

Local Law No. 11

(Roads and Malls) 2008

Consolidated version

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Local Law No. 11 (Roads and Malls) 2008
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by the Council of the City of Gold Coast by resolution dated the 9 March 2021.

Joe McCabe
Acting Chief Executive Officer

**Council of the City of Gold Coast
Local Law No. 11
(Roads and Malls) 2008**

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Council of the City of Gold Coast

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(Roads and Malls) 2008

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 11 (Roads and Malls) 2008*.

2 Object

The object of this local law is to—

- (a) ensure that the local government has the necessary powers to construct, maintain and improve roads within its local government area; and
- (b) provide for the naming of roads and the numbering of adjoining premises; and
- (c) ensure that roads and associated structures and plants are in harmony with their natural and built environment; and
- (d) regulate the use of roads to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (v) obstruction of and interference with the safe movement of traffic or the safe use of a footpath; or
 - (vi) damage to a road; or
 - (vii) in the case of roadside vending, a potential adverse economic impact on an existing commercial establishment; and
- (e) provide for public access, use and enjoyment of a mall and a footpath for active and passive recreation to promote tourism while protecting—
 - (i) the facilities within the mall and footpath; and
 - (ii) public health and safety.

3 Definitions—the dictionary

The dictionary in Schedule 2 (Dictionary) of this local law defines particular words used in this local law.

Part 2 Construction maintenance and improvement of roads

4 Construction, maintenance and improvement of roads

- (1) The local government may—
 - (a) construct a local government road on land of the local government or land under the local government’s control; or
 - (b) carry out work for the maintenance of a road; or
 - (c) carry out work for the repair of a road; or
 - (d) carry out work for the improvement of a road; or
 - (e) otherwise interfere with a local government road.

Examples—

- The local government may carry out landscaping and beautification work, such as the planting of a tree and other plants on a footpath adjacent to the carriageway and the establishment of a nature strip between carriageways with trees of low mature height and small trunk diameter.
 - The local government may install an official traffic sign to regulate, warn or guide traffic.
 - The local government may install a facility for the protection or use of road users.
 - The local government may construct a footpath, footbridge, fence, grid and gate to prevent an animal from getting onto a road.
- (2) Notwithstanding subsection (1), the local government cannot carry out work to a State-controlled road without the written approval of the chief executive.¹
 - (3) The local government may enter into a written agreement with an owner of land adjoining or abutting a local government road regarding the cost of construction of a footpath and kerbing on the local government road.

5 Traffic control during road work

- (1) An authorised person may facilitate road work or avoid a risk of personal injury or property damage that may result from carrying out road work by—
 - (a) installing an official traffic sign; or
 - (b) giving a direction to—

¹ Section 33(1) of the *Transport Infrastructure Act 1994* provides that approval from the chief executive (see section 4(2) of this local law) is necessary if the work interferes with a State-controlled road.

- (i) the driver of an animal; or
 - (ii) the driver of a vehicle; or
 - (iii) a pedestrian.
- (2) A person must not contravene a direction given by an authorised person under subsection (1)(b).²

Maximum penalty for subsection (2)—40 penalty units.

6 Closure of a local government road

- (1) The local government may in accordance with the *Local Government Act 2009*³ close a local government road to—
- (a) all traffic; or
 - (b) particular classes of traffic.

Example of subsection (1)(b) – vehicles exceeding a certain loaded or unloaded weight.

- (2) A person must not drive a vehicle on a local government road if the local government road is closed to—
- (a) all traffic; or
 - (b) vehicles of the class being driven by the person.

Maximum penalty for subsection (2)—20 penalty units.

- (3) If an authorised person reasonably suspects that a vehicle is being driven on a local government road contrary to subsection (2), the authorised person may—
- (a) require the driver of the vehicle to stop the vehicle; or
 - (b) require the driver to state his or her name and address; or
 - (c) inspect, examine, measure and weigh the vehicle.

- (4) A person must comply with the directions given by an authorised person under subsection (3)(a) and (3)(b).

Maximum penalty for subsection (4)—40 penalty units.

² A person who contravenes an indication given by an official traffic sign commits an offence and is liable to a maximum penalty of 40 penalty units or 6 months imprisonment (see section 74 (Contravention of official traffic sign an offence) of the *Transport Operations (Road Use Management Act) 1995*).

³ Section 69 (Closure of roads) of the *Local Government Act 2009* provides the local government may, by public notice, close a road, or part of a road, permanently or temporarily, to particular traffic.

Part 3 Management Powers

7 Power to name a road

- (1) The local government may, by resolution—
 - (a) assign a name to a road or part of a road; or
 - (b) change the name of a road or part of a road.
- (2) Notwithstanding subsection (1), the local government cannot assign a name to a State-controlled road or change the name of a State-controlled road in its local government area without the written approval of the chief executive.

8 Road signs and official traffic signs

- (1) The local government may erect a road sign and an official traffic sign on a road.
- (2) Notwithstanding subsection (1), the local government cannot erect a road sign or an official traffic sign on a State-controlled road without the written approval of the chief executive.

9 Numbering of adjoining premises

- (1) The local government may, by resolution, adopt a numbering system for premises adjoining a road.
- (2) The local government must give notice of a resolution adopting a numbering system for a road by advertisement in a newspaper circulating generally in the local government area.
- (3) The owner or occupier of premises must not adopt a number for the premises that is inconsistent with the numbering system adopted by the local government under subsection (1).

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

- (4) The owner or occupier of premises (other than vacant land) must display the number allocated so as to be easily identified from the road adjoining the premises.

Maximum penalty for subsection (4)—20 penalty units.

10 Work notice (including vehicular cross-overs)

- (1) The local government may give a work notice to—
 - (a) the owner or occupier of premises adjoining or adjacent to a road to perform work on the premises or the road if the work to be carried out is required as a direct result of the actions of an owner or occupier of the premises adjoining or adjacent to the road or will confer a direct benefit on the owner or occupier and if an authorised person is satisfied that the work should be performed to prevent a risk of—

- (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (v) interference with the safe movement of traffic or the safe use of a road; or
 - (vi) damage to a road; or
- (b) the owner or occupier of premises adjoining a road to—
- (i) construct a vehicular crossing to provide vehicle access between the premises and the road to a standard specified by the local government in the work notice; or
 - (ii) maintain, repair or remove a vehicular crossing which provides vehicle access between the premises and the road to a standard specified by the local government in the work notice if the vehicular crossing—
 - (A) is not effective for its intended purpose; or
 - (B) is causing or may cause a nuisance; or
 - (C) is causing or may cause harm to human health or safety or personal injury; or
 - (D) is no longer required; or
 - (iii) alter a vehicular crossing which provides vehicle access between the premises and the road in accordance with a standard specified by the local government in the work notice if the vehicular crossing is no longer adequate having regard to—
 - (A) the volume or nature of vehicles using the vehicular crossing; or
 - (B) the manner in which the vehicular crossing is used by vehicles; or
 - (C) changes in the use of the premises to which the vehicular crossing provides access; or
 - (D) changes in the usual or expected standards of vehicular crossing in the immediate vicinity of the vehicular crossing the subject of the work notice.
- (2) The work notice must specify—

- (a) the basis on which the work notice is given; and
 - (b) the work to be performed or the action to be taken; and
 - (c) the time for compliance with the work notice.
- (3) A person to whom a work notice is given must comply with the work notice.⁴
- Maximum penalty for subsection (3)—50 penalty units.

Part 4 Control of roads

Division 1 Permits

11 Requirement for a permit

- (1) A person, other than the local government, must not operate a regulated activity unless authorised by—
- (a) this local law; or
 - (b) a permit granted under section 13 (Grant of a permit) of this local law.

Maximum penalty for subsection (1) for an offence specified in Schedule 1 (Specified offences) of this local law—10 penalty units.

Maximum penalty for subsection (1) for an offence other than an offence specified in Schedule 1 (Specified offences) of this local law—50 penalty units.

- (2) A regulated activity means—
- (a) interference with a road; or
 - (b) roadside dining; or
 - (c) roadside vending; or
 - (d) conducting a busking performance.

Examples for subsection (2)—

The local government gives a development permit for operational work. The operational work activity is the carrying out of stormwater drainage work under a road. The carrying out of the stormwater drainage work under the road will interfere with the road. A permit under this local law is required to carry out the stormwater drainage work under the road because the activity is the operation of a regulated activity, interference with a road.

⁴ See also, *Local Law No. 3 (Administration) 2008*, part 7 (Enforcement) and *Local Government Act 2009*, chapter 5, part 2, division 2 (Powers of other persons).

The local government grants a licence under Local Law No. 16 (Licensing) 2008 for the operation of a regulated activity, for example, the placing of an advertising device on premises. In order to carry out the regulated activity, the holder of the licence considers a temporary gantry is required to be installed on a footpath area. The installation of the temporary gantry on the footpath area will interfere with a road. A permit under this local law is required to install the temporary gantry on the footpath area because the activity is the operation of a regulated activity, interference with a road.

A private certifier gives a development permit for building work. In order to carry out the building work at the relevant site, the holder of the development permit needs to construct temporary scaffolding on and over the footpath area adjacent to the relevant site. The construction of the temporary scaffolding on and over the footpath area will interfere with a road. A permit under this local law is required to construct the temporary scaffolding on and over the footpath area because the activity is the operation of a regulated activity, interference with a road.

- (3) Notwithstanding subsection (1), a permit is not required under this local law if a subordinate local law specifies that a permit is not required in respect of the operation of the regulated activity.

12 Application for a permit

- (1) An application for a permit must be—
- (a) made by the person who will be operating the regulated activity; and
 - (b) made in the prescribed form; and
 - (c) accompanied by—
 - (i) the prescribed fee; and
 - (ii) evidence that all approvals under Local Government Acts required for the operation of the regulated activity have been obtained; and
 - (iii) full details of the operation of the regulated activity including plans and specifications unless otherwise required by the local government; and
 - (iv) such other information and materials as are requested by the local government or specified in a subordinate local law.
- (2) The local government may waive a requirement of subsection (1)—
- (a) in an emergency; or
 - (b) if there are special reasons for dispensing with the requirement; or
 - (c) in the circumstances specified in a subordinate local law.

13 Grant of a permit

- (1) The local government may grant a permit if satisfied that the operation of the regulated activity—

- (a) will not result in harm to human health or safety or personal injury; and
- (b) will not result in property damage or a loss of amenity; and
- (c) will not result in environmental harm or environmental nuisance; and
- (d) will not result in a nuisance; and
- (e) will not result in the unsafe movement or obstruction of traffic or the unsafe use of a road or footpath; and
- (f) complies with the provisions of the Local Government Acts that regulate the operation of the regulated activity; and
- (g) complies with the assessment criteria; and
- (h) complies with the prescribed criteria.

Example of paragraph (f)—

The *Building Act 1975* specifies a code for the erection of buildings and structures, whilst the *Sustainable Planning Act 2009* requires a development approval for building work and operational work.

- (2) Before the local government decides an application for a permit, an authorised person may—
 - (a) inspect any premises, vehicle, equipment, animal, plant or thing to be used in the operation of the regulated activity; and
 - (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected; and
 - (c) request any further information or material which is relevant to assess the application; and
 - (d) consider any other relevant matters.
- (3) For the purposes of determining whether the criteria specified in subsection (1) have been satisfied—
 - (a) the local government may have regard to the results of any periodic inspection, testing or monitoring program undertaken in respect of the operation of the regulated activity; and
 - (b) the local government may have regard to the applicant's antecedents in terms of compliance or otherwise with this local law; and
 - (c) the local government is not obliged to look beyond—
 - (i) any information or materials submitted to the local government in respect of the application; and

- (ii) any other information held by the local government which is relevant to the application.

14 Term of a permit

- (1) A permit granted by the local government is for a term—
 - (a) specified in the permit; or
 - (b) otherwise specified in a subordinate local law.
- (2) A permit expires at the end of the day specified in subsection (1).

15 Conditions of a permit

- (1) A permit may be granted by the local government on conditions the local government considers appropriate.
- (2) The conditions of a permit may—
 - (a) require the holder of the permit to take specified measures to—
 - (i) prevent harm to the human health or safety of persons who may be involved in or affected by the operation of the regulated activity; and
 - (ii) prevent personal injury, property damage or a loss of amenity from the operation of the regulated activity; and
 - (iii) ensure that the operation of the regulated activity does not cause environmental harm or environmental nuisance; and
 - (iv) ensure that the operation of the regulated activity does not cause a nuisance; and
 - (v) ensure that the operation of the regulated activity does not cause the unsafe movement or obstruction of traffic or the unsafe use of a road or footpath; and
 - (vi) ensure that there is compliance with the provisions of the Local Government Acts that regulate the operation of the regulated activity; and
 - (vii) ensure that the operation of the regulated activity complies with the assessment criteria; and
 - (viii) ensure that the operation of the regulated activity complies with the prescribed criteria; and
 - (b) require compliance with specified safety requirements; and
 - (c) require the holder of the permit to carry out specified work such as earthworks and drainage work; and

- (d) require the landscaping of an area not forming part of a carriageway, including—
 - (i) the planting of a native plant; and
 - (ii) the retention of a plant of conservation significance (including a habitat tree); and
 - (iii) the implementation of a weed management program during the establishment of the landscaped area; and
- (e) regulate the time within which the regulated activity must be carried out; and
- (f) specify the precise area and the location at which the regulated activity is to be operated; and
- (g) specify the persons who may be involved in the operation of the regulated activity; and
- (h) specify the standard to which the operation of the regulated activity must comply; and
- (i) require the holder of the permit to give the local government a specified indemnity and to take out specified insurance; and
- (j) require the holder of the permit to take out specified insurance indemnifying a person who may suffer personal injury, loss or damage, as a result of the operation of the regulated activity; and
- (k) require the holder of the permit to maintain an alteration or improvement to the road, a structure erected or installed or vegetation planted, pursuant to the permit in good condition; and
- (l) require the holder of the permit to remove a structure erected or installed pursuant to the permit at the end of a stated period; and
- (m) require the holder of the permit to exhibit a specified sign containing a warning notice and to take other specified precautions; and
- (n) require the holder of the permit, if the holder of the permit is a minor, to be accompanied by a person who is concerned with the care or welfare of the minor such as a parent or a legal guardian; and
- (o) require the holder of the permit to notify the local government within a period specified in the permit that the holder of the permit—
 - (i) is no longer operating the regulated activity; or
 - (ii) is operating the regulated activity other than in accordance with the permit; and

- (p) require the certification by a person specified by the local government of a vehicle, equipment, plant or thing involved in the operation of the regulated activity; and
 - (q) require the giving of a security or bond to secure compliance with the permit and the provisions of this local law; and
 - (r) require records to be kept at a place and for a time specified in the permit or a subordinate local law; and
 - (s) require the holder of the permit to prepare, provide, undertake or comply with a periodic inspection, monitoring or management program in respect of the operation of the regulated activity; and
 - (t) require the number of persons involved in the operation of the regulated activity not to exceed a number specified by the local government.
- (3) The local government may specify by subordinate local law, the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit for the operation of a regulated activity.

16 Power to change the conditions of a permit

- (1) The local government may change a condition of a permit if⁵—
- (a) the holder of the permit agrees to the proposed change; or
 - (b) the change is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (v) the unsafe movement or obstruction of traffic or the unsafe use of a road or footpath; or
 - (c) the change is necessary to ensure the operation of the regulated activity complies with the prescribed criteria.
- (2) If the local government is satisfied it is necessary to change a condition of a permit, the local government must—
- (a) give the holder of the permit a written notice stating—

⁵ A change to a condition of a permit includes a change by omission, substitution or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).

- (i) the proposed change and the reason for the change; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed change; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which the written representations may be made; and
 - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (3) After considering any written representations made by the holder of the permit, the local government must give to the holder of the permit—
- (a) if the local government is not satisfied the change is necessary – a written notice stating that it has decided not to change the condition; or
 - (b) if the local government is satisfied that the change is necessary – a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the written notice was given to the holder of the permit—
- (a) under subsection (2)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
 - (b) under section (3)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the change is necessary.

17 Amendment or renewal of a permit

- (1) The holder of a permit may make an application to the local government to—
- (a) amend the permit; or
 - (b) renew the permit.
- (2) An application to amend or renew a permit must be—
- (a) made by the holder of the permit; and
 - (b) made in the prescribed form; and
 - (c) accompanied by the prescribed fee and such other information as is requested by the local government.
- (3) The local government may renew a permit—

- (a) if the operation of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
 - (b) subject to such conditions the local government considers appropriate.
- (4) The local government may amend a permit—
- (a) if the operation of the regulated activity complies with the criteria specified in section 13(1) of this local law; and
 - (b) subject to such conditions as the local government considers appropriate.
- (5) The local government must not amend a permit that has been granted for a specific location if the amendment is to the location at which the regulated activity is to be operated.
- (6) For the purposes of determining whether the provisions specified in subsection (3) and (4) have been satisfied, the local government is not obliged to look beyond—
- (a) any information or materials submitted to the local government in respect of the application; and
 - (b) any other information held by the local government which is relevant to the application.

18 Cancellation or suspension of a permit

- (1) The local government may cancel or suspend a permit if—
- (a) the holder of the permit agrees to the cancellation or suspension; or
 - (b) the cancellation or suspension is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (v) the unsafe movement or obstruction of traffic or the unsafe use of a road; or
 - (c) the holder of the permit contravenes—
 - (i) this local law; or
 - (ii) a condition of a permit; or
 - (iii) a requirement of a compliance notice, a works notice or a stop order; or

- (d) the operation of the regulated activity does not comply with—
 - (i) the provisions of the Local Government Acts that regulate the operation of the regulated activity; or
 - (ii) the prescribed criteria; or
 - (e) the permit was granted on the basis of false, misleading or incomplete information; or
 - (f) changes in circumstances since the permit was granted make the continued operation of the permit inappropriate.
- (2) The local government may specify by subordinate local law, the changes in circumstances since a permit was granted that makes the continued operation of the permit inappropriate.
- (3) If the local government is satisfied it is necessary to cancel or suspend a permit, the local government must—
- (a) give the holder of the permit a written notice stating—
 - (i) the reason for the proposed cancellation or suspension; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed cancellation or suspension; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which written representations may be made; and
 - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (4) After considering any written representations made by the holder of the permit the local government must give to the holder of the permit—
- (a) if the local government is not satisfied that the cancellation or suspension is necessary – a written notice stating it has decided not to cancel or suspend the permit; or
 - (b) if the local government is satisfied that the cancellation or suspension is necessary – a written notice stating it has decided to cancel or suspend the permit.
- (5) Before the local government cancels or suspends a permit under subsection (4), the local government must consider the impact of the cancellation or suspension of the permit, other than a financial impact on the holder of the permit, on those persons who would be affected by the regulated activity ceasing to be operated.

- (6) The cancellation or suspension of the permit takes effect from the day the written notice was given to the holder of the permit—
- (a) under subsection (3)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
 - (b) under subsection (4)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the cancellation or suspension is necessary.
- (7) If the local government has cancelled or suspended a permit, the holder of the permit must cease to operate the regulated activity immediately.

Maximum penalty for subsection (7)—50 penalty units.

19 General compliance provision

- (1) The holder of a permit must ensure that the conditions of the permit are complied with.

Maximum penalty for subsection (1)—50 penalty units.

- (2) The holder of a permit and any person operating a regulated activity must ensure that the operation of the regulated activity —
- (a) does not result in harm to human health or safety or personal injury; and
 - (b) does not result in property damage or a loss of amenity; and
 - (c) does not result in environmental harm or environmental nuisance; and
 - (d) does not result in a nuisance; and
 - (e) does not result in the unsafe movement or obstruction of traffic or the unsafe use of a road; and
 - (f) complies with the prescribed criteria.

Maximum penalty for subsection (2)—50 penalty units.

Division 2 Malls

20 Use of a vehicle in a mall

- (1) To avoid doubt, subsection (2) applies to—
- (a) a designated vehicle in a mall; and
 - (b) a vehicle in a mall pursuant to a permit issued by the local government under section 13 (Grant of a permit) of this local law; and

- (c) all other vehicles in a mall whether or not the vehicle is lawfully in the mall.
- (2) A person must not—
- (a) drive a vehicle in a mall at a speed which exceeds—
 - (i) the speed indicated by an official mall sign; or
 - (ii) in any other case, 10 kilometres per hour; or
 - (b) drive a vehicle into or out of a mall at any point other than a designated entry or exit point; or
 - (c) stop, stand or park a vehicle in or on a mall so as to hinder the free passage of pedestrians or a vehicle lawfully using the mall; or
 - (d) cause or permit a vehicle to be in a mall or to remain in or on a mall for a continuous period exceeding one hour; or
 - (e) cause or permit a service access route which is defined on the pavement of a road to be blocked, obstructed or otherwise limited for a period exceeding 5 minutes; or
 - (f) cause or permit an entry or exit point to or from any premises adjacent to a mall to be blocked, obstructed or otherwise limited at any time whatsoever.

Maximum penalty for subsection (2)—20 penalty units.

21 Prohibited conduct on a road or in a mall

- (1) A person must not—
- (a) cause damage to the surface of a mall or a fixture or a structure in a mall; or
 - (b) engage in conduct which in an authorised person's opinion interferes or is likely to interfere with the ordinary and reasonable use and enjoyment by any other person of:
 - (i) a mall; or
 - (ii) a road or part of a road specified in a subordinate local law; or
 - (c) allow an animal other than a designated animal or an animal authorised under a permit to enter a mall; or
 - (d) conduct a busking performance in a location other than a designated busking site; or

- (e) contravene an indication or direction given by an official mall sign.

Example of paragraph (a)—

Oil or another product falls from a vehicle onto the surface of a mall.

Example of paragraph (b)

Pestering, provoking or harassing a person in a way that interferes with the ordinary use and enjoyment by that person of a mall.

- (2) Maximum penalty for subsection (1)—50 penalty units. For the purposes of subsection (1)(a), if damage to the surface of a mall or a fixture or a structure in a mall occurs as a result of the driving, standing or parking of a vehicle in the mall, the owner of the vehicle will be deemed to have committed the offence.

22 Mall or footpath management body

- (1) The local government may, by a subordinate local law or a resolution of the local government—
- (a) establish—
 - (i) a mall management body to manage a mall; or
 - (ii) a footpath management body to manage a footpath on a local government road; and
 - (b) specify the membership and structure of the mall management body or the footpath management body; and
 - (c) specify the procedures governing the operation of the mall management body or the footpath management body; and
 - (d) specify policies and guidelines governing the management of the mall or the footpath by the mall management body or the footpath management body respectively.
- (2) The mall management body or the footpath management body must comply with this local law and all subordinate local laws.

Maximum penalty for subsection (3)—200 penalty units.

Part 5 Enforcement

23 Records to be kept

A subordinate local law may specify any records that are required to be kept for the undertaking of the regulated activity.

24 Inspection, monitoring or management program

A subordinate local law may specify any inspection, monitoring or management

program required to be kept for the undertaking of the regulated activity.

25 Property on an undedicated road

- (1) If a structure is erected or installed in, on, across, under or over an undedicated road, the structure becomes the property of the local government.⁶
- (2) Notwithstanding subsection (1), if a permit, under this local law or another law, makes other provision about ownership of a structure erected or installed under the permit, the provisions of the permit prevail.

26 Damage to a local government road

- (1) A person is liable to the local government for damages if the person, without the authority of the local government—
 - (a) intentionally or negligently damages a local government road or a structure associated with a local government road; or
 - (b) obstructs or creates an obstruction on a local government road; or
 - (c) creates a nuisance on a local government.
- (2) The local government may—
 - (a) recover damages under subsection (1) in the same way as damages for a tort; or
 - (b) seek an injunction or other equitable remedy under subsection (1) in the same way as remedies may be sought for a tort.

Part 6 Subordinate local laws

27 Subordinate local laws

The local government may, in a subordinate local law, specify—

- (a) the assessment criteria for deciding an application for a permit pursuant to Schedule 2 (Dictionary) of this local law; and
- (b) an animal as a designated animal pursuant to Schedule 2 (Dictionary) of this local law; and
- (c) a vehicle as a designated vehicle pursuant to Schedule 2 (Dictionary) of this local law; and
- (d) an animal as a domestic animal pursuant to Schedule 2 (Dictionary) of this local law; and

⁶ Under section 95 (Roads vested in the State) of the *Land Act 1994* the land in all roads dedicated and opened for public use (and hence the property in fixtures in or on that land) vests in, or remains vested in, the State.

- (e) a vehicle as an essential services vehicle pursuant to Schedule 2 (Dictionary) of this local law; and
- (f) a public place as a footpath pursuant to Schedule 2 (Dictionary) of this local law; and
- (g) the work, infrastructure or activities which are an interference with a local government road pursuant to Schedule 2 (Dictionary) of this local law; and
- (h) a mall, a square, court or other public place under the local government's control as a local government road pursuant to Schedule 2 (Dictionary) of this local law; and;
- (i) a sign, signal, marking, light or device as an official mall sign pursuant to Schedule 2 (Dictionary) of this local law; and
- (j) the prescribed criteria which must be complied with pursuant to Schedule 2 (Dictionary) of this local law; and
- (k) a thing as a structure pursuant Schedule 2 (Dictionary) of this local law; and
- (l) a thing as a vehicle pursuant to Schedule 2 (Dictionary) of this local law; and
- (m) a thing as waste pursuant to Schedule 2 (Dictionary) of this local law; and
- (n) the requirements for the riding of a cycle on a footpath for the purposes of an interference with a local government road pursuant to Schedule 2 (Dictionary) of this local law; and
- (o) a regulated activity for which a person is not required to hold a permit pursuant to section 11(3)(a) of this local law; and
- (p) information which is to accompany an application for a permit for the operation of a regulated activity pursuant to section 12(1)(c)(iv) of this local law; and
- (q) the circumstances in which the local government may waive the requirements of section 12 (Application for a permit) of this local law pursuant to section 12(2)(c) of this local law; and
- (r) the term of a permit pursuant to section 14(1)(b) of this local law; and
- (s) the records that must be kept, the place at which those records must be kept and the period for which those records must be kept pursuant to section 15(2)(r) of this local law; and

- (t) the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit for the operation of a regulated activity pursuant to section 15(3) of this local law; and
- (u) the changes in circumstances since a permit was granted that make the continued operation of the permit inappropriate pursuant to section 18(2) of this local law; and
- (v) the records that are required to be kept pursuant to section 23 (Records to be kept) of this local law; and
- (w) the terms of a periodic inspection, monitoring or management program in respect of the operation of the regulated activity pursuant to section 24 (Inspection, monitoring or management program) of this local law; and
- (x) such other matters as are provided for in this local law.

Part 7 Application of Local Law No. 3 (Administration) 2008

28 Application of Local Law No. 3 (Administration) 2008 to this local law

- (1) To avoid any doubt, the provisions of *Local Law No. 3 (Administration) 2008* apply to this local law, including (but not limited to) the following parts of *Local Law No. 3 (Administration) 2008*—
 - (a) Part 7 (Enforcement); and
 - (b) Part 8 (Administration).

Note—

Part 7 (Enforcement) of *Local Law No. 3 (Administration) 2008* sets out the powers of the local government to deal with a contravention of a local law (including this local law) and the steps that the local government may take to remedy any non-compliance.

Part 8 (Administration) of *Local Law No. 3 (Administration) 2008* contains a number of provisions which clarify the liability of persons for actions taken contrary to a local law (including this local law).

This local law must be read with any relevant provisions of *Local Law No. 3 (Administration) 2008*.

- (2) If there is a conflict between a provision of this local law and *Local Law No. 3 (Administration) 2008*, the provision in this local law will prevail to the extent of any inconsistency.

Part 8 Application of Local Law No. 21 (Major City Events) 2017

29 Application of Local Law No. 21 (Major City Events) 2017 to this local law

- (1) This section applies if there is an inconsistency between a provision of this local law (a *standard provision*) and a provision of *Local Law No. 21 (Major City Events) 2017* (a *major city event provision*).

- (2) If there is an inconsistency between a standard provision and a major city event provision, the major city event provision prevails to the extent of the inconsistency, but only if the inconsistency arises as a result of the application of the standard provision—
 - (a) wholly or partly within a restricted access area; and
 - (b) during the whole or any part of a restricted access period.

- (3) In this section—

restricted access area has the meaning given in *Local Law No. 21 (Major City Events) 2017*;

restricted access period has the meaning given in *Local Law No. 21 (Major City Events) 2017*.

Schedule 1 Specified offences

section 11

Operating a regulated activity without authorisation, namely interference with a road, where the interference with a road is—

- (a) the activity of parking a vehicle on a road bearing a sign or an advertisement if, in the opinion of an authorised person, the dominant or primary purpose of the activity is selling or hiring the vehicle; or
- (b) leaving open a gate or locking a gate across a road.

Schedule 2 Dictionary

section 3

ancillary equipment means, for the purposes of roadside dining, any item placed on a local government road, footpath or mall that is used in connection with or is associated with, roadside dining, including, but not limited to a barrier, heating appliance, tray stand or menu stand.

animal has the meaning given in *Local Law No. 12 (Keeping and Control of Animals) Law*.

approval means a consent, permit, licence, authorisation, registration, membership or approval under a Local Government Act or a local law and includes the conditions of a consent, permit, licence, authorisation, registration, membership or approval.

assessment criteria means the criteria specified in a subordinate local law for deciding an application for a permit for the operation of a regulated activity.

authorised person means for the purposes of—

- (a) section 5 of this local law, a person—
 - (i) accredited as a road traffic controller under the *Transport Operations (Road Use Management) Act 1995*; and
 - (ii) authorised by the local government pursuant to *Local Law No. 3 (Administration) 2008* to exercise the powers of an authorised person under this local law; and
- (b) other provisions of this local law, a person authorised by the local government pursuant to *Local Law No. 3 (Administration) 2008* to exercise the powers of an authorised person under this local law.

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

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

busking performance has the meaning given in *Subordinate Local Law No. 11.4 (Busking) 2014*.

café has the meaning given in the local government's planning scheme.

camp includes—

- (a) to sleep in or stay overnight in or attempt to sleep in or stay overnight in a tent or motor vehicle or otherwise in, on or under a facility, or on the ground on a road; and
- (b) to pitch, place or erect a tent, motor vehicle or other structure in on or under a facility or on the ground of a road for the purpose of sleeping in or staying overnight in or attempting to sleep in or stay overnight in the tent, vehicle or other structure,

and **camping** has the corresponding meaning.

carriageway means a road or that portion of a road formed, prepared or set aside for the use of a vehicle, and is not intended to exclude the use of such a road or such portion of a road by pedestrians when necessary.

chief executive means the chief executive of the department which administers Chapter 6 of the *Transport Infrastructure Act 1994*.

commercial establishment means premises used for—

- (a) a restaurant; or
- (b) a hotel; or
- (c) a childcare centre; or
- (d) a golf course; or
- (e) a real estate or subdivision development; or
- (f) a resort.

cycle means a bicycle.

designated animal means—

- (a) a guide dog; and
- (b) an animal which is being delivered or collected from a pet shop or a veterinary surgeon located in a mall; or
- (c) a dog or a horse which is under the control of a police officer in the course of the police officer's duties; or
- (d) a dog which is under the effective control of a keeper in accordance with *Local Law No. 12 (Keeping and Control of Animals) Law*; and
- (e) an animal specified in a subordinate local law.

designated busking site has the meaning given in *Subordinate Local Law No. 11.4 (Busking)*.

designated vehicle means—

- (a) an essential services vehicle which is being used to provide the service for which it is designed or ordinarily used; and
- (b) a bicycle which is walked from the road directly to a bicycle rack on a mall; and
- (c) a vehicle specified as a designated vehicle in a subordinate local law.

device means a design, writing, drawing, depiction, structure, erection, placard, banner, notice, signboard, notice of sign, publication or sign of any kind.

directional sign means an official traffic sign and includes—

- (a) a service sign (a white on blue sign); and
- (b) a tourist sign (a white on brown sign); and
- (c) a national trail sign (a black on yellow sign); and
- (d) a tourist drive sign (a white on brown sign); and
- (e) a fingerboard sign (a white on blue sign).

domestic animal means an animal specified in a subordinate local law.

dwelling unit has the meaning given in the local government's planning scheme.

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

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

essential services vehicle means a motor vehicle that is in the care or control of an officer of—

- (a) the Queensland Ambulance Service; or
- (b) the Queensland Fire and Rescue Service; or
- (c) a distribution or retail authority licensed under the *Gas Supply Act 2003*; or
- (d) Australia Post; or
- (e) an electricity entity under the *Electricity Act 1994*; or

- (f) the Queensland Police Service; or
- (g) the State Emergency Service; or
- (h) Road Transport Construction Services (Department of Transport and Main Roads); or
- (i) a carrier or service provider licensed under the *Telecommunications Act 1997*; or
- (j) the local government; or
- (k) another entity specified by a subordinate local law.

exhibit includes in relation to a sign the painting, writing, drawing, depiction, making, erection, affixing, putting up, operation or transport of a sign.

facility means any building, structure, carparking area, pedestrian access, vehicle access or any other fixture or fitting on a road.

fast food premises has the meaning given in the local government's planning scheme.

footpath has the meaning given by the *Transport Operations (Road Use Management) Act 1995*⁷ and includes a mall, square, court or other public place specified to be a footpath in a subordinate local law.

goods includes an animal, a vehicle and a boat or other watercraft.

grid means a structure designed to permit the movement of pedestrian or vehicular traffic along a road but to prevent the passage of livestock.

guide dog has the meaning given in the *Guide, Hearing and Assistance Dogs Act 2009*.

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

install means construct, make, mark, place or erect, or affix to or paint on any surface or structure, and repair, maintain, manage and control.

interference includes any damage, destruction, tampering, removal, alteration, disturbance, change or inappropriate use and **interfere** has the corresponding meaning.

interfere with a road means an activity, other than roadside dining or roadside vending, involving—

⁷ Footpath is defined to mean an area open to the public that is designed for, or has as one of its main uses, use by pedestrians (see schedule 4 (Dictionary) of the *Transport Operations (Road Use Management) Act 1995*).

- (a) carrying out work on a road including—
 - (i) the erection or installation of a structure or a building in, on, across or over a road; or
 - (ii) the erection or installation of a temporary anchor for building support in, on, over or across a road; or
 - (iii) the planting of a tree or other plant on a road; or
 - (iv) interference with a plant or a garden on a road; or
 - (v) interference with stone, soil, sand, rock, gravel or other materials in a road; or
 - (vi) the carrying out of road excavation work; or
 - (vii) any other work specified in a subordinate local law; or
- (b) interference with a road including—
 - (i) the structure of a road; or
 - (ii) the materials of a road; or
 - (iii) a structure in, on, across, under or over a road; or
 - (iv) a structure associated with a road; or
 - (v) road work in respect of a road; or
 - (vi) an official traffic sign, a road sign or other sign or notice installed, erected or posted by the local government; or
 - (vii) any other infrastructure specified in a subordinate local law; or
- (c) interference with the operation of a road (which includes a footpath) including—
 - (i) the erection or installation of a structure or a building in, on, across or over a road that interferes with the operation of the road or a footpath within the road; or
 - (ii) the discharge of stormwater, groundwater or waste on a road; or
 - (iii) out of water running of a personal watercraft on a road; or
 - (iv) the placing of goods, an object or material other than a vehicle on a road; or
 - (v) the parking of a vehicle or trailer on a road which is unregistered; or

- (vi) the activity of parking a vehicle on a road bearing a sign or an advertisement if, in the opinion of an authorised person, the dominant or primary purpose of the activity is selling or hiring the vehicle; or
- (vii) the parking of a vehicle on a road in a way that obstructs the carrying out of road work; or
- (viii) the parking of a vehicle on a road that is associated with a vehicle hire office, vehicle hire premises or vehicle sales premises.
- (ix) the release from a vehicle on a road of coolant or lubricant that is likely, in the opinion of an authorised person, to cause degradation of the road surface; or
- (x) the driving, leading, stopping or wheeling of a vehicle or an animal (other than a domestic animal) on a footpath, nature strip, water-channel or gutter, including any structure or furniture thereon, which, in an authorised person's opinion, is likely to give rise to a risk of personal injury or property damage; or
- (xi) the driving or feeding of an animal (other than a domestic animal) in, on, across, under or over a road which, in an authorised person's opinion, is likely to give rise to a risk of personal injury or property damage; or
- (xii) the hoisting of a good across a road; or
- (xiii) leaving open a gate or locking a gate across a road; or
- (xiv) the riding of a power assisted cycle on a footpath other than a motorised vehicle that is being used by a disable person; or
- (xv) the riding of a toy vehicle on a footpath—
 - (A) contrary to an official traffic sign; or
 - (B) within 10 metres of a pedestrian; or
 - (C) on a wall, gutter, stairs, furniture, fixture or fitting forming part of the footpath; or
- (xvi) the riding of a cycle on a footpath—
 - (A) contrary to an official traffic sign or a subordinate local law; or
 - (B) on a wall, stair, furniture, fixture or fitting forming part of the footpath; or

- (xvii) the driving or use of horse drawn vehicles or pedicabs on a road for the purpose of carrying passengers; or
- (xviii) lighting a fire, including a brazier, on a road or a mall; or
- (xix) camping on a road or a mall; or
- (xx) placing a line, cord, pole or post in a road or a mall; or
- (xxi) performing or promoting any form of entertainment (other than conducting a busking performance), irrespective of whether done for financial reward; and
- (xxii) in the case of a mall—
 - (A) the driving, riding, using or having a vehicle other than a designated vehicle in a mall; or
 - (B) the riding of an animal other than a designated animal in a mall; or
 - (C) the having of an animal other than a designated animal under a person's control in a mall; or
 - (D) allowing an animal other than a designated animal to enter a mall; or
 - (E) performing or promoting any form of entertainment (other than conducting a busking performance), irrespective of whether done for financial reward; or
 - (F) taking part in a public demonstration or address; or
 - (G) using any megaphone, sound amplifier, radio, loud speaker or any other means of mechanically, electrically or artificially increasing or reproducing sound in or adjacent to a mall; or
 - (H) providing food or drink or both to members of the public; or
- (xxiii) providing food or drink or both to members of the public on part of a footpath; or
- (xxiv) the queuing or congregation of members of the public on part of a footpath as part of an activity carried out on adjoining premises that obstructs pedestrian traffic on a footpath; or
- (xxv) any other activity specified in a subordinate local law.

land has the meaning given in the *Sustainable Planning Act 2009*.

Local Government Act has the meaning given in the *Local Government Act 2009* and includes approvals granted pursuant to a Local Government Act.

local government area has the meaning given in the *Local Government Act 2009*.

local government road means—

- (a) a road under the *Local Government Act 2009*; or
- (b) a mall, square or court under the local government's control that is specified in a subordinate local law to be subject to this local law; or
- (c) light rail land designated to be used as a road under section 359 of the *Transport Infrastructure Act 1994*.

local law includes any subordinate local laws and all approvals granted pursuant to this local law.

mall means a road or part of a road established as a mall pursuant to the *Local Government Act 2009*.

minor means a person who is under the age of 18 years.

motor vehicle has the meaning given in *Transport Operations (Road Use Management) Act 1995* but does not include a motorised wheelchair.

nightclub has the meaning given in the local government's planning scheme.

nuisance has the meaning given in *Local Law No. 8 (Public Health, Safety and Amenity) 2008*.

object includes a vehicle but not a building or a structure.

occupier of premises means the person who has the control or management of the premises and includes a person in charge of the operation of the activity regulated on the premises.

official mall sign means any sign, signal, marking, light or device installed for the purpose of regulating, prohibiting, warning or guiding persons or traffic on a pedestrian mall which is either—

- (a) an official traffic sign; or
- (b) specified in a subordinate local law.

official traffic sign means a sign, marking, light or device placed or erected to regulate, warn or guide traffic that is an official traffic sign under the *Transport Operations (Road Use Management) Act 1995*.⁸

owner of premises means the person for time being entitled to receive the rent for the premises or would be entitled to receive the rent for it if it were let to a tenant at a rent.

owner of a vehicle means a person who is the owner within the meaning of that term given by the *Transport Operations (Road Use Management) Act 1995*, or by a corresponding law of a State or Territory of Australia.

park a vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.⁹

pedicab means a tricycle constructed principally for the conveyance of one or more passengers.

perform work has the meaning given in the *Local Government Act 2009* and includes—

- (a) work required to be performed pursuant to a compliance notice, a work notice or a condition of a permit; and
- (b) without limiting paragraph (a), seizing and removing a thing.

permit means a permit which has been granted pursuant to section 13 (Grant of a permit) of this local law or amended, renewed or transferred pursuant to section 17 (Amendment, renewal or transfer of a permit) of this local law which—

- (a) has not expired pursuant to section 14(2) of this local law; and
- (b) has not been cancelled pursuant to section 18 (Cancellation of a permit) of this local law.

personal watercraft has the meaning given in the *Transport Operations (Marine Safety) Regulation 2004*.

planning scheme has the meaning given in the *Sustainable Planning Act 2009*.

⁸ The design, methods, standards and procedures for the installation and use of an official traffic sign must conform with the Manual of Uniform Traffic Control Devices issued by the Department of Main Roads under the *Transport Operations (Road Use Management) Act 1995* or be approved by the Department of Main Roads (see section 166 of the *Transport Operations (Road Use Management) Act 1995*).

⁹ Park in relation to a vehicle is defined in Schedule 4 (Dictionary) of the *Transport Operations (Road Use Management) Act 1995* to include stop the vehicle and allow the vehicle to stay, whether or not the driver leaves the vehicle.

plant means any tree, bush, shrub, grass, fungi, algae or other thing terrestrial or aquatic including all natural parts of it or things naturally produced of, by or from it.

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

prescribed criteria means the criteria specified in a subordinate local law with which the operation of the regulated activity must comply.

prescribed fee means the fee prescribed by the local government.

prescribed form means the form prescribed by the local government.

publication means any printed matter or written matter and includes a book, pamphlet, leaflet, circular, handbill, notice, ticket, voucher, pass, advertisement, poster, magazine or other periodical publication but does not include a newspaper.

publicise means to draw to the attention of, make known, advertise or promote and **publicises** has the corresponding meaning.

regulated activity has the meaning given in section 11(2) of this local law.

regulated parking area means a regulated parking area for the purposes of *Local Law No. 2 (Regulated Parking) 2008*.

removable umbrella structure means a structure used or designed for the provision of shade or shelter from the weather.

restaurant has the meaning given in the local government's planning scheme.

road means a local government road or a State-controlled road.

road excavation work means—

- (a) the digging or removal of stones, soil, sand, rock, gravel or other materials or substances from a local government road or a structure in, on, across, under, over or associated with a local government road; and
- (b) the making of any opening, cutting or void within a local government road, or a structure in, on, across, under, over or associated with a local government road.

roadside dining means—

- (a) the setting up on or bringing onto a road, a footpath or mall of a table, a chair, ancillary equipment or a removable umbrella structure for the purpose of the provision of food or drink or both associated with premises being a café, fast food premises, nightclub, restaurant, take-away food premises or tavern; or

- (b) the provision on a road, a footpath or a mall of food or drink or both associated with premises being a café, fast-food premises, nightclub, restaurant, take-away food premises or tavern.

roadside vending means the operation of an activity on a road defined as roadside vending in the *Transport Operations (Road Use Management) Act 1995*¹⁰ but does not include roadside vending as part of an event approved by the local government pursuant to a local law.

road sign means a device, other than an official traffic sign, that publicises—

- (a) the name of a road in the local government area; or
(b) other information of use to road users.

road work means work for the construction, maintenance, repair or improvement of a road under this local law.

sign means a device that publicises a matter.

State-controlled road means a State-controlled road under the *Transport Infrastructure Act 1994*.

structure has the meaning given in the *Building Act 1975* and includes—

- (a) a structure as defined in the *Local Government Act 2009*; and
(b) a pipe, scaffolding, door, gate, grid, fence, wall, light, lamp, downpipe, facility, line, cord, pole, stage or equipment; and
(c) any other thing specified in a subordinate local law.

structure of a local government road includes the pavement, the road surface, the kerb and channelling, a table drain, a culvert, a drainage pipe, a drainage structure, a bridge, the footpath, the verge and an official traffic sign.

take-away food premises has the meaning given in the local government's planning scheme.

tavern has the meaning given in the local government's planning scheme.

toy vehicle means a vehicle, other than a bicycle, power-assisted cycle or wheelchair that is—

- (a) ordinarily used for sport or recreation; and

¹⁰ Roadside vending is defined to mean the commercial supply of goods or services from a place on a road or the setting up on, or bringing onto, a road of a stall, vehicle, equipment or other thing for the commercial supply of goods or services but does not include roadside vending for a religious, charitable, educational or political purpose (see Schedule 4 (Dictionary) of the *Transport Operations (Road Use Management) Act 1995*).

(b) designed to be propelled by human power.

traffic includes the use by any person of any road or off-street regulated parking area, or the presence therein or thereon of any person, vehicle, tram, train, animal, or other movable article or thing whatsoever.

undedicated road means a local government road in which the land is not dedicated for public use as a road.

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

- (a) does not include a wheelchair; and
- (b) includes a bicycle and a toy vehicle; and
- (c) includes anything specified as a vehicle in a subordinate local law.

vehicle hire office has the meaning given in the local government's planning scheme.

vehicle hire premises has the meaning given in the local government's planning scheme.

vehicle sales premises has the meaning given in the local government's planning scheme.

waste has the meaning given in the *Environmental Protection Act 1994* and includes anything specified in a subordinate local law.

work includes activities.

work notice means a written notice given pursuant to section 10 of this local law.