

**CROYDON SHIRE COUNCIL
LOCAL LAW
NO. 1
(ADMINISTRATION)**

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PART 1 - PRELIMINARY

1. Citation

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

2. Object

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

3. Definitions

In this local law:

"Act" means the *Local Government Act 1993*;

"application" includes a request;

"approval" means a consent, permission, licence, authorisation or approval under an Act or a local law;

"authorised person" means a person who is authorised by the local government to exercise the powers of an authorised person under the provision in which the expression appears;

"environment" has the meaning given to it in the *Environment Protection Act 1994*;

"goods" includes an animal;

"prescribed fee" means a charge fixed by the local government by resolution, under section 974 of the Act;

"proposal" means an act, matter or thing for which the local government's approval is sought;

"public notice" means a notice published in a newspaper circulating in the local government's area;

PART 2 - LOCAL GOVERNMENT APPROVALS

4. Form of application

- (1) An application for the local government's approval of a proposal must be made in a form approved by the local government or the Chief Executive Officer.
- (2) The application must be accompanied by documents and materials required under the relevant local law or local law policy.
- (3) The application must, if the local government or the Chief Executive Officer requires, provide further information, documents or materials in support of the application.

- (4) An application must be accompanied by the prescribed fee.

5. Local government's discretion on applications

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

Example

If a proposal for which the local government's approval is required may result in damage to property, the local government may, as a condition of giving its approval, require the applicant to give reasonable security (which may include a deposit of money; a guarantee or an insurance bond) to ensure that the damage is made good.

- (2) However, the local government's powers are subject to the provisions of the local law and any relevant local law policy, and the local government must, in deciding how to exercise its' power, have regard to criteria stated in the relevant local law or local law policy.

6. Projects requiring multiple approvals

- (1) If:
- (a) an application is made to the local government for approval of a particular proposal; and
 - (b) the local government's approval of the proposal is required under 2 or more local laws, or 2 or more provisions of the same local law,
- the local government must, if practicable, deal with the subjects on which its approval is required, together.
- (2) If the local government decides that an approval should be refused on a particular aspect of a proposal for which multiple approvals are required, it may refuse other approvals required for the proposal even though other aspects of the proposal for which approval is required may be unexceptionable.

7. False statement on an application

It is an offence to make a statement on an application that the person making the statement knows is false or misleading in a material particular.

Maximum Penalty - 50 penalty units

8. Variation, revocation or suspension of approval

- (1) The local government may, by written notice to the holder of an approval, vary, revoke or suspend an approval or condition of approval:
 - (a) if the holder of an approval agrees to the variation or revocation; or
 - (b) if the local government becomes aware that section 7 applies; or
 - (c) for contravention of a local law or a condition of approval; or
 - (d) under the provisions of the relevant local law; or
 - (e) if the variation, revocation or suspension is necessary for the protection of public health or safety or the environment or is otherwise in the public interest; or
 - (f) for any other reason set out in a local law policy.
- (2) Subject to subsection (3), before making the proposed variation, revocation or suspension the local government must:
 - (a) give the holder of an approval written notice inviting the holder to make written representations about the proposed variation suspension or revocation within a reasonable time fixed in the notice; and
 - (b) consider any representations made in accordance with paragraph (a).
- (3) The local government is not required to comply with subsection (2) in the case of imminent risk to the health or safety of life or safety of property or the environment.

9. Transfer of approval

- (1) Where a local law provides for the transfer of an approval, an application for the transfer of an approval must be made by the transferee of the approval.
- (2) The local government must not:
 - (a) unreasonably refuse to approve the transfer of an approval; or
 - (b) impose unreasonable conditions on the transfer of an approval.
- (3) If the local government approves an application made to it under subsection (1), the local government must, within ten (10) days after making the decision cancel the existing approval and issue a new approval.

PART 3 - LEGAL PROCEEDINGS

10. General defence for owners of land or vehicle

- (1) If a local law makes the owner of land or a vehicle guilty of an offence if a particular act or omission happens with respect to the land or vehicle it is a defence for the owner to prove that:

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

11. Joint and several liability

- (1) If a local law imposes a liability on an owner of property, or a person engaged in a particular activity, and 2 or more persons are the owners of the relevant property, or are jointly engaged in the relevant activity, the liability is joint and several.
- (2) This section applies both to civil liabilities and liabilities enforced by summary proceedings under the *Justices Act 1886*.

12. 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 the local government.

PART 4 - AUTHORISED PERSONS

13. Authorised persons

- (1) The local government may authorise a person to exercise the powers of an authorised person under a local law.
- (2) An authorisation under this section may be general or subject to limitations stated in the instrument appointment.

Example

An authorisation might provide that a designated person has the powers of an authorised person under a particular local law but only in relation to a particular local government reserve.

14. Identity cards

- (1) The local government must issue an identity card to each person authorised to exercise the powers of an authorised person under a local law.
- (2) The identity card must:
 - (a) contain a recent photograph of the authorised person; and
 - (b) be in a form approved by the local government; and

- (c) be signed by the authorised person.
- (3) A person who stops being an authorised person must return the identity card to the local government as soon as practicable unless the person has a reasonable excuse for not returning it.

Maximum Penalty - 40 penalty units

15. Production of authorised person's identity card

- (1) An authorised person may exercise a power in relation to a person only if the authorised person displays the authorised person's identity card for inspection by the person.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must produce the identity card for inspection by the person at the first reasonable opportunity.

16. Protection from liability

- (1) This section applies to:
 - (a) an authorised person; and
 - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act or omission done honestly and without negligence under the local government's local laws.
- (3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

PART 5 - MISCELLANEOUS

17. Notices

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

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

18. Charges

- (1) If a local law provides for payment of a charge, and does not itself fix the amount of the charge, the charge is to be fixed by resolution under section 974 of the Act.
- (2) A resolution fixing a charge may provide for the reimbursement of the charge in appropriate circumstances.

Example

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

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

19. Recovery of costs

- (1) Where the local government has carried out any remedial works or action arising from:
 - (a) a breach of a local law; or
 - (b) a breach of a condition of approval; or
 - (c) a failure to comply with any notice order or direction to remedy any breach issued under a local law,

the costs of such remedial works or action may be recovered as a debt.

20. Unclaimed goods

- (1) If the goods are left in a building, or on land, under the local government's control, the local government may dispose of the goods under this section.
- (2) If the goods are perishable, they may be disposed of, without delay, as the Chief Executive Officer directs.
- (3) If the goods are not perishable, they must be retained for at least 3 months before being sold or otherwise disposed of.
- (4) After the end of the 3 month period, the local government may dispose of the goods as follows:
 - (a) if the goods have no commercial value, or the value is so slight that it would not cover the cost of sale, the goods may be disposed of as the Chief Executive Officer directs;
 - (b) in other cases the goods must be advertised for sale by public notice published at least fourteen (14) days before the date of the proposed sale and may then be sold by public auction.
- (5) A person to whom goods are sold under this section acquires a good title to the goods freed and discharged from the interests of others.
- (6) The local government must apply the proceeds of sale first toward the costs of the storage and sale of the goods and then into a fund established for the purpose.
- (7) If, within one (1) year after the date of the sale, the former owner of the goods claims the proceeds of the sale of the goods, the net proceeds of the sale must be paid to the former owner but if no valid claim is made to the proceeds within that

period, the local government may pay the proceeds of the sale into its general funds.

- (8) This section does not apply to goods if there is a statutory provision dealing specifically with abandoned goods of the relevant class.

21. Confiscated goods

- (1) If the local government, or an authorised person, exercises a power under a local law to confiscate or impound goods, the property in the goods vests in the local government.
- (2) If the local government or an authorised person confiscates or impounds goods under powers conferred by a local law, the local government may dispose of the goods as follows:
- (a) if the goods are perishable or have no commercial value, or the value is so slight that it would not cover the cost of sale, the goods may be disposed of as the Chief Executive Officer directs; or
 - (b) in other cases the goods must be advertised for sale by public notice published at least 14 days before the date of the proposed sale and may then be sold by public auction.

22. Damage to local government property

It is an offence to willfully damage, deface, remove or destroy any local government property.

Maximum Penalty - 100 penalty units

23. Confidentiality

- (1) An employee must not release information that the person knows or should reasonably know is information that:
- (a) is confidential to the local government; and
 - (b) the local government wishes to keep confidential.
- (2) For the purpose of this section, "employee" of the local government includes:
- (a) a person who contracts with it to provide services to it; and
 - (b) a person prescribed by regulation for the purposes of section 1132 of the Act.

Maximum Penalty - 35 penalty units