

# Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2012

## Contents

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<b>Part 1</b>	<b>Preliminary.....</b>	<b>1</b>
1	Short title .....	1
2	Purpose and how it is to be achieved .....	1
3	Authorising local law .....	1
4	Definitions .....	1
<b>Part 2</b>	<b>Approval for prescribed activity .....</b>	<b>1</b>
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
6	Approvals that are non-transferable—Authorising local law, s 15(2).....	2
<b>Part 3</b>	<b>Application to State-controlled roads .....</b>	<b>2</b>
7	State-controlled roads to which the local law applies—Authorising local law, schedule 1 .....	2
<b>Schedule 1</b>	<b>Alteration or improvement to local government controlled areas and roads .....</b>	<b>3</b>
<b>Schedule 2</b>	<b>Categories of approval that are non-transferable .....</b>	<b>6</b>
<b>Schedule 3</b>	<b>State-controlled roads to which the local law applies .....</b>	<b>7</b>
<b>Schedule 4</b>	<b>Dictionary.....</b>	<b>8</b>

## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.1 (Alteration or Improvement to 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      Alteration or improvement to local government controlled areas and roads**

### **Section 5**

#### **1.      Prescribed activity**

Alteration or improvement to local government controlled areas and roads.

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

No activities stated.

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

- (1) Full details of the proposed alteration or improvement including plans and specifications.
- (2) Details of all building work and other work to be carried out under the approval.
- (3) Details of the time and place at which the prescribed activity will be undertaken.
- (4) The proposed term of the approval.
- (5) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.
- (6) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.
- (7) Plans and specifications detailing—
  - (a) the relevant part of the local government controlled area or road that is to be used for the undertaking of the prescribed activity; and
  - (b) the proposed location of each structure and item of equipment to be used in the undertaking of the prescribed activity; and
  - (c) the type and location of any utility, service or infrastructure to be used in the undertaking of the prescribed activity.
- (8) 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.

- (9) 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**

The alteration or improvement 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.

#### **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 the time within which the alteration or approval must be carried out; and
  - (c) specify standards with which the alteration or improvement must

comply; and

- (d) require the approval holder to—
  - (i) carry out specified additional work such as earthwork and drainage work; and
  - (ii) 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 alteration or improvement; and
  - (iii) give the local government specified indemnities; and
  - (iv) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
  - (v) remove a structure erected or installed, under the approval, at the end of a stated period; and
  - (vi) exhibit specified signage warning about the conduct of the prescribed activity; and
  - (vii) 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) 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      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

***building work*** has the meaning given in the *Building Act 1975*.

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

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

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

This and the preceding 8 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.1 (Alteration or Improvement to 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