Mareeba Shire Council

Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018.*

2 Purpose and how it is to be achieved

(1) The purpose of this local law is to—

(a) protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads; and

(b) preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads.

(2) The purpose is to be achieved by providing for—

(a) the regulation of access to local government controlled areas; and

(b) the prohibition or restriction of particular activities on local government controlled areas or roads; and

(c) miscellaneous matters affecting roads.

3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

4 Relationship with other laws[1]

This local law is—

(a) in addition to and does not derogate from laws[2] regulating the use of trust land and roads; and

(b) is to be read with *Local Law No. 1 (Administration) 2018*.

[1] This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

[2] Other legislation that may be relevant in the application of this local law includes the *Land Act 1994*, the *Land Regulation 1995* and the *Stock Route Management Act 2002*.

Part 2 Use of local government controlled areas, facilities and roads[3]

5 Prohibited and restricted activities

(1) The local government may, by subordinate local law, declare an activity to be—

(a) prohibited in a local government controlled area or road (a ***prohibited activity***); or

(b) restricted in a local government controlled area or road (a ***restricted activity***).

Example for paragraph (a)—

The local government may declare that the lighting of fires is a prohibited activity in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

Example for paragraph (b)—

The local government may declare that the playing of sport generally, or the playing of certain sports, is a restricted activity in that it is restricted to particular times of the day, week, month or year in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

(2) The local government must take reasonable steps to provide notice to members of the public regarding restricted activities declared for local government controlled areas or roads.

(3) In this section—

reasonable steps may include the display of a notice at a prominent place within each local government controlled area for which a declaration under subsection (1)(b) has been made, stating—

(a) if the declaration relates to the whole area—the restricted activities for the area; and

(b) if the declaration relates to a part of the area—the restricted activities and a description of the part of the area to which the declaration applies; and

(c) in general terms, the provisions of subsection (4).

(4) A person must not engage in a prohibited activity or a restricted activity.

Maximum penalty—20 penalty units

[3] *Local Law No. 1 (Administration) 2018* deals with activities on local government controlled areas and roads that require the local government's approval, such as commercial use of local government controlled areas and roads, alterations or improvements to local government controlled areas, and other miscellaneous regulated activities.

6 Motor vehicle access to local government controlled areas

(1) A ***motor vehicle access area*** is an area within a local government controlled area that is—

(a) a car park or roadway for which there is no sign or traffic control device indicating that vehicles owned by members of the public are excluded; or

(b) declared under a subordinate local law for this paragraph as a motor vehicle access area.

(2) For the purposes of *Local Law No.1 (Administration) 2018*, section 5(b), it is a prescribed activity[4] to bring a motor vehicle onto or drive a motor vehicle on any part of a local government controlled area that is not a motor vehicle access area.

(3) The local government may, by subordinate local law, declare a specific type of motor vehicle (a ***prohibited vehicle***) as prohibited in a specified motor vehicle access area.

(4) For the purposes of *Local Law No.1 (Administration) 2018*, section 5(b), it is a prescribed activity[5] to bring a prohibited vehicle onto or drive a prohibited vehicle on the specified motor vehicle access area.

(5) However, subsections (2) and (4) do not apply for an emergency vehicle.

(6) The local government must take reasonable steps to provide notice to members of the public regarding—

(a) declarations of motor vehicle access areas under subsection (1)(b); and

(b) declarations of prohibited vehicles under subsection (3).

(7) In this section—

emergency vehicle includes the following—

(a) an ambulance;

(b) a fire-engine;

(c) a police vehicle;

(d) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.

reasonable steps include, as a minimum, the display of a notice at a prominent place within each declared motor vehicle access area stating—

(a) a description of the declared motor vehicle access area; and

(b) a description of prohibited vehicles for the area; and

(c) in general terms, the provisions of subsections (2) and (4).

[4] *Local Law No.1 (Administration) 2018*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

[5] See footnote 3.

7 Opening hours of local government controlled areas

(1) The local government may, by subordinate local law, declare the times when a local government controlled area is open to the public (the ***opening hours***).

(2) A person must not enter or remain in a local government controlled area outside the opening hours unless the person is authorised to do so by the chief executive officer. [6]

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

(3) If the local government declares the opening hours for a local government controlled area under subsection (1), it must place a notice showing the opening hours at each public entrance to the area.

8 Power of closure of local government controlled areas

(1) The local government may, by resolution, temporarily close a local government controlled area to public access—

(a) to carry out construction, maintenance, repair or restoration work; or

(b) to protect the health and safety of a person or the security of a person's property; or

(c) because of a fire or other natural disaster; or

(d) to conserve or protect the cultural or natural resources of the area or native wildlife.

(2) A resolution under subsection (1)—

(a) must state a period, not greater than 6 months, during which the area will be closed; and

(b) must be revoked by the local government as soon as practicable after the local government becomes satisfied that the reason for making the resolution no longer exists.

(3) The local government may, by subordinate local law, permanently close a local government controlled area to public access for any of the following reasons—

(a) the conservation of the cultural or natural resources of the area, including, for example—

(i) to protect significant cultural or natural resources; or

(ii) to enable the restoration or rehabilitation of the area; or

(iii) to protect a breeding area for native wildlife; or

(iv) to manage a significant Aboriginal area in the area in a way that is consistent with Aboriginal tradition; or

(v) to manage a significant Torres Strait Islander area in the area in a way that is consistent with Island custom;

[6] See definition of ***chief executive officer*** in the Act, schedule 4.

(b) protection of the health and safety of members of the public;

(c) protection of a facility or service in the area, including, for example, infrastructure, water supply facilities or power generating equipment;

(d) protection of the amenity of an area adjacent to the area;

(e) the orderly or proper management of the area.

(4) If the local government closes a local government controlled area under subsections (1) or (3), it must place at each public entrance to the area a notice of the closure, including a statement of the duration of the closure.

Example—

If the local government closes an area that is part of a wider local government controlled area, it must place notices at each public entrance to the closed area.

(5) A person must not enter or remain in a local government controlled area while it is closed to public access under this section, unless the person is authorised to do so by the chief executive officer.

Maximum penalty for subsection (5)—20 penalty units.

(6) In this section—

significant Aboriginal area see the *Aboriginal Cultural Heritage Act 2003*, section 9.

significant Torres Strait Islander area see the *Torres Strait Islander Cultural Heritage Act 2003*, section 9.

Part 3 Matters affecting roads

9 Power to require owner of land adjoining road to fence land

(1) This section applies if, in the local government's opinion, it is necessary for land adjoining a road to be fenced to prevent the risk of—

(a) animals escaping from the land onto the road; or

(b) interference with the safe movement of traffic or the safe use of the road.

(2) The local government may, by giving a compliance notice[7] to the owner—

(a) if the land is not currently fenced—require the owner to fence the land; or

(b) if a current fence on the land is in disrepair—require the owner to repair or replace the fence.

(3) The local government may, by subordinate local law, set out the minimum standards with which the fence must comply.

(4)

[7] See *Local Law No.1 (Administration) 2018*, section 27, regarding the requirements for compliance notices.

In this section—

animal does not include a native animal, feral animal or pest animal.

feral animal see *Animal Care and Protection Act 2001*, section 42.

pest animal see *Animal Care and Protection Act 2001*, section 42.

10 Numbering of premises and allotments adjoining a road[8]

(1) An owner of land must not adopt a number for a building or allotment that is inconsistent with a numbering system adopted by the local government under this section.

Maximum penalty for subsection (1)—10 penalty units.

(2) An owner of land (other than vacant land) must display the number allocated so as to be easily identified from the adjoining road.

Maximum penalty for subsection (2)—10 penalty units.

Part 4 Miscellaneous

11 Subordinate local laws

The local government may make subordinate local laws about—

(a) the declaration of prohibited activities or restricted activities;[9] or

(b) the declaration of motor vehicle access areas;[10] or

(c) the declaration of prohibited vehicles;[11] or

(d) the opening hours for a local government controlled area;[12] or

(e) closing a local government controlled area to public access;[13] or

(f) minimum standards for fences on land adjoining a road.[14]

[8] See the Act, section 60, regarding control of roads by a local government.
[9] See section 5(1).
[10] See section 6(1).
[11] See section 6(3).
[12] See section 7(1).
[13] See section 8(3).
[14] See section 9(3).

Schedule Dictionary

Section 3

local government controlled area see *Local Law No.1 (Administration) 2018*, schedule 1.

road see *Local Law No.1 (Administration) 2018*, schedule 1.