regulation; or
   
   (c) for the recovery of any penalties or expenses from, or for the punishment of, any person offending against any local law or any such Act or regulation.

36 No abridgment of proceedings

The provisions of this Part shall be deemed to be in addition to and not to abridge or affect any right, remedy, or proceeding at common law or under any Act, local law or regulation.
37 Continuing offence

(1) This section applies where it is an offence to fail to comply with the requirements of:

(a) a local law;
(b) a subordinate local law; and
(c) any direction, order, notice, requirement or the like made under the authority of any local law or subordinate local law.

(2) The person who fails to comply shall be guilty of an offence, which shall be a continuing offence for every day on which such failure continues.

(3) The daily penalty for an offence under this section is 1 penalty unit per day, with the maximum penalty that can be imposed set at 500 penalty units.

38 Offence for prescribed activity without permits and conditions

(1) This section applies to a prescribed activity mentioned in:

(a) section 6(a); or
(b) section 6(b) if the Local Government Act that authorises the local government to grant the approval is a local law.

(2) A person must not undertake the prescribed activity without a current permit granted by the local government or contrary to a condition of a permit.

Maximum penalty for subsection (2):

(a) for an activity for which no category has been declared by local law or subordinate local law—50 penalty units;
(b) for a category 1 activity—50 penalty units;
(c) for a category 2 activity—200 penalty units; or
(d) for a category 3 activity—500 penalty units.

(3) A local government may, by local law, declare that subsection (2) does not apply to a prescribed activity or a particular activity that is within the category of a prescribed activity.

Example:

A local law may declare that subsection (2) does not apply to installation of a specified type of advertising device (for example, a device prescribed as a ‘permitted advertising device’). These permitted advertising devices would not require an approval under this part but other types of advertising devices would continue to require an approval.

(4) In this section:

category 1 activity means a prescribed activity that is identified as a category 1 activity by a local law.

category 2 activity means a prescribed activity that is identified as a category 2 activity by a local law.
category 3 activity means a prescribed activity that is identified as a category 3 activity by a local law.

current permit means a permit that is in force and has not been suspended at the time the prescribed activity is being undertaken.

39 Offence for non-prescribed activity requiring a permit and conditions

(1) This section applies to any permit required and conditions imposed by a local law other than for a prescribed activity.

(2) A person must not undertake an activity without a current permit granted by the local government or contrary to a condition of a permit.

   Maximum penalty – 50 penalty units

40 General defences

(1) In a proceeding under a local law against the owner or occupier of land for an offence relating to an act or omission with respect to the land, it is a defence for the owner or occupier to prove that:

   (a) the act or omission occurred without the owner’s or occupier’s knowledge or consent; and

   (b) the owner or occupier could not, by reasonable diligence, have prevented the act or omission.

(2) If a person is charged with an offence involving a contravention of a local law, it is a defence to provide that the person had a reasonable excuse for the contravention.

41 Joint and several liability

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

42 Executive officer

(1) The executive officers of a corporation must ensure the corporation complies with all local laws.

(2) If a corporation commits an offence against a provision of a local law, each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

   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 a local law is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies 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.

43 Presumptions about advertising devices

(1) This section applies to a prosecution for an offence against Local Law No. 4 (Advertising Devices) 2019 in relation to an advertising device.

(2) Each person whose product or services is advertised on the advertising device is taken to undertake the advertising device activity, unless the person proves the advertisement was undertaken without the person’s knowledge or permission.

44 Evidentiary provisions

(1) The production of a copy of a record or an extract from a record of the local government relating to the proceedings of the local government, a committee of the local government or board of which the local government is a member shall be prima facie evidence in Court of:

   (a) the person attending;
   (b) the time and place of the proceeding;
   (c) the content of any agenda and discussions; and
   (d) any resolutions passed or actions resolved provided that the copy of the record is signed by the chief executive officer certifying that it is a true copy of a record of the local government.

(2) In any proceedings for a breach of the local laws, the Act or regulation the appointment of any officers of the local government, and the authority of any officer to do any act shall be presumed until the contrary is provided.

(3) The production of any map or extract from a map made by the local government signed by the chief executive officer certifying that it is a true copy of a record of the local government shall be prima facie evidence of the matters stated or delineated on the map.

(4) The production of a copy of a certificate of title, memorandum of transfer, or other instrument creating an interest in land shall be prima facie evidence the person named therein:

   (a) is the registered proprietor; or
(b) is entitled to an interest in that land.

(5) All courts and persons acting judicially shall take judicial notice of the signature of any person who holds or has held the office of mayor or chief executive officer and the fact that such person holds or has held such office if the signature purports:
   (a) to be attached to any document; and
   (b) to have been made by the mayor or chief executive officer.

(6) All courts and persons acting judicially shall take judicial notice of the Seal affixed to any Deed, instrument or other document and shall presume that it was duly affixed.

(7) The signature of a person holding public office signing any deed, instrument or other document will be prima facie evidence that the person was authorised to sign it, until the contrary is proved.

(8) In any prosecution for a breach of the provisions of any local law, every allegation or averment contained in the complaint shall be prima facie evidence of the matter so alleged or averred.

This section shall apply to any matter alleged or averred although:
   (a) evidence in support or rebuttal of the matter alleged or averred or any other matter is given;
   (b) the matter alleged or averred is a mixed question of law and fact, but in that case the allegation or averment shall be prima facie evidence of the fact only; or
   (c) any evidence given in support or rebuttal of matter so alleged or averred shall be considered on its merits, and the credibility and probative value of such evidence shall be neither increased nor diminished by reasons of this local law.

(9) This local law shall not lessen or affect any onus of proof otherwise falling on the defendant.

(10) This local law shall not derogate from the averment provisions of any other Act.

45 Proof of intoxicating liquor

(1) For the purposes of any proceedings for a suspected breach of Local Law No.11 (Local Government Controlled Areas and Roads) 2016, a certificate purporting to be signed by an analyst within the meaning of Section 153Z of the Health Act 1937, stating that any fluid is an intoxicating liquor, as herein defined, shall be evidence that the fluid was an intoxicating liquor.

(2) In a statement in a complaint for an offence it is claimed that a fluid was packed in a container of a type that usually holds liquor, the statement is evidence that the fluid was liquor.
46 Recovery of damages, expenses etc.

(1) When any person is convicted of an offence against any provision of any Act conferring powers, rights, privileges, or authorities on the local government, or against any local law of the local government, the local government shall have the right to recover from such person, in addition to any penalty that may be imposed:

(a) the amount of any damage or expense sustained by it through the act or default constituting such offence: and

(b) all fees, rates, charges, fares, rents, dues, and other amounts, the omission to pay which was an element in or was in any way related to such offence, but not more than $2000 in all in addition to the penalty.

(2) The Court in which the conviction is made shall have jurisdiction to award the amount of such damage, expense, fees, rates, charges, fares, rents, dues, or other amounts (but not exceeding $2000) on application made by or on behalf of the local government, and to make such order as to the mode of recovering the said amount in default of payment as it may make when inflicting a fine or penalty.

(3) Instead of applying to such Court for payment the local government may, in its discretion, whether proceedings for an offence have been instituted or not, sue for the full amount of such damage, expense, fees, rates, charges, fares, rents, dues, or other amounts in any Court of competent jurisdiction.

Part 7 Miscellaneous

47 Maintenance of good order at meetings

(1) A person who is not a member of the local government or a local government committee must not obstruct the proper conduct of a meeting of the local government or committee.

Maximum penalty for subsection (1)—20 penalty units.

(2) If a person (other than a member) obstructs the proper conduct of a meeting of the local government or committee, the chairperson may ask the person to withdraw from the meeting place.

(3) A person asked to withdraw from a meeting place under subsection (2) must immediately withdraw from the place and remain away until the end of the meeting or for a lesser period fixed by the chairperson.

Maximum penalty for subsection (3)—20 penalty units.

(4) If a person contravenes subsection (3), an authorised person may, at the request of the chairperson, exercise reasonable force to remove the person, and keep the person away from the meeting place.

(5) The local government may by resolution make standing orders for council meetings.
(6) The local government meetings shall be conducted in accordance with the standing orders current from time to time.

(7) The chief executive officer shall maintain a copy of the current standing orders and have them available at meetings.

48 Fees

(1) If a local law provides for payment of a fee, and does not itself fix the amount of the fee, the fee is to be fixed by resolution under the Act, chapter 4, part 2.

(2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.

Example:
Suppose that a person pays a permit fee appropriate to an approval of 1 year’s duration but, because of unforeseen circumstances, surrenders the approval within 3 months after it is granted. A resolution might provide that, in such a case, the former permit holder is to receive a partial reimbursement of the permit fee.

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

(4) The factors taken into account by the local government in deciding whether or not to reimburse a fee, waive a fee or partially remit a fee under this section, include:

(a) whether or not the activities of local government give rise to the need for the reimbursement, waiver or partial remission.

Example:
the local government undertakes roadworks along a stretch of road which has a negative impact to a business along that stretch of road.

(b) If the person who holds a permit has to surrender that permit on reasonable grounds, and can provide evidence satisfactory to the local government as to the reasonable grounds for the surrender.

49 Impounding goods

(1) This section applies where an authorised person considers on reasonable grounds that goods have been abandoned or found in circumstances that constitute an offence under the local laws or an Act.

(2) The authorised person may seize and impound the goods.

(3) This section and section 50 do not apply to animals which are dealt with separately in Local Law No. 2 (Animal Management) 2016.
50 Dealing with seized and impounded goods

(1) This section applies where:
   (a) an authorised person has exercised a power under a local law to seize and impound a structure, thing or goods (an impounded item); or
   (b) the local government has impounded an item that has been delivered into its custody pursuant to a local law (also an impounded item) and the local law states that this section is to apply.

(2) This section does not apply to an impounded item that is an animal.

(3) If the impounded item is perishable, it may be immediately disposed of as the chief executive officer directs and the proceeds applied in accordance with subsection (6).

(4) If the impounded item is an abandoned or hazardously placed vehicle or tram, the chief executive officer shall give a notice in writing to the owner of an item seized under this local law as soon as practicable after the item is seized, if the owner of the vehicle or tram can be readily ascertained by the local government.

(5) A person may only reclaim the impounded item if:
   (a) written application is made to the chief executive officer;
   (b) proof is produced to the satisfaction of the chief executive officer that the applicant is the owner of the item;
   (c) the applicant pays the prescribed fee for the impounding of the item; and
   (d) the applicant pays for costs associated with the impounding under section 27(2) of this local law.

(6) At the expiry of 1 month after the giving of the notice under subsection (4), or if the owner of the structure or thing cannot be located, at the expiry of 1 month since the date of impounding, the impounded item is forfeited to the local government, which may dispose of the item:
   (a) if it has no commercial value or has a value that would not cover the costs of sale of the item, as the chief executive officer directs;
   (b) by sale through:
      (i) public auction or tender, following an advertisement published at least 14 days before the date of the proposed sale;
      (ii) an agent of the local government; or
      (iii) an enterprise owned by the local government; and
   (c) if it has been offered for sale under paragraph (b) but has not been sold within a reasonable period, as the chief executive officer directs.

(7) The proceeds of the sale or disposal of the impounded item must be in the following alphabetical sequence applied:
(a) in payment of the reasonable expenses incurred in selling or disposing of the property;
(b) in payment of the prescribed fee for seizing and holding the property;
(c) 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
(d) the balance to the owner of the property.

(8) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (7)(d) by the date the item is sold or disposed of under subsections(6)(b) and (6)(c), the amount becomes the property of the local government.

(9) It is an offence to take an impounded item contrary to subsection (5).
Maximum penalty for subsection (9)–50 penalty units.

51 Transitional provisions

(1) Existing approvals under the repealed local laws continue to have force and effect after the current local laws are made for the balance of their term.
(2) Offences in relation to breaches of existing approvals under the repealed local laws will continue to be dealt with under the repealed local laws.
(3) Applications made under the repealed local laws but not decided prior to current local laws having force and effect will be decided under the current local laws.
(4) An existing approval under the repealed local laws will not be dealt with under the current local laws and once the term has expired will end.

Part 8 Subordinate local laws

52 Subordinate local laws
The local government may make subordinate local laws about:

(a) application requirements for which a third party certifier’s certificate may be accepted by the local government;
(b) the individuals or organisations that are declared as third party certifiers for particular application requirements; or
(c) the qualifications that are necessary for an individual or organisation to provide a third party certificate about particular application requirements.
**Schedule 1 Dictionary**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td><strong>Act</strong></td>
<td>means an Act of the Queensland Parliament.</td>
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<tr>
<td><strong>advertising area</strong></td>
<td>is the total area of an advertisement which is either:</td>
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</table>
|                               | (a) the area bounded by the framework of a panel or sign case and is calculated by multiplying the framework height and width dimension; or  
|                               | (b) where there is no framework in the case of lettering, logo and/or design applied to a wall, window, fence or awning fascia, the advertising area is calculated by drawing a rectangle or square around the extent of the advertising lettering, logo or designs and multiplying the height and width dimensions. |
| **advertising device**        | means any structure, device, sign or the like intended for advertising purposes that is:                                                                                                                                                                                                                                                   |
|                               | (a) external to a building and visible from a public place; or  
|                               | (b) internal to a building and visible from a road.                                                                                                                                                                                                                                                                                      |
|                               | It includes any framework, supporting structure or building feature that is provided as part of the advertisement.                                                                                                                                                                                                                               |
|                               | A Variable message sign (VMS) is not an advertising device where it only provides information about roadworks or a local government supported event.                                                                                                                                                                                            |
| **aircraft sign**             | means an advertising device that is attached to a manned or unmanned aircraft.                                                                                                                                                                                                                                                             |
|                               | An aircraft sign does not include:                                                                                                                                                                                                                                                                                                         |
|                               | (a) aircraft branding; or  
|                               | (b) advertising on the envelope or the basket of a hot air balloon.                                                                                                                                                                                                                                                                       |
| **ambient light levels**      | means the light that is already present.                                                                                                                                                                                                                                                                                                     |
| **amend**                     | for a permit, includes varying a condition, removing a condition or adding a condition.                                                                                                                                                                                                                                                  |
| **animal**                    | means an organism (other than a human being) that is not a plant and includes eggs and semen.                                                                                                                                                                                                                                             |
| **animal carer**              | means a person who keeps the animal on the premises, receives no financial reward for keeping the animal on the premises and cares for the animal as a foster carer on behalf of an animal welfare agency.                                                                                                                                             |
**animal refuge shelter** means a premises maintained for the purpose of providing shelter to or finding a home for stray, abandoned or unwanted animals.

**animal welfare agency** means an organisation which finds homes for stray, abandoned or unwanted animals.

**appropriate records** in *Local Law No. 8 (Swimming Pools) 2016* means, as described in Appendix 6 – Records of QLD Health Swimming and Spa Water Quality and Operational Guidelines.

**approval** includes a consent, permission, licence, permit or authorisation.

**approved form** means a form approved by the chief executive officer for the local laws.

**aquatic equipment** means:
- a boat or vessel;
- a surf ski;
- a jet ski;
- a surf board;
- a sail board;
- a body board;
- another device (whether motorised or not) for use on or in water to carry a person or thing across or through water or for recreational use in water; or
- authorised person see the Act, Schedule 4.

**architectural features** means parts of the building which are added to create visual interest and can include elements such as windows, doors, awnings, cornices, parapets columns and the like.

**assistance dog (other than guide dog)** means:
- a dog that has been trained to assist the person to alleviate the effect of a disability;
- a person with a disability is in control of the dog;
- the dog is providing assistance to their person to alleviate the effect of that disability; and
- the dog has been trained to comply with the standards of hygiene and behaviour comparable to those that apply to guide dogs.
**attack**, by an animal, means:

(a) aggressively rushing at or harassing any person or animal;
(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.

**audible noise** means noise that can be clearly heard by an individual who is an occupier of an affected building. An individual is taken to be able to clearly hear a noise if he or she can hear the noise from the part of the building occupied by the individual that is most exposed to the noise.

**authorised person** means a person who is an authorised person for a local law under an Act.

**awning** means a permanent, roof like structure, attached to and projecting from the wall of a building which is generally designed or constructed to provide pedestrians with protection against the weather.

**awning fascia sign** means an advertising device painted on or affixed to the fascia of an awning.

**Babinda Rotary Park** is the land described as part of Lot 235 on NR6626, Lot 19 on RP86529 and Lots 7-14 on RP710062 located at Howard Kennedy Drive, Babinda, as outlined in yellow on the Map of Babinda Rotary Park attached to this Schedule.

**background noise** means the background A-weighted sound pressure level under the prescribed standard measured as $L_{A90,T}$ and is obtained in the absence of the noise under investigation.

**banner sign** means an advertising device that is:

(a) suspended between two or more points; and
(b) affixed to any structure, tree, pole or the like; and
(c) with or without a supporting framework; and
(d) displaying an advertisement applied to paper, plastic, vinyl or the like.

A banner sign is not a fence sign or a wall sign.

**banner pole sign** means an advertising device that is a banner constructed of flexible material affixed to a free-standing pole that is not community infrastructure. The advertising area of a banner pole sign is taller than it is wide.

A banner pole sign does not include a commercial flag sign.
**Barlow Park** is the land bounded by Scott Street, Severin Street and Spence Street as outlined in yellow on the Map of Barlow Park attached to this Schedule.

**bathing area** see section 6 of Local Law No. 13 (Bathing Reserves and Foreshores) 2016.

**bathing** includes all activities involving the immersion or partial immersion of the body in water.

**bathing reserve** means a part of the seashore, adjacent land under the sea, and sea placed under the control of the local government as a bathing reserve under the Act.

**BCCMA** means the Body Corporate and Community Management Act 1997.

**beacon light** means any light with one or more beams, capable of being directed in one or more directions, or capable of being revolved automatically and includes:

(a) a strobe or oscillating light;  
(b) any other high density discharge lamps;  
(c) any device capable of converting light of mixed frequencies into an intense beam of light; and  
(d) any other similar light emitting appliance.

**best practice management** for an activity is the best practice management adopted by the local government in any policy.

**billboard sign** means an advertising device this is a free-standing structure greater than 2 metres in height, typically elevated from the ground and supported by one or more vertical supports. The advertising area of a billboard sign is wider than it is tall.

**birds** means all birds other than noisy birds, special birds, poultry, roosters and racing pigeons.

**blind or canopy sign** means an advertising device that is printed or painted on, or is affixed to or forms part of a blind or canopy that is constructed of solid or flexible material suspended from the building.

**Boulders Camping Ground** is the land described as part of Lot 1 on RP746361, located at Boulders Road, Babinda as outlined in yellow on the Map of Boulders Camping Ground attached to this Schedule.

**breeding** means giving birth to progeny.
**BUGTA** means the *Building Units and Group Titles Act 1980*, but only to the extent of its continued application for the BCCMA.

*bunting sign* means an advertising device that is a series of small flags, pennants, streamers, ribbons or the like, constructed of flexible material, suspended from a rope, cable or the like.

*busking sign* means an advertising device that advertises a busking activity carried out in accordance with a relevant permit.

*Cairns Botanic Gardens* is the land bounded by Goodwin Street, McCormack Street and Collins Avenue, Greenslopes Street and Lily Creek as outlined in yellow on the Map of Cairns Botanic Gardens *attached* to this Schedule.

*Cairns Esplanade Lagoon* is the land within the Lagoon Pool, adjacent timber deck areas, and sandy beach as outlined in yellow on the Map of Cairns Esplanade Lagoon *attached* to this Schedule.

*Cairns Esplanade Reserve* is the land from Marlin Parade in the south to Lily Street in the north, situated to the east or seaward side of the Esplanade roadway as outlined in yellow on the Map of Cairns Esplanade Reserve *attached* to this Schedule.

*camping grounds operation* means to permit access to, or use of, a commercial camping ground but does not include a caravan park.

*camping* means:

(a) to pitch, place or erect a tent, caravan or structure that may be used for camping for the purpose of staying overnight by using the tent, caravan or structure;

(b) to park or place a vehicle or other equipment that may be used for camping, for the purpose of staying overnight by using the vehicle or equipment;

(c) to keep a tent, caravan, structure vehicle or other equipment that may be used for camping in position overnight, whether or not the tent, caravan, structure or equipment is unattended; or

(d) to stay overnight.

*candelas* means a measurement of luminous intensity (luminance output) from a point source.
<table>
<thead>
<tr>
<th><strong>cane railways operation</strong></th>
<th>means the operation of a tramway or railway:</th>
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<tbody>
<tr>
<td>(a) operated, entirely or partly, on an access right under the <em>Sugar Industry Act 1999</em>, chapter 2, part 4; and</td>
<td></td>
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<tr>
<td>(b) used, or proposed to be used, to transport sugar cane, sugar or sugar cane by-products; and</td>
<td></td>
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<tr>
<td>(c) that does not transport passengers or other freight for reward.</td>
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| **caravan** | see *Residential Tenancies and Rooming Accommodation Act 2008*, section 7. |

| **caravan parks operation** | means to operate, on a commercial basis, a place for parking and residing in caravans, including a place that provides also for complementary accommodation. |

| **cat** | means an animal of the species *Felis Catus* or domestic cat. |

| **CBD** | means the whole of the Cairns Central Business District bounded by Florence Street from the Esplanade to McLeod Street, McLeod Street from Florence Street to Spence Street, Spence Street from McLeod Street to Sheridan Street, Sheridan Street from Spence Street to Hartley Street, Hartley Street from Sheridan Street to Lake Street, along Lake Street to Wharf Street, along Wharf Street to the Esplanade and the Esplanade from Spence Street to Florence Street, and includes street frontages on both side of all of the relevant streets, including both sides of the boundary streets, as outlined in yellow on the Map of CBD, **attached** to this Schedule. |

<p>| <strong>central animal prohibition area</strong> | means the whole of the Central Animal Prohibition Area bounded by Aplin Street from the Esplanade to McLeod Street, McLeod Street from Aplin Street to Spence Street, Spence Street from McLeod Street to Sheridan Street, Sheridan Street from Spence Street to Wharf Street, Wharf Street from Sheridan Street to the Esplanade and the Esplanade from Wharf Street to Aplin Street, (but excludes the eastern footpath adjacent to the Esplanade road between Aplin Street and Spence Street), the area from Aplin Street along the walkway to Spence Street, Pier Point Road, Pier Point Road to the sea wall, along the sea wall to a point opposite the Northern boundary of Aplin Street and includes street frontages on both side of all of the relevant streets, as outlined in yellow on the Map of central animal prohibition area, <strong>attached</strong> to this Schedule. |</p>
<table>
<thead>
<tr>
<th><strong>centre zone</strong> means the following zones within the planning scheme:</th>
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<tbody>
<tr>
<td>(a) Principal centre zone;</td>
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<tr>
<td>(b) Major centre zone;</td>
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<tr>
<td>(c) District centre zone;</td>
</tr>
<tr>
<td>(d) Local centre zone;</td>
</tr>
<tr>
<td>(e) Neighbourhood centre zone.</td>
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</tbody>
</table>

**check meter** means a meter used as a guide to determine whether a primary meter is out of repair rather than for the purpose of determining water consumption or water usage charges.

**collection notice** for a shopping trolley 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;
(b) the location at which the shopping trolley or trolleys have been found;
(c) the period of not less than 2 business 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.

**columbarium** means a wall or walls constructed for the purpose of interment of an urn containing the ashes of a deceased person.

**commercial flag sign** means an advertising device that is a flag used for commercial advertising, that is constructed of flexible material and is hung from a free-standing pole. The advertising area of a commercial flag sign is wider than it is tall.

A Commercial flag sign does not include a Banner pole sign.

**commercial vehicle** means a commercial vehicle as defined in the TORUM Act

**commercial waste** means waste, other than green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of commercial premises.

**common property** has the meaning given to it in the BCCMA
**community information advertising** means an advertising device used to display information that is about:

(a) a community event; or  
(b) a public place; or  
(c) public amenities or facilities.

Community information advertising does not include advertising that provides a commercial benefit.

**community infrastructure sign** means an advertising device that is painted on or affixed to community infrastructure.

*Note: For the purpose of this definition community infrastructure means street furniture or other infrastructure located on a local government controlled area or road.*

**complementary accommodation** means:

(a) accommodation in an on-site caravan;
(b) cabin or a tent or other structure that can be readily assembled and disassembled;
(c) registered caravans;
(d) demountable units; and
(e) relocatable homes.

**compliance notice** means a compliance notice mentioned in *Local Law No.1 (Administration) 2016.*

**conservation planning area** means any land that is in a zone/planning area under the planning scheme of the local government that recognises the high environmental values of that area and the preservation of those values.

**construction equipment** means equipment, plant or machinery used during the construction of a development (for example, a crane, temporary site offices, scaffolding).

**construction sign** means a temporary advertising device that advertises the name of the development, the developer or on-site contractors during the construction of a development. A Construction sign may be used to screen construction activities or used to provide information about the construction of the development.

A construction sign includes scrim wrap on scaffolding, fencing or other construction equipment.

**contractors sign** means an advertising device that advertises the name or business name and logo of a contractor that is undertaking work or has undertaken work on a site.
**cost-recovery fee** means the fee fixed by the local government to cover the costs associated with impounding an animal.

**current local laws** mean:

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 Environment) 2016
Local Law No. 4 (Advertising Devices) 2019
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
Local Law No. 13 (Bathing Reserves and Foreshores) 2016
Subordinate Local Law No. 13 (Bathing Reserves and Foreshores) 2016
Local Law No. 14 (Town Water) 2016

**dangerous item of aquatic equipment** means an item of aquatic equipment that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.

*Examples of dangerous items of aquatic equipment:*

(a) A surfboard with sharp or broken edges.
(b) A boat with projections liable to cause injury to bathers.

**dangerous object** means an object that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.
**dB(A)** means decibels measured on the ‘A’ frequency weighting network.

**declared dangerous animal** means an animal (other than a dog), declared by an authorised person under section 37(1) of *Local Law No. 2 (Animal Management) 2016* to be a declared dangerous animal.

**declared local pest** means a plant or animal declared to be a pest under *Local Law No.3 Community and Environment) 2016*.

**designated meter reading cycle** means the designated frequency for meter reading as determined by the local government under section 14 of *Local Law No. 14 (Town Water) 2016*.

**destroy** for an animal, includes causing it to be destroyed.

**destruction order** see *Local Law No.2 (Animal Management) 2016*.

**development approval** means a development approval issued under a Planning Act.

**digital sign** means an advertising device with an electronic display including LED, LCD, plasma or the like.

A digital sign may display images and / or words.

**directional sign** means an advertising device used to provide information about the location of or direction to a place.

**distribute a business advertising publication:**

(a) includes making the business advertising publication available to other persons; but

(b) does not include merely display of the business advertising publication.

*Examples:*

A person “distributes” a business advertising publication if the person hands the business advertising publication out to other persons or leaves it at a place for other persons to take away, including posting the business advertising publication on a car windscreen.

A person does not “distribute” a business advertising publication if the person attaches the business advertising publication onto walls and other structures, merely for display.

**disturbance of human remains** interfering with remains, removal of remains and opening of a site of burial.

**dog** means an animal of the species *Canis Lupus Familiaris*, or domestic dog.
**dog off-leash area** see *Local Law No.2 (Animal Management) 2016*.

**DOGIT land** means land that is DOGIT land under the *Aboriginal Land Act 1991*, section 13, or the *Torres Strait Islander Land Act 1991*, section 12.

**domestic waste** means waste, other than domestic clean-up waste, green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of domestic premises.

**drainage easement** means a public utility easement in favour of the local government for drainage purposes.

**dual occupancy** means premises containing two dwellings, each for a separate household, and consisting of:

(a) a single lot, where neither dwelling is a secondary dwelling; or

(b) two lots sharing common property where one dwelling is located on each lot.

**dwell time** means the length of time an advertisement is shown on screen before changing.

**dwelling** means a building or part of a building used or capable of being used as a self-contained residence that must include the following:

(a) food preparation facilities; and

(b) a bath or shower; and

(c) a toilet and wash basin; and

(d) clothes washing facilities.

This term includes outbuildings, structures and works normally associated with a dwelling.

**effective control** see *Local Law No.2 (Animal Management) 2016*.

**election sign** means a temporary advertising device that advertises a candidate and/or political party at a local, state or federal government election.

**emergency vehicle** includes the following:

(a) an ambulance; and

(b) a fire-engine; and

(c) a police vehicle; and

(d) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.
**entertainment** includes recreation and amusement.

**environmental harm** see *Environmental Protection Act 1994*, section 14.

**existing or approved premises** means premises for which a development approval for the carrying out of building work has been given as at the commencement of this local law.

**externally illuminated** means the illumination of an advertising device by an external light source, including but not limited to spotlights, down lights or up lights.

**extraordinary traffic means traffic:**
(a) that involves building removal;
(b) that would in the authorised person’s opinion cause damage to the local
government road beyond that caused by the ordinary traffic on the local
government road;
(c) that in the authorised person’s opinion is substantially different to the
ordinary traffic on a local government road; or
(d) that would in the authorised person’s opinion give rise to a risk of:
   (i) harm to human health or safety or personal injury;
   (ii) property damage or damage to the local government road; or
   (iii) interference with a local government road.

**fence sign** means an advertising device painted on or affixed to a fence.
A fence sign is not a construction sign or a banner sign.

**fireplace** means an outdoor structure which may be fixed or moveable,
constructed of stone, brick or metal or similar material, for keeping a small
contained fire for the purpose of:
(a) cooking (e.g. a BBQ);
(b) heating (e.g. Mexican fire pit or small kiln);

**however:**
(c) does not include an incinerator or other structure for the purpose of
disposing of a carcass, garden waste or other combustible waste; and
(d) must not exceed the dimensions of 1m$^2$.

**foreshore** means the land lying between high water mark and low water mark
during ordinary spring tides.
**garage sale sign** means a temporary advertising device that advertises a garage sale at a dwelling.

**garden of remembrance** means any cemetery or part thereof set aside for the burial of ashes.

**general activity** includes use of a local government controlled area or road for:

- (a) soliciting or carrying on the supply of goods and services and includes:
  - (i) footpath dining;
  - (ii) stationary roadside vending;
  - (iii) mobile roadside vending;
  - (iv) goods for sale on footpath/road (outside the CBD);
  - (v) activity conducted wholly or partially for the purpose of sport, entertainment, education, tourism or recreation;
  - (vi) busking;
  - (vii) commercial filming/photography;
- (b) market stalls;
- (c) weddings;
- (d) research and scientific investigation;
- (e) public education information and interest displays;
- (f) fundraising;
- (g) street parades;
- (h) training events held on more than 1 day which involves payment of a fee; and
- (i) extraordinary traffic.

General activity does not include a temporary entertainment event.

**generator** means an engine that converts mechanical energy into electricity to serve as a power source.

**good order** means structurally sound, not faded, damaged, mouldy, dirty or defaced in anyway.

**goods** means personal property that is moveable (including a vehicle) but does not include animals.
**grass-cutter** means an electrical or mechanical device a function of which is to cut grass.

*Examples—brush-cutter, edge cutter, lawnmower, ride-on mower, string trimmer.*

**green waste** means grass cuttings, trees, bushes, shrubs, loppings of trees, bushes or shrubs or similar matter produced as a result of the ordinary use or occupation of premises.

**ground based sign** means a free-standing advertising device with a height of 2 metres or less that is attached directly to the ground, or is supported by one of more vertical supports. The advertising area of a ground based sign is wider than it is tall.

*Note – where a sign would otherwise meet the definition of ground based sign but is greater than 2 metres in height, it is considered to be a billboard sign.*

**high water mark** means the ordinary high water mark at spring tides.

**hologram sign** means an advertising device that uses a holographic display to create an image.

**home based business sign** means an advertising device associated with a lawfully established Home based business.

**human remains** means the body or part of the body of a deceased person.

**illuminated sign** means an advertising device that is internally illuminated.

An Illuminated sign includes:

(a) a light box; or
(b) a neon sign; or
(c) 3D internally illuminated lettering; or
(d) any other device that is internally illuminated (excluding a Digital sign).
impoundment notice for shopping trolleys means a notice stating:

(a) that the retailer’s shopping trolley or shopping trolleys to which the notice relates have been impounded;

(b) that the retailer is required to claim the shopping trolley or trolleys; the period of not less than 14 days within which the shopping trolley or trolleys must be claimed;

(c) that it is an offence not to claim an impounded shopping trolley within the period stated in the notice;

(d) 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

(e) the prescribed fee for claiming each shopping trolley.

indication, on an official traffic sign, see TORUM Act, schedule 4.

industrial waste means:

(a) interceptor waste; or

(b) waste other than the following:

(i) commercial waste;

(ii) domestic waste;

(iii) domestic clean-up waste;

(iv) green waste

(v) recyclable waste;

(vi) recyclable interceptor waste; and

(vii) waste discharged to a sewer.

industry zone means the following zones within the planning scheme:

(a) Low impact industry zone; and

(b) Medium impact industry zone; and

(c) High impact industry zone; and

(d) Waterfront and marine industry zone.

inflatable or aerial sign means an advertising device that is affixed to or placed on a building, structure or the ground that is inflated and/or floats or flies in the air above the fixed point.
**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 14 days after the notice is given; and
(d) how to apply for a review.

**infringement notice penalty** means an infringement notice fine under the *State Penalties Enforcement Act 1999*.

**interment** includes burial of the body of a deceased person and placement in a niche of the ashes of a deceased person.

**intoxicating liquor** means wines, spirits, beer, stout, cider, or any other spirituous or fermented fluid whatever of an intoxicating nature. The term also includes methylated spirits. The term also includes any beverage or substance intended for human consumption in which the level of ethyl alcohol (ethanol) is greater than 5mL/L (0.5%) at 20 degrees C.

**keeping of animals** means:

(1) A person keeps an animal if the person;
   (a) has control or custody of the animal;
   (b) feeds and cares for the animal;
   (c) keeps the animal at a particular place on more than one occasion during a month;
   (d) boards and trains an animal; however
(2) Keeping of animals does not include any animal keeping related use that is regulated under the planning scheme of the local government.

*Example* – an approval for animal keeping, home based business or animal husbandry under the local government’s planning scheme.

**$L_{A90,T}$** means the A-weighted sound pressure level obtained using time weighting “F” that is exceeded for 90% of the measuring period (T).

**Lake Morris** is the land described as Lot 50 on NR 6547, located at Lake Morris Road, Lamb Range as outlined in yellow in the Map of Lake Morris, attached to this Schedule.

**Lake Morris Camping Ground** is the land described as part of Lot 50 on NR6547 and located at Lake Morris Road, Lamb Range and indicated by public information advertisement.
**land use** means a use of premises for a specific purpose. The use of premises includes an ancillary use of the premises.

**lawful use / lawfully established land use** means a use of premises that has an approval or use right under a Planning Act.

**lawn cemetery** means any cemetery or part thereof set aside exclusively for the erection of a headstone or plaque:
   
   (a) on an individual concrete base; or
   
   (b) on a continuous concrete beam located at the head of the grave.

**leaf-blower** means an electrical or mechanical device a function of which is to blow leaves.

**LGA** means *Local Government Act 2009*.

**life-saving club** means a body:

   (a) affiliated with:
       (i) Surf Life Saving Queensland Inc (SLSQ); or
       (ii) the Head Centre of the Royal Life Saving Society; and

   (b) accredited by the Department of Community Safety.

**life-saving equipment** means equipment for use in sea rescue, life-saving, or the provision of first aid.

**life-saving patrol means** the members of a recognised life-saving club assigned by the club or SLSQ to patrol a bathing reserve, or part of a bathing reserve, at a particular time.

**litter** means any kind of rubbish, refuse or garbage, and any matter that, when in a public place, causes, contributes to or tends to the defacement or defilement of that place.

**local government cemetery** means a cemetery owned by or under the control of the local government and includes:

   (a) a monumental cemetery;

   (b) a lawn cemetery;

   (c) a columbarium;

   (d) a vault including a vault above or below the ground; and

   (e) a garden of remembrance.
**local government controlled area**

(1) A local government controlled area means land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road.  

*Examples of local government controlled areas:*
- parks, reserves and gazetted foreshores
- camping grounds or caravan parks on land owned or controlled by the local government
- local government swimming pools
- cemeteries
- Council Chambers and local government offices
- jetties.

(2) A local government controlled area includes part of a local government controlled area.

(3) A local government controlled area does not include a residential lot on DOGIT land.

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**luminance output** means the brightness emitted directly from a light source or illuminated surface. Luminance output is measured in candelas per square metre.

**market stall sign** means an advertising device associated with a market stall carried out in accordance with a relevant permit.

A market stall sign is not an advertising device that is associated with a market approved under a Planning Act.

**mausoleum** means an external free standing building constructed as a monument enclosing the interment space or burial chamber of a deceased person or people.

**memorial** means anything erected or placed within a cemetery to mark a grave or commemorate a deceased person and includes a monument or other structure, headstone, grave plaque, lawn plaque, inscription plate, vase or ornament.

**menu stand sign** means an advertising device that is free-standing and displays a business name and menu.

**meter installation guidelines** means guidelines for meter installation developed by the local government.

**minor traffic offence** see TORUM Act, section 108(4).
**mobile roadside vending** means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where:

1. the operator travels from place to place; and
2. the operator supplies the goods or services to a customer in response to the customer waving down the operator.

*Example: coffee vans; pedicabs*

**modified awning sign** means an advertising device that is affixed to an existing awning fascia and extends above or below the existing fascia line to create a new fascia line.

**monumental cemetery** means any cemetery or part thereof where the grave sites are completely covered by a concrete slab, tiles or granite.

**multiple dwelling** means premises containing three or more dwellings for separate households.

**Munro Martin Park** is the land bounded by Florence Street, Sheridan Street, Minnie Street and Grafton Street as outlined in yellow on the Map of Munro Martin Park *attached* to this Schedule.

**neighbourhood character area** means an area identified as a Neighbourhood character area within the planning scheme.

**new premises** means premises other than existing or approved premises.

**noisy bird** means:

1. A cacophonous bird such as a galah, sulphur-crested cockatoo, or peacock, but does not include a rooster; or
2. A bird that is not a cacophonous bird about which a decision has been made for the purpose of section 11(2)(j) of *Local Law No. 2 (Animal Management) 2016* that the bird causes an unreasonable nuisance.

**non-standard condition** means a condition other than a standard condition.

**notice** means “includes notice by way of letterbox drop”.
**notice of impounding** means a written notice, given to the owner or responsible person for an animal, stating that:

(a) the animal has been impounded;

(b) the animal may be reclaimed within the prescribed period provided that:

(i) the cost-recovery fee is paid;

(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;

(iii) if the animal has been seized under section 33(1)(b) or 33(2)(b), the owner or responsible person has complied with the relevant compliance notice;

(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) no destruction order has been made for the animal; and

(c) in this section:

(i) relevant compliance notice means the compliance notice mentioned in section 33(1)(b) or 33(2)(b).

**obstacle limitation surface** means the obstacle limitation surface of the Cairns Airport as identified within the planning scheme.

**official traffic sign** see TORUM Act, schedule 4.

**off-site advertising** means advertisements that display anything other than on-site advertising.

**off-street regulated parking area** see TORUM Act, schedule 4.
on-site advertising means advertisements that displays only:

(a) The name or logo of a business located on the same site as the advertising device; or

(b) A non-brand specific product or service available for purchase on the same site as the advertising device; or

(c) The brand of a product that is manufactured on the same site as the advertising device; or

(d) The brand of a product that is available for purchase on the same site as the advertising device only where:
   (i) the site has a lawful use as a vehicle dealership; and
   (ii) the advertising device is used to display the brand of a vehicle; or

(e) A business activity conducted on the same site as the advertising device.

Note: An advertisement which displays a clearly identifiable brand, other than a brand allowed under (c) or (d) above, is not considered on-site advertising.

An advertisement displayed on an advertising device that is located on or over a public place or road that is immediately adjacent to the premises and displays only the content listed above, is considered to also be on-site advertising. This includes:

(a) Awning fascia sign; and

(b) Blind or canopy sign; and

(c) Menu stand sign; and

(d) Modified awning sign; and

(e) Outdoor dining furniture sign; and

(f) Portable sign; and

(g) Projecting flag sign; and

(h) Projecting horizontal sign; and

(i) Real estate sign; and

(j) Sandwich board sign; and

(k) Statutory sign; and

(l) Under awning sign.
**Operational criteria**, for the purpose of recording data for an advertising device, means:

- (a) maximum luminance output; and
- (b) ambient light levels; and
- (c) hours of operation; and
- (d) dwell time; and
- (e) transition time; and
- (f) any malfunctions or failures.

**Original owner** has the meaning given to it in the BCCMA.

**Outdoor dining furniture sign** means an advertising device that is located on furniture associated with outdoor dining that is carried out in accordance with a relevant permit.

An outdoor dining furniture sign does not include:

- (a) a sandwich board sign; or
- (b) a portable sign; or
- (c) a menu stand sign.

**Out of repair** means a primary meter failing for any reason to register or to correctly register water consumption.

**Overnight** means lasting for, extending over, or remaining during a night; an overnight trip, an overnight guest.

**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.

**Parking permit** for people with disabilities see TORUM Act, schedule 4.

**Patrol flag** means a red and yellow flag of the design prescribed by Australian Standard No. 2416.
**Pedestrian environment** means an area that is accessible to and used by pedestrians. This includes but is not limited to a footpath.

**permanent identification device** see section 12 of the Animal Management (Cats and Dogs) Act 2008.

**permit** includes a consent, permission, licence, approval or authorisation but not an approval under a Planning Act.

**PID** means a microchip or other electronic device:

1. capable of being permanently implanted in a dog; and
2. designed to record information in a way that can be electronically retrieved.

**pixel pitch** means the distance in millimetres from the centre of a pixel to the centre of the adjacent pixel.

Note: Pixel pitch is used as a measurement of pixel density.

**place of significance** means a place of significance as identified within the planning scheme.

**Planning Act** means the

1. Planning Act 2016;
2. repealed Acts that regulated town planning; and
3. any future Acts that regulate town planning.

**planning area** means a zone within the planning scheme.

**planning scheme** means the planning scheme for the Cairns Regional Council.

**plant** means vegetation of any type, including its flowers, roots, seeds and other parts.
**portable sign** means an advertising device that is portable and typically lightweight. A portable sign can be freestanding or on wheels or be affixed to or lent up against a building or structure for support. A portable sign may or may not have a weighted anchoring system.

Examples of a portable sign include:

(a) a tear drop banner; or  
(b) a feather banner; or  
(c) a pull up banner; or  
(d) a changeable letter sign; or  
(e) any other similar sign that is packed away at the end of a day.

A portable sign does not include:

(a) a sandwich board sign; or  
(b) an outdoor dining furniture sign; or  
(c) a vehicle sign; or  
(d) a projecting flag sign.

**poster sign** means an advertising device that consists of a poster printed on paper or cardboard and is affixed to a surface typically by using an adhesive.

A poster sign is not a wall sign or a window sign.

**potable water** means water that complies with the NHMRC – Australian Drinking Water Guidelines 2011.

**poultry** includes any species of chickens (including bantam chickens), geese, ducks, guinea fowls, turkeys, pheasants or quails (excluding roosters).

**PPID** means a prescribed PID that complies with the requirements prescribed under a regulation under the *Animal Management (Cats and Dogs) Act 2008*.

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

**premises group** has the meaning given to it in *Standard Water Supply Law 1998*.

**prescribed activity** means an activity described by a local law as a prescribed activity.

**prescribed fee** means a cost-recovery fee fixed by the local government, by local law or by resolution, under the Act.
**pricing signage associated with a Service station** means a component of an advertising device that is associated with a lawfully established Service station on the same site where that component is used to display the price of petroleum products only. It does not include the display of other products or product prices sold at the site. The component is displayed using a Digital sign or Illuminated sign.

**primary meter** means the meter or meters used by the local government to determine water consumption or water usage charges for premises or a premises group.

**projected image sign** means an advertising device that is projected onto a surface.

**projecting flag sign** means an advertising device that is a wall mounted at a single point of fixture and suspends a flag constructed of flexible material, or the like.

**projecting horizontal sign** means an advertising device that projects horizontally out of a surface of a building or structure.

A Projecting horizontal sign is not attached to a free-standing pole.

**projecting vertical sign** means an advertising device that projects vertically out of a surface of a building or structure.

A sign that projects vertically out of a roof whether it exceeds the height of the roof or not is a projecting vertical sign.

**property** see *Acts Interpretation Act 1954*, section 36.

**public information advertising** means an advertising device used to display information that is about:

(a) a local government product or service; or
(b) a local government supported event; or
(c) a community event; or
(d) a public place; or
(e) public amenities or facilities; or
(f) any other local government approved message.

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

**public place** see the *LGA*, section 125(5).
**public transport waiting point** has the meaning in the *Tobacco and Other Smoking Products Act 1998*.

**pump** means an electrical, mechanical or pneumatic pump and includes a swimming pool pump and a spa blower.

*Examples—liquid pump, air pump, heat pump*

**pylon sign** means an advertising device that stands vertically and is attached directly to the ground or is supported by one or more vertical supports. A pylon sign is taller than it is wide. A pylon sign may consist of multiple panels or slats that can be replaced.

**racing pigeon** means a class of pigeon which is:

1. primarily kept for the purpose of racing or breeding for racing;
2. kept by a person who is a registered member of the Queensland Racing Pigeon Federation Incorporated or affiliate Club; and
3. kept in accordance with the terms of membership of the Queensland Racing Pigeon Federation incorporated or affiliate club.

**real estate directional sign** means a temporary, moveable and free-standing advertising device that is used to direct the public to the location of a real estate event.

**real estate event** means an auction or a scheduled open house inspection which is open to all members of the public.

**real estate sign** means a temporary, free-standing advertising device that advertises an intention to sell, lease, tender or auction land and/or a building.

**reasonable written notice** means a written notice given at least 7 days before a property is to be entered, that informs the owner and the occupier of the property of:

1. the local government’s intention to enter the property;
2. the reason for entering the property; and
3. the days and times when the property is to be entered.

**recognised life-saving club** means a life-saving club to which the local government has assigned the responsibility for patrolling a bathing reserve or a particular part of a bathing reserve.
**recyclable waste** means, for a local government’s area, clean and inoffensive waste that is declared by the local government to be recyclable waste for the area.

*Examples of waste that may be declared to be recyclable waste: glass bottles, newspaper, cardboard, steel and aluminium cans, and green waste.*

**registered owner**, of an animal, means a person recorded as being the owner of the animal in a register kept by a local government.

**registration device** means a permanent identification device implanted in a cat to assist in identifying the cat.

**registration fee** for a cat means the one off fee fixed by the local government for registration of a cat.

**regulated device** means any of the following:

(a) a compressor;
(b) a ducted vacuuming system;
(c) a generator;
(d) a grass-cutter;
(e) an impacting tool;
(f) a leaf-blower;
(g) a mulcher;
(h) an oxyacetylene burner;
(i) an electrical, mechanical or pneumatic power tool; or

*Examples of a power tool: chainsaw, drill, electric grinder or sander, electric welder, nail gun*

(j) any other device declared by resolution of the local government to be a regulated device for the purposes of this provision.

**repealed local laws** means the local laws that were in force and effect immediately prior to the coming into force and effect of this local law.

**residence** means human habitation on a short-term or long-term basis.

**residential zone** means the following zones within the planning scheme:

(a) Low density residential zone; and
(b) Low-medium density residential zone;
(c) Medium density residential zone; and
(d) Tourist accommodation zone.
**responsible person**, for a place, means the person who has control or management of the place and includes a person in charge of activities or structures in the place that may result in contravention of this local law.

**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;

(b) the parent or guardian of a minor who has immediate control or custody of the animal;

(c) the person who occupies the place at which the animal is usually kept,

(d) but does not include a person who occupies the place at which the animal is usually kept, if someone else who is an adult and lives at the place keeps the animal; or

(e) 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.

**restricted dog** see *Animal Management (Cats and Dogs) Act 2008*, section 63.

**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 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.

**revolving or flashing light** means a light which flashes or is capable of being revolved automatically, and includes a strobe light, but excludes those lights affixed to an emergency vehicle or road crew.

**road** means:

(a) a road as defined in the LGA, section 59; and

(b) a State-controlled road:

(i) prescribed under a local law or subordinate local law for this subparagraph as a road to which this local law applies unless otherwise provided; and

(ii) in respect of which the chief executive has given written agreement under the TORUM Act, section 66(5)(b).

**roof sign** means an advertising device that is painted on a roof.
**sandwich board sign** means an advertising device that is moveable, free-standing and is placed on the ground, constructed footpath or road. A sandwich board sign is typically supported by an “A” or inverted “T” frame.

**sanitary convenience** means a urinal, water closet, earth closet, cesspit, cesspool or other receptacle for human waste.

**security sign** means an advertising device that advises the public of a security system or security feature on the premises.

**sensitive land use** means the following uses as defined within the planning scheme:

- (a) caretakers accommodation;
- (b) community care centre;
- (c) community residence;
- (d) dual occupancy;
- (e) dwelling house;
- (f) dwelling unit;
- (g) hotel;
- (h) multiple dwelling;
- (i) non-resident workforce accommodation;
- (j) relocatable home park;
- (k) residential care facility;
- (l) retirement facility;
- (m) rooming accommodation;
- (n) rural workers accommodation;
- (o) tourist park.

**sequential messages** means an advertisement that uses more than one dwell time to convey a message.
**shared facility accommodation** means accommodation occupied or available for occupation by residents, in return for payment, on the basis of residents sharing 1 or more of the following facilities:

- (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.

**shared facility accommodation operation** means the provision of shared facility accommodation to holiday makers or travellers, but does not include accommodation in a hotel or motel, which is referred to in Part 1, section 1.8 of the planning scheme.

**shopping trolley** means a cart or wheeled basket used primarily for the carriage of goods by customers while on or in the retail premises.

**shopping trolley containment system** means a wheel lock system or such other alternative containment system as the local government 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.

**site**, for the purpose of *Local Law No. 4 (Advertising Devices) 2019*, means:

- (a) the lot where the advertising device is located; or
- (b) where there are multiple lots associated with a land use or activity, the land made up by all of the lots associated with the land use or activity where the advertising device is located.

A part of a lot is not a site.

**SLSQ** means Surf Life Saving Queensland Inc.

**smoke** has the meaning in the *Tobacco and Other Smoking Products Act 1998*. 
**smoke free area** means the area within a 5 metre radius from any **public transport waiting point** (including the waiting point itself) situated in the area bounded by Florence Street from the Esplanade to McLeod Street, McLeod Street from Florence Street to Spence Street, Spence Street from McLeod Street to Sheridan Street, Sheridan Street from Spence Street to Hartley Street, Hartley Street from Sheridan Street to Lake Street, Lake Street from Hartley Street to Wharf Street, Wharf Street from Lake Street to the Esplanade, the area from the Esplanade along the walkway to Spence Street, Pier Point Road, Pier Point Road to the sea wall, along the sea wall to a point opposite the northern boundary of Aplin Street, and the Esplanade between Aplin Street and Florence Street, as outlined in red in the Map of Smoke Free Area Boundary for Public Transport Waiting Points **attached** to this Schedule.

**special birds** includes emus and ostriches.

**sport and recreational purposes** means any land that is in a zone/planning area under the planning scheme of the local government that is designated for a range of organised activities that includes sport, cultural and educational activities, that may also occur inside or outside of infrastructure such as clubhouses or gymnasiums.

**stallion** means an uncastrated male horse.

**standard condition** means a condition that is identified in a local law that must be imposed or that will ordinarily be imposed on a permit.

**standard general waste container** means a container of a type approved by a local government for storing domestic waste, commercial waste or recyclable waste at premises in the local government’s area.

**standpipe** has the meaning given to it in the **Standard Water Supply Laws 1998**.

**stationary roadside vending** means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where:

(a) the operator carries on the activity from:

   (i) a specified place; or

   (ii) a number of specified places; but

(b) the activity is not:

   (i) footpath dining; or

   (ii) a roadside stall as defined under the planning scheme*

* a roadside stall on private land
**statutory sign** means an advertising device required to be displayed under an Act of Parliament of the State or Commonwealth or required under a condition of a permit or approval issued under an Act.

**streetscape** means the collective combination of urban form elements that constitute the view of a street and its public and private realm. These elements include buildings, roads, footpaths, vegetation, open spaces and street furniture.

**subsidiary meter** means a primary meter measuring supply to:

- (a) individual premises within a premises group; or
- (b) individual tenancies on premises and the balance area of the premises.

**Sugarworld Parklands** is the land bounded by and accessed from Hambledon Drive to the south and Walker Road to the north and adjoining Sugarworld Water Park as outlined in yellow on the “Map of Sugarworld Parklands” attached to this Schedule.

**supply fee** means a charge fixed by the local government by resolution for the supply of a meter.

**swimming pools** means a swimming pool that is made available for use to:

- (a) members of the public or a section of the public;
- (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.

**tampering** with a water meter includes removing or altering the position of the meter without the approval of the local government.

**taxi zone** has the same meaning as taxi zone in the *Transport Operations (Road Use Management – Road Rules) Regulation 2009*.

**temporary event sign** means an advertising device that is temporary and advertises an event or provides information about an event.

Examples of a temporary event sign include:

- (a) a sign made from corflute; or
- (b) a temporary banner attached to a fence; or
- (c) a sign advising of upcoming fireworks.
**temporary entertainment event** means an event that is held temporarily – not on a regular basis and not more than 2 times in any one year - to provide social, community, sport or entertainment events to the public whether or not upon payment of a fee for admission, whether on private land or a local government controlled area or road and whether or not the management reserves the right to exclude individual members of the public which event is referred to in Part 1, section 1.8 of the planning scheme.

A temporary entertainment event will be classified as major if it caters for 1,000 or more people.

A temporary entertainment event will be classified as minor if it caters for less than 1,000 people.

**temporary entertainment events operation** means the opening to the public, or the preparation for opening to the public, of an temporary entertainment event and for which the opening to the public which is referred to in Part 1, section 1.8 of the planning scheme.

**temporary home** means a caravan, vehicle, tent, structure, or annex attached to a caravan, vehicle, tent, or structure that is erected for the occupation of the owner, and immediate family, of the land upon which there is a current approval to construct a dwelling house and only during the construction of the dwelling house.

**temporary**, for the purpose of *Local Law No. 4 (Advertising Devices)*, means an advertising device that is displayed for a limited period of time.

Note: The period of time that an advertising device is displayed is identified within Part 4 or as a condition of a permit.

**tenancy** means a part of the premises capable of being separately occupied.

**themed sign** means an advertising device that is constructed in a three-dimensional shape to resemble an object or character.

**TORUM Act** means the *Transport Operations (Road Use Management) Act 1995*.

**touting** means to spruik, publicise to another person either verbally or with a publication of a business, commercial or trade activity, including by approaching that person. “Touted” and “touting” have the corresponding meanings.

**town water** means a water supply provided by the local government to a premises or premises group.

**traffic area** see TORUM Act, schedule 4.

**transition time** means the amount of time of transition between one advertisement to another advertisement.
**transport infrastructure sign** means an advertising device that is painted on or affixed to transport infrastructure.

**travellers** includes someone living away from their primary residence and a temporary worker who resides in shared facility accommodation for a period of time determined by:

- (a) the work that the worker is employed to perform, for example, the period during which a crop is harvested; or
- (b) the duration of a project on which the worker is employed to work, for example, the construction of specified infrastructure.

**under awning sign** means an advertising device that is attached to the underside of an awning, verandah, or canopy.

**undefined sign** means an advertising device that is not otherwise defined within this Schedule.

**undertaking regulated activities regarding human remains** means undertaking one of the following activities:

- (a) disturbance of human remains buried outside a cemetery;
- (b) burial or disposal of human remains (excluding cremated remains) outside a cemetery; or
- (c) disturbance of human remains in a local government cemetery.

**vault** means the lining of a grave or graves by means of bricks and mortar or concrete liners cemented together so that the floor, walls and ceiling of the grave are completely covered and sealed and includes walk in room or rooms constructed either above or below ground level and a chapel.

**vegetation** includes a tree, bush, shrub, plant or grass, but does not include vegetation that is protected under a law of the State or Commonwealth or under the local government’s planning scheme.

**vehicle** includes any type of transport that moves on wheels and a hovercraft but does not include a train or tram.

**vehicle identification label** means a label given to a parking permit holder to be prominently shown on the left hand side windscreen of the vehicle facing outward when the vehicle is parked in accordance with the permit. The label can be for different types of permits such as a commercial vehicle permit to allow parking in loading zones or a temporary event permit to allow parking in a particular area.
**vehicle sign** means an advertising device that is painted on or affixed to a vehicle or trailer.

A vehicle sign includes where it is painted on or affixed to a trailer that is detached from a vehicle, or is stationary or is not in use.

A Variable message sign (VMS) is not an advertising device where providing information about roadworks or a local government supported event.

**wall sign** means an advertising device that is affixed flat to, posted or painted on to the surface of a building or structure.

A wall sign does not include:

(a) an Awning fascia sign; or  
(b) a Banner sign; or  
(c) a Blind or canopy sign; or  
(d) a Construction sign; or  
(e) a Poster sign; or  
(f) a Roof sign; or  
(g) a Window sign.

**wandering at large** 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.

**waste** means anything that is:

(a) left over, or an unwanted by-product from an industrial, commercial, domestic or other activity;  
(b) surplus to the industrial, commercial, domestic or other activity generating waste;  
(c) gas, liquid, solid or energy or a combination of any of them; or  
(d) may or may not be a thing of value.

**waste facility** means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste.

**water meter** has the meaning given to it in section 37(2) of the *Water Supply (Safety and Reliability Act) 2008*. 
**water usage charges** means charges for the supply of water according to water consumption calculated at a rate determined by the local government from time to time.

**wearable or handheld sign** means an advertising device worn by or held onto by a person.

Examples of a wearable or handheld sign include:

(a) a human billboard, walking billboard, backpack billboard; or  
(b) a handheld shaker sign; or  
(c) a handheld spinner sign.

**wheel lock system** means a disabling device which makes a trolley inoperable, including by locking the wheels of a shopping trolley, if it is removed from or within a certain distance of a retail premises.

**window sign** means an advertising device that is displayed on a window or is displayed inside a building within 2 metres of a window and is visible through the window.

**working dog** means:

(a) a dog usually kept or proposed to be kept:  
   (i) on rural land;  
   (ii) by an owner who is a primary producer, or a person engaged or employed by a primary producer;  
   (iii) primarily for the purpose of droving, protecting tending, or working, stock; or  
   (iv) being trained in droving, protecting, tending, or working, stock; and  

(b) does not include a class of dog prescribed under a regulation.

**zone** means a zone as identified within the planning scheme.

The zone for a road, closed road, waterway, foreshore or reclaimed land is the same zone as the adjoining land as detailed in the planning scheme.
**zone primarily for a sensitive land use** means the following zones within the planning scheme:

(a) Community facilities zone;
(b) Emerging community zone;
(c) Low density residential zone;
(d) Low-medium density residential zone;
(e) Medium density residential zone;
(f) Rural residential zone;
(g) Tourist accommodation zone;
(h) Township zone.
Maps

Babinda Rotary Park
Barlow Park
Boulders Camping Ground
Cairns Esplanade Lagoon
Cairns Esplanade Reserve
CBD
Central Animal Prohibition Area
Munro Martin Park
Sugarworld Parklands
Smoke Free Area Boundary for Public Transport Waiting Points
CERTIFICATION

This and the preceding 78 pages bearing my initials is a certified copy of Cairns Regional Council Local Law No. 1 (Administration) 2016 made in accordance with the provisions of the Local Government Act 2009, by Cairns Regional Council by resolution dated 28 August 2019.

________________________
John Andrejic
Chief Executive Officer
Cairns Regional Council