

# Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2012

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2012*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2012* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2012* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, this subordinate local law prescribes—
  - (a) the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) the individuals or organisations that are declared to be third party certifiers; and
  - (c) the qualifications that are necessary for an individual or organisation to be a third party certifier.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## **Part 3 Application to State-controlled roads**

### **7 State-controlled roads to which the local law applies—Authorising local law, schedule 1**

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are roads to which the authorising local law applies unless otherwise provided in the local law.

## **Schedule 1      Undertaking regulated activities on local government controlled areas and roads**

### **Section 5**

#### **1.      Prescribed activity**

- (1) Undertaking regulated activities on local government controlled areas and roads, and in particular, undertaking 1 of the following activities on a local government controlled area or road—
  - (a) driving or leading of animals to cross a road;
  - (b) depositing of goods or materials;
  - (c) holding of a public place activity prescribed under a subordinate local law but excluding the operation of a temporary entertainment event.
  
- (2) For the purposes of subsection (1)(c), public place activity means, provided the activity on the local government controlled area or road is not the use of the local government controlled area or road for soliciting or carrying on the supply of goods or services (including food or drink) for profit, each of the following activities—
  - (a) the placing of a display or information booth;
  - (b) conducting a social gathering or meeting of more than 50 people;
  - (c) conducting or taking part in—
    - (i) an organised sporting activity of regional, State or national significance; or
    - (ii) a street parade or festival; or
    - (iii) a car display; or
    - (iv) a novelty vehicle race, for example, a go-cart race; or
    - (v) an invitation-only ceremony, party or celebration attended by more than 50 people; or
    - (vi) a cake stall, sausage sizzle, car wash or similar fundraiser; or
    - (vii) a training event held on no more than 1 day; or
    - (viii) a training event held on more than 1 day without payment of a fee; or
    - (ix) a musical or theatrical performance undertaken by a person to entertain the public otherwise than for reward; or
    - (x) a wedding;

- (d) exercising a right of occupation and use of a specified part of a local government controlled area by an incorporated association.

**2. Activities that do not require an approval under the authorising local law**

No activity stated.

**3. Documents and materials that must accompany an application for an approval**

- (1) Details of the nature, time and place of the prescribed activity for which the approval is sought.
- (2) If the applicant wants to use a particular part of a local government controlled area or road for the prescribed activity—a plan showing the relevant part of the local government controlled area or road.
- (3) If the prescribed activity is to be undertaken at or in close proximity to a site, stall or vehicle—specifications for the site, stall or vehicle which is proposed to be used in the undertaking of the prescribed activity.
- (4) Details of the name, street address, telephone number, facsimile number and email address of the person responsible for the undertaking of the prescribed activity.
- (5) Details of the undertaking of the prescribed activity including—
  - (a) if requested — a copy of each policy of insurance of the applicant which relates to the undertaking of the prescribed activity; and
  - (b) how the applicant proposes to dispose of waste generated by the undertaking of the prescribed activity; and
  - (c) if signage is intended to be displayed — details of the signage and how the signage will be secured whilst displayed.
- (6) If requested — a traffic management plan which details—
  - (a) anticipated pedestrian and vehicular traffic which will be created by the undertaking of the prescribed activity; and
  - (b) anticipated impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken; and
  - (c) how the applicant will minimise the impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken.
- (7) If requested — a report, study or certification from a suitably qualified person about —
  - (a) the undertaking of the prescribed activity generally; or

- (b) a specific aspect of the undertaking of the prescribed activity.

*Examples—*

1. A certificate of a registered professional engineer about the structural adequacy of a structure, improvement or building to be used in the undertaking of the prescribed activity.
2. A certificate of a registered professional engineer about the extent to which the undertaking of the prescribed activity will comply with relevant requirements of the Manual of Uniform Traffic Control Devices.

**4. Additional criteria for the granting of an approval**

- (1) The prescribed activity for which the approval is sought must not unduly interfere with the proper use of the local government controlled area or road.
- (2) There must be a public demand for the prescribed activity in respect of which the approval is sought.
- (3) The physical characteristics of the local government controlled area or road must be suitable for the prescribed activity.
- (4) The prescribed activity must not cause an unreasonable nuisance, inconvenience or annoyance to—
  - (a) the occupier of any land which adjoins the location of the prescribed activity; or
  - (b) vehicular traffic; or
  - (c) pedestrian traffic.
- (5) The prescribed activity must not have a material detrimental effect on the amenity of the surrounding area.
- (6) If the prescribed activity is the driving or leading of animals to cross a road—the driving or leading of the animals to cross the road must not unduly interfere with the proper use of the road or create a safety hazard for users of the road.
- (7) If the prescribed activity is the depositing of goods or materials on a local government controlled area or road—the depositing of the goods or materials on the local government controlled area or road must not unduly interfere with the usual use or the amenity of the local government controlled area or road.
- (8) If the prescribed activity is the holding of a public place activity on a local government controlled area or road—
  - (a) the undertaking of the prescribed activity must not generate significant noise, dust or light pollution or other significantly adverse effects on the surrounding area; and
  - (b) there must be enough toilets and sanitary conveniences, complying with standards and requirements imposed by the local government, for the use of the public; and
  - (c) adequate provision must exist for the disposal of waste generated by

the undertaking of the prescribed activity; and

- (d) adequate provision must exist for people and (if relevant) vehicles to enter and leave the site of the prescribed activity.

## **5. Conditions that must be imposed on an approval**

No conditions prescribed.

## **6. Conditions that will ordinarily be imposed on an approval**

- (1) The conditions of an approval may require that the approval holder—
  - (a) limit the activities authorised by the approval to 1 or more of—
    - (i) a single specified location;
    - (ii) a number of specified locations;
    - (iii) a specified area;
    - (iv) a number of specified areas; and
  - (b) limit the activities to specified days and times; and
  - (c) limit the activities to—
    - (i) a specified period of time; or
    - (ii) specified periods of time; and
  - (d) display the approval in a specified position, and produce the approval for inspection on demand by an authorised person; and
  - (e) take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the approval; and
  - (f) give the local government specified indemnities and take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the approval; and
  - (g) take specified measures to ensure that the activities authorised by the approval do not cause environmental harm or environmental nuisance; and
  - (h) if the approval authorises the approval holder to use a specified part of a local government controlled area or road for the undertaking of the activity — pay a specified rental to the local government at specified intervals; and
  - (i) submit the undertaking of the activity, including any vehicle or premises used in the undertaking of the activity, for inspection by an authorised person; and

- (j) prominently and permanently display at a specified location each of—
    - (i) the approval number granted by the local government in numbers not less than 50mm in height; and
    - (ii) the name and address of the approval holder in letters not less than 75mm in height; and
  - (k) if the approval relates to an activity on a road—give a written indemnity to the State; and
  - (l) display specified warning notices for the safety of users of the local government controlled area or road; and
  - (m) limit the undertaking of the prescribed activity so that it does not—
    - (i) create a traffic nuisance; or
    - (ii) increase an existing traffic nuisance; or
    - (iii) detrimentally affect the efficiency of the road network in which the activity is undertaken; and
  - (n) limit the undertaking of the prescribed activity so that it does not materially affect the amenity of the neighbourhood in which the prescribed activity is undertaken; and
  - (o) ensure that the undertaking of the prescribed activity does not create a safety risk; and
  - (p) at all times keep and maintain all facilities and equipment used in the undertaking of the prescribed activity—
    - (i) in good working order and condition; and
    - (ii) in a clean and sanitary condition.
  - (q) if the undertaking of the prescribed activity results in damage or loss of amenity to a local government controlled area or a road — promptly rectify the damage or loss of amenity.
- (2) If the prescribed activity is the driving or leading of animals to cross a road, the conditions of the approval may also require that the approval holder—
- (a) restrict the number of animals that may be driven or led across the road; and
  - (b) not conduct the prescribed activity in a manner which is, or may be, a risk to road safety.
- (3) If the prescribed activity is the depositing of goods or materials on a local government controlled area or road, the conditions of the approval may also require that the approval holder—



- (a) deposit the goods or materials in a specified manner; and
  - (b) limit the deposit of the goods or materials to a specified area; and
  - (c) if the goods or materials are deposited on a footpath—keep and maintain a clear unobstructed pedestrian corridor of a specified width depending on the density of pedestrian traffic; and
  - (d) only use, for the purposes of the deposit of the goods or materials, a structure which is—
    - (i) of safe construction; and
    - (ii) in good condition and repair; and
    - (iii) securely fixed to the land on which the prescribed activity is undertaken; and
  - (e) remove the goods or materials, and any structure used for the purposes of the depositing of the goods or materials, at a specified time, or after a specified period.
- (4) If the prescribed activity is the holding of a public place activity prescribed under a subordinate local law, the conditions of the approval may also require that the approval holder—
- (a) provide specified facilities and amenities; and
  - (b) provide specified illumination for the purposes of the undertaking of the prescribed activity and take specified measures to reduce light spillage from the undertaking of the prescribed activity; and
  - (c) take specified measures to reduce noise emission from the undertaking of the prescribed activity; and
  - (d) provide specified equipment, or take specified measures, to reduce adverse effects of the undertaking of the prescribed activity on the surrounding neighbourhood to acceptable levels; and
  - (e) not discharge trade waste generated by the undertaking of the prescribed activity otherwise than in accordance with an approval under the *Water Supply (Safety and Reliability) Act 2008*; and
  - (f) for waste generated by the undertaking of the prescribed activity—
    - (i) only dispose of the waste—
      - (A) in a safe and sanitary manner; and
      - (B) in a manner which maintains the site of the prescribed activity and its surrounds in a clean, tidy, sanitary and hygienic condition; and
    - (ii) not dispose of the waste—

- (A) so as to attract pests; or
  - (B) into a water course; or
  - (C) at another location other than a location properly intended for the receipt of the waste; and
- (g) keep and maintain in and about the area identified in the approval, adequate waste disposal facilities, for example, bins, and be responsible for the removal of all waste from the waste disposal facilities at such intervals as an authorised person may direct; and
- (h) not place or display any sign or device advertising the undertaking of the prescribed activity in the area identified in the approval otherwise than in accordance with an approval of the local government which authorises the use of the area for that purpose.

**7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

## **Schedule 2      Categories of approval that are non-transferable**

Section 6

Each approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## **Schedule 3      State-controlled roads to which the local law applies**

### Section 7

Subject to the chief executive's written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b), every State-controlled road in the local government area of the local government.

## Schedule 4 Dictionary

### Section 4

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

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

*footpath* has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

*goods* includes wares, merchandise, chattels, money, stone, timber, metal, fluid and any other article, substance or material whatsoever and also includes an animal.

*premises* means the premises used in the undertaking of the prescribed activity.

*road* has the meaning given in the authorising local law.

*sanitary convenience* has the meaning given in the *Environmental Protection Act 1994*.

*structure* has the meaning given in the *Local Government Act 2009*.

*trade waste* has the meaning given in the *Water Supply (Safety and Reliability) Act 2008*.

*vehicle* has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

*waste* has the meaning given in the *Environmental Protection Act 1994*.

This and the preceding 12 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2012* made in accordance with the provisions of the *Local Government Act 2009* by Hinchinbrook Shire Council by resolution dated the 14<sup>th</sup> day of June 2012.

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RW Clark  
Chief Executive Officer