

# **Subordinate Local Law No. 1.18 (Bringing or Driving a Motor Vehicle onto a Local Government Controlled Area) 2012**

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.18 (Bringing or Driving a Motor Vehicle onto a Local Government Controlled Area) 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 3 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.

## **Schedule 1      Bringing or Driving a Motor Vehicle onto a Local Government Controlled Area**

### **Section 5**

#### **1.      Prescribed activity**

Bringing a motor vehicle onto or driving a motor vehicle on a place that is—

- (1)      within a local government controlled area; and
- (2)      not within a motor vehicle access area.

See *Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2012*, section 6(2).

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

A person may undertake the prescribed activity without a current approval if the person is —

- (a)      an employee, contractor or agent of the local government; and
- (b)      undertaking the prescribed activity—
  - (i)      for the purpose of carrying out work for or on behalf of the local government; and
  - (ii)     in the course of carrying out his or her duties for or on behalf of the local government.

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

- (1)      Full details of the reason for bringing the motor vehicle onto, or driving the motor vehicle on, the local government controlled area.
- (2)      Details of the time and place at which the prescribed activity will be undertaken.
- (3)      Details of how the applicant proposes to obtain access to, and egress from, the local government controlled area.
- (4)      Particulars of—
  - (a)      the parts of the local government controlled area on which the motor vehicle will be brought or driven; and
  - (b)      the motor vehicle which will be brought or driven onto the local government controlled area; and
  - (c)      the impact, if any, of the prescribed activity on pedestrian or vehicular traffic on the local government controlled area.

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

- (1) The undertaking of the prescribed activity on the local government controlled area must not—
  - (a) result in—
    - (i) material harm to human health or safety; or
    - (ii) property damage or loss of amenity; or
    - (iii) unreasonable nuisance; or
    - (iv) obstruction of vehicular or pedestrian traffic; or
    - (v) environmental harm; or
    - (vi) environmental nuisance; or
  - (b) have a material adverse affect on the amenity of the area in which the prescribed activity is to be undertaken.
- (2) The undertaking of the prescribed activity must not generate significant noise or dust, or otherwise have a significant adverse affect on the neighbourhood surrounding the local government controlled area.

#### **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—
  - (a) require compliance with specified safety requirements; and
  - (b) regulate when, or the time within which, the prescribed activity must be carried out; and
  - (c) specify standards with which the prescribed activity must comply; and
  - (d) require the approval holder to—
    - (i) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before commencement of the prescribed activity; and
    - (ii) give the local government specified indemnities; and
    - (iii) exhibit specified signage warning about the conduct of the prescribed activity; and

- (e) restrict the right to undertake the prescribed activity to a specific vehicle or type of vehicle specified in the approval; and
  - (f) require the approval holder to limit the speed of any vehicle used in the undertaking of the prescribed activity to a speed limit specified in the approval; and
  - (g) require that access to and egress from the local government controlled area be exercised—
    - (i) in a specified manner; and
    - (ii) at a specified location; and
  - (h) require the display of the approval at a specified location on each vehicle used in the undertaking of the prescribed activity; and
  - (i) require the giving of notice, in a manner specified in the approval, of the undertaking of the prescribed activity at the local government controlled area to persons residing in the vicinity of the area.
- (2) The conditions of an approval may require the approval holder to take specified measures to—
- (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
  - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
  - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic.

## **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**

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

## Schedule 3      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*.

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

This and the preceding 7 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.18 (Bringing or Driving a Motor Vehicle onto a Local Government Controlled Area) 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