

Ipswich

City Council

Local Law No. 49 (Protection of Important Vegetation)

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PART 1 - PRELIMINARY

Citation

1. This local law may be cited as Local Law No. 49 (Protection of Important Vegetation).

Objects

- 2.(1) The objects of this local law include:
 - (a) providing appropriate protection for important vegetation; and
 - (b) providing for the management of protected vegetation; and
 - (c) providing the necessary powers to enforce vegetation protection orders; and
 - (d) providing the necessary powers to require appropriate action to reinstate vegetation damaged in contravention of this local law; and
 - (e) providing the necessary power to require the removal of vegetation which is a danger to life or property.
- (2) In administering this local law, Council must balance the interests of the conservation and sound environmental management of vegetation against other important public and private interests.
- (3) Vegetation may be considered important vegetation if in the opinion of Council the vegetation is:
 - (a) a valuable part of the natural heritage of the area; or
 - (b) an example of a threatened species or a species that may be, or may be about to become, a threatened species; or
 - (c) a valuable scientific resource; or
 - (d) valuable source of propagating stock or of other horticultural value; or
 - (e) of historic or cultural significance; or
 - (f) a valuable educational or recreational resource; or
 - (g) an important habitat for native animals (including native or migratory birds) or a part of a fauna and flora corridor; or
 - (h) a key part of a vegetation system or other ecological system; or
 - (i) important for protecting a water catchment area; or

- (j) important for its aesthetic value or its beneficial effect on the amenity of the locality in which it is situated; or
- (k) planted for the purpose of meeting obligations under offsets or related environmental management schemes or legislation.

Definitions

3. In this local law:

‘authorised person’ means a person authorised by Council to exercise the powers of an authorised person under this local law.

‘compliance order’ see section 32.

‘Council’ means Ipswich City Council.

‘Court’ means the Planning and Environment Court.

‘damage’ to vegetation includes destruction or removal of vegetation or interference with its natural growth other than:

- (a) pruning to promote regeneration, to remove dead wood or to prevent interference with buildings or services; or
- (b) ornamental shaping; or
- (c) mowing of grass or lawn.

‘development’ has the meaning given in the *Planning Act 2016*.

‘development approval’ has the meaning given in the *Planning Act 2016*.

‘interim protection order’ means:

- (a) an order made under section 12(1) of this local law; or
- (b) a vegetation protection order that is yet to be confirmed by Council.

‘properly made submission’ means a submission that:

- (a) is in writing and signed by the person making it; and
- (b) is addressed to, and lodged with, Council; and
- (c) states:
 - (i) the name and address of the person making it; and
 - (ii) the grounds of the submission (which must be related to the object of this local law); and

- (iii) the facts and circumstances relied on in support of those grounds.

‘protected vegetation’ means vegetation the subject of a vegetation protection order or interim protection order made under this local law.

‘reasonably necessary’ damage to vegetation is only regarded as reasonably necessary for a particular purpose if there is no alternative way of achieving the purpose that is prudent and feasible and would avoid the damage to vegetation or significantly reduce the extent of the damage to vegetation.

‘reinstatement order’ see section 33.

‘removal order’ see section 28.

‘reviewable decision’ see section 40.

‘significant vegetation’ see section 2(3)

‘stop order’ see section 27B.

‘vegetation’ means trees, plants, shrubs, bushes, seedlings, saplings, reshoots and all parts thereof and all other organisms of vegetable origin (whether living or dead) but does not include declared plants within the meaning of the *Stock Route Management Act 2002*.

Examples:

- *an individual tree;*
- *a cluster of trees with associated undergrowth;*
- *a dead tree (including a fallen tree);*
- *a grassland habitat*

‘vegetation protection order’ see section 4.

Application

- 3A.** This local law applies to all land within Council’s local government area.

PART 2 - VEGETATION PROTECTION

Division 1 - Making of vegetation protection orders

Power to make vegetation protection orders

- 4.** The Council may make an order (a **‘vegetation protection order’**) to protect significant vegetation.

Grounds on which vegetation protection order may be made

5.(1) The grounds on which a vegetation protection order is made must be stated in the order.

(2) The grounds must be consistent with the objects of this local law.

Examples:

For example, a vegetation protection order might be made on one or more of the following grounds:

- *because the vegetation has outstanding aesthetic value;*
- *because the vegetation is of a threatened species or a species that may be, or may be about to become, a threatened species;*
- *because of its great height, trunk circumference, or canopy spread;*
- *because of its great age;*
- *because of its association with an important historical event or the commemoration of a important historical event;*
- *because it has a significant historic or cultural association with a particular person or group of persons;*
- *because of its significance in Aboriginal rituals, religious observance or legend;*
- *because of its horticultural value as a source of propagating stock;*
- *because of its scientific or educational value;*
- *because of its ecological value as a habitat for native animals (including resident or migratory birds) or as a fauna and flora corridor;*
- *because of its support for natural or artificial land forms such as drainage lines, watercourses, bodies of water, foreshores, slopes or unstable and erodible soils;*
- *because of its beneficial effect, or possible beneficial effect, on water salinity (including groundwater salinity);*
- *because of its unique contribution to the landscape;*
- *because it provides a visual buffer against unsightly objects or a buffer against pollutants, light spillage, noise or other factors that have an adverse effect on the environment;*
- *because of its importance as buffer zone adjacent to areas of conservation significance;*

- *because of its importance in the context of the objectives of State or local government planning, land management and environmental management policies and initiatives; or*
- *because of its value as a source of fodder for stock.*

Vegetation to which order may relate

- 6.(1) A vegetation protection order must identify or describe the vegetation to which it relates with reasonable particularity.

Examples:

A vegetation protection order may, for example, state that it relates to:

- *a particular tree in a specified location;*
- *a particular group of trees in a specified location;*
- *vegetation of a specified class on land within a specified area;*
- *all vegetation on land within a specified area;*
- *all vegetation on land within a specified area other than vegetation of a specified class or classes.*

- (2) A vegetation protection order cannot relate to vegetation:

- (a) if the vegetation is planted and grown for commercial purposes; or
- (b) if the vegetation is subject to a scheme or plan providing for its management and exploitation as a sustainable resource:
 - (i) approved by Council; or
 - (ii) authorised or approved under another law.

Notice of order to be given

- 7.(1) When Council makes a vegetation protection order:

- (a) it must give written notice of the vegetation protection order to the owner of the land on which the vegetation is situated; and
- (b) it may give public notice of the vegetation protection order by:
 - (i) publishing a notice in a newspaper circulating in the Council's local government area; or
 - (ii) publishing a notice on the Council's website.

- (2) A notice under this section must:
- (a) give reasonable particulars of the terms and effect of the vegetation protection order including a statement of Council's reasons for the making of the vegetation protection order; and
 - (b) invite written submissions for or against the vegetation protection order; and
 - (c) explain that submissions must be related to the objects of this local law; and
 - (d) fix a date (which must be at least twenty-one days after the date of the notice) as the closing date for submissions.
- (3) A notice under subsection (1)(a) may be given to the owner of the land either:
- (a) personally; or
 - (b) by mail; or
 - (c) where the vegetation protection order affects more than one parcel of land, by the publication of the notice in accordance with subsection (1)(b).

Request for vegetation protection order

- 7A.(1) A person may request Council to make a vegetation protection order in respect of vegetation particularised in the request.
- (2) Any request must be in writing and demonstrate how protection of the subject vegetation would meet the objects of this local law.
- (3) The person making the request must, if the person is not the owner of the land upon which the vegetation is situated, state in the request:
- (a) whether the owner has been consulted about the request and the extent of the consultation; and
 - (b) the outcome of any consultation, including whether the owner agrees to the making of the request or opposes it.
- (4) Council may consult with the owner of any land upon which vegetation is situated following a request under this section to seek the views of the owner about the request prior to making a vegetation protection order.

How submissions are to be made

8. A person may make a written submission to the Council for or against the vegetation protection order.

Consideration of submissions

9. Council must consider all properly made submissions.

Confirmation or revocation of order

- 10.(1) After considering all properly made submissions, Council may:
- (a) confirm the vegetation protection order, with or without modification; or
 - (b) revoke the vegetation protection order, in whole or in part.
- (2) However a modification, other than a modification of a minor nature, may be made only if:
- (a) the modification arises out of Council's consideration of the submissions made in response to notice of the proposed vegetation protection order; and
 - (b) the modification does not make the vegetation protection order substantially more burdensome or restrictive than if the proposed vegetation protection order had been confirmed without modification.

Notice of confirmation of order

- 10A. As soon as practicable after Council confirms a vegetation protection order under section 10 of this local law, it must give notice of the confirmation to the owner of the land upon which the vegetation is situated.

Commencement of vegetation protection order

11. A vegetation protection order comes into force when notice of the vegetation protection order is given or at a later time specified in the vegetation protection order.

Term of vegetation protection order

- 11A. A vegetation protection order remains in effect until it is revoked or expires by a date that is specified in the vegetation protection order.

Interim protection orders

- 12.(1) Council may make an order (**interim protection order**) to protect important vegetation on an interim basis if it considers that urgent action is needed to protect the vegetation.
- (2) Before making an interim protection order, Council must have regard to the objects of this local law.
- (3) Instead of complying with section 7 of this local law, Council must, as soon as possible after making an interim protection order, give written notice of the interim protection order to the owner of the land upon which the vegetation is situated.
- (4) An interim protection order has effect for 4 months from the day it is made by Council or a shorter period stated in the order unless:
- (a) earlier revoked by Council; or

- (b) confirmed by Council as a vegetation protection order under section 10 of this local law in which case the vegetation protection order replaces the interim protection order.

Division 2 - Revocation of order

13. Section not used

Revocation of order after confirmation

- 14.(1) Council may revoke a confirmed vegetation protection order or interim protection order, in whole or in part.
- (2) If Council intends to revoke a vegetation protection order after confirmation of the vegetation protection order under section 10(1), it must first:
 - (a) give written notice of the proposed revocation to the owner of the land on which the vegetation is situated; and
 - (b) give public notice of the proposed revocation by advertisement in a newspaper circulating in Council's local government area.
- (3) A notice under this section must:
 - (a) give reasonable particulars of the terms and effect of the vegetation protection order to be revoked; and
 - (b) invite written submissions for or against revocation of the vegetation protection order; and
 - (c) explain that submissions must be related to the objects of this local law; and
 - (d) fix a date (which must be at least twenty-one days after the date of the notice) as the closing date for submissions.

How submissions are made

- 15. A person may make a written submission to Council for or against revocation of a vegetation protection order.

Consideration of submissions

- 16. Council must consider all properly made submissions.

Notice of revocation of order

- 17. As soon as practicable after Council revokes a vegetation protection order or interim protection order, it must give notice of the revocation to the owner of the land on which the vegetation is situated.

Division 3 - Management Policies

Management policies for protected vegetation

18. Council may make and implement policies for the management of protected vegetation.

Examples:

The management policies might for example cover:

- *the fencing of protected vegetation to prevent stock damage;*
- *eradication of pests that could damage protected vegetation;*
- *management of sites on which protected vegetation of particular classes is situated;*
- *in the case of rare or threatened species, management of the vegetation to facilitate regrowth, regeneration or propagation;*
- *fire management, including maintenance of fire breaks, controlled burning off and other protective measures;*
- *protection of the vegetation from damage resulting from public use of the area in which it is situated (for example, by the construction of boardwalks and other infrastructure)*

Division 3A - Vegetation management plans

Vegetation management plans

- 18A.(1) Council may require a landowner to enter into and comply with a vegetation management plan for the management of the protected vegetation.

- (2) A vegetation management plan must address the following issues:

- (a) Pest Plants;
- (b) Feral Species Management;
- (c) Fire Management;
- (d) Landholder assistance;
- (e) Good Neighbour Relations;
- (f) Threatened & Vulnerable Species &/or Communities;
- (g) Cultural/archaeological/historical;
- (h) Riparian Zone Management;

- (i) Remnant Vegetation Management; and
 - (j) Offsite damage.
- (3) A vegetation management plan may be prepared jointly by the landowner and Council.
- (4) Council may enter into a cost-sharing program for any management inputs required as a result of any prepared vegetation management plan for any costs in excess of those costs ordinarily incurred as part of accepted land management practices.
- (5) Council may provide these management inputs as technical support, material provisions, direct grants or other relevant mechanisms.

Division 4 - Registration of orders

Vegetation protection orders to be entered in land record

19. If a vegetation protection order or interim protection order exists in relation to a parcel of rateable land, a note of the effect of the order must be made in the entry about the land in Council's land record.

Register of vegetation protection orders

- 20.(1) Council must establish a register (the '**Vegetation Protection Register**') for recording:
- (a) all vegetation protection orders (including interim protection orders) made by Council; and
 - (b) all revocations of vegetation protection orders.
- (2) For each vegetation protection order, the Vegetation Protection Register must include:
- (a) the date when the vegetation protection order was made, when it came into force, and if it is no longer in force, the date when it ended; and
 - (b) particulars of the location of the land to which the vegetation protection order relates and of the location of the protected vegetation (including if necessary a map showing where the vegetation is situated); and
 - (c) particulars of the protected vegetation to which the vegetation protection order relates; and
 - (d) Council's reasons for the making of the vegetation protection order; and
 - (e) details of any permit issued by Council under this local law in respect of the protected vegetation.

- (3) Council's policies for managing protected vegetation must be included in the Vegetation Protection Register or in a statement kept with the Vegetation Protection Register.
- (4) The Vegetation Protection Register, or a copy of the Vegetation Protection Register, must be kept available for public inspection at Council's public office.

PART 3 - DAMAGE TO VEGETATION

Division 1 - Prohibition of damage

Prohibition of damage

21.(1) A person must not wilfully and unlawfully damage protected vegetation.

Maximum penalty - 850 penalty units.

(2) A person must not unlawfully damage protected vegetation.

Maximum penalty - 500 penalty units.

- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).
- (4) However, an offence is not committed if the damage is permitted by or under this local law.

Permitted damage

22. Damage to protected vegetation is permitted in the following circumstances:

- (a) if the damage is reasonably necessary¹ for carrying out work authorised or required under an Act;

Examples:

- *road, water supply, sewerage or drainage work for which all necessary statutory approvals have been obtained;*
 - *work authorised by development approval;*
 - *the eradication of pests under the Land Protection (Pest and Stock Route Management) Act 2002 may necessarily involve some damage to protected vegetation;*
- (b) if the damage is:

¹ See definition of 'reasonably necessary' in section 3 of this local law.

- (i) within a distance fixed under a subordinate local law from an existing building or structure, or the site of a proposed building or structure for which all necessary development approvals have been obtained; and
- (ii) reasonably necessary for access to the building, structure or site;
- (c) if the vegetation creates a risk to health or safety;
- (d) if an authorised person authorises the damage on the ground that the vegetation is actually or potentially dangerous;
- (e) if the damage is within a distance fixed by a subordinate local law from the boundary between land under separate ownership and internal property fences and is reasonably necessary for erecting or maintaining a dividing fence;
- (f) if the damage is within a distance fixed by a subordinate local law and is reasonably necessary for a survey by a registered surveyor;
- (g) if the damage is reasonably necessary to establish or maintain a fire break:
 - (i) to keep fire from crossing property boundaries or from damaging buildings or structures; or
 - (ii) to contain fire in some other way; or
 - (iii) for other minor purposes as fixed by a subordinate local law.
- (h) if the vegetation is taken for lawful agricultural or animal husbandry operations (where such operations meet criteria specified in a subordinate local law) conducted on the land on which the protected vegetation is situated;
- (i) if the vegetation is damaged in the course of land clearing operations (where such operations meet criteria specified in a subordinate local law) genuinely undertaken to extend or facilitate agricultural or animal husbandry operations that were being conducted on the land when the vegetation protection order was made and:
 - (i) the area of land on which the operations are carried out is more than a lower limit fixed under a subordinate local law; and
 - (ii) the land is not designated under a subordinate local law as land on which the protection of vegetation is of paramount importance;

Examples:

A subordinate local law might, for example, state that the protection of vegetation is of paramount importance if the land on which the vegetation is situated is:

- *a ridgetop;*
 - *an escarpment;*
 - *a steep slope;*
 - *land within a specified distance of a natural drainage line, a watercourse, a body of water or a foreshore;*
 - *land liable to damage from salinity;*
 - *land with unstable soil or soil that is liable to erosion.*
- (j) if the damage is reasonably necessary for carrying out the Council's statutory responsibilities;
- (k) if the damage is otherwise permitted under a subordinate local law; or
- (l) if the damage is allowed under a permit.

Division 2 - Permits

Application for permit

- 23.(1)** A person may apply to Council for a permit to permit damage to protected vegetation.
- (2) An application for a permit permitting damage to protected vegetation must include or be accompanied by:
- (a) particulars (including drawings) of the location of the land on which the protected vegetation is situated; and
 - (b) particulars of the type of vegetation to which the damage is proposed; and
 - (c) a statement of the reasons why the proposed damage is reasonably necessary; and
 - (d) particulars of how the vegetation is to be damaged and, if relevant, how the damaged material is to be removed or dealt with; and
 - (e) if the vegetation proposed to be damaged is subject to a vegetation protection order or interim protection order, particulars of the order; and
 - (f) if approval for anything to be done under the permit is also required under another local law or legislation, a certified copy, or other appropriate evidence, of the approval; and

- (g) any prescribed fee.
- (3) If the purpose for which a permit is sought could be achieved without the proposed damage to protected vegetation or with less damage, the application must include or be accompanied by a written explanation stating why it is not prudent and feasible, in the circumstances, to carry out the purpose in a way that avoids or reduces damage to protected vegetation.
- (4) If the applicant for the permit is not the owner of the land, the application must be accompanied by the written consent of the owner of the land on which the protected vegetation proposed to be damaged is located.

Deciding application for permit

- 24.(1)** If an application under section 23(1) of this local law is received by Council, Council may:
- (a) approve the application;
 - (b) approve the application subject to conditions; or
 - (c) refuse the application.
- (2) In deciding whether to grant a permit, Council must have regard to the objects of this local law and in particular:
- (a) whether the permit would be consistent with the objects of this local law and, if not, whether there would be a fundamental conflict with the objects or merely a minor conflict; and
 - (b) the probable environmental impact of the proposed damage; and
 - (c) the reasons for the proposed damage and the purpose that would be served by permitting the damage; and
 - (d) whether there are reasonable means of achieving the same purpose without damage or with less damage to protected vegetation.
- (3) A subordinate local law may specify criteria that:
- (a) Council may consider when making a decision regarding the grant of a permit; or
 - (b) must be complied with if a permit is to be granted.
- (4) Council must give notice of its decision under section 24(1) to the applicant.
- (5) The notice must state:
- (a) whether the application was approved or refused;
 - (b) if conditions are imposed – the conditions;
-

- (c) if the application was refused – the reasons for refusal; and
- (d) the date the decision was made.

Term of permit

- 25.(1)** A permit is granted for a term specified in the permit.
- (2) Council may, on application by the holder of a permit, renew the permit for a further term.
 - (3) A term for which a permit is granted or renewed:
 - (a) cannot be more than 5 years; and
 - (b) may be fixed as required by subordinate local law, or by Council when it grants a permit or renewal of permit.

Conditions of permit

- 26.(1)** A permit may be granted on conditions Council considers appropriate.
- (2) The conditions of a permit may, for example:
 - (a) regulate how the work is to be carried out (including the kind of machinery that may be used to carry out the work);
 - (b) regulate how damaged vegetation and other waste material is to be disposed of;
 - (c) require specified action to replant vegetation on affected land or reinstate land to which the permit relates;
 - (d) require the holder of the permit to lodge a specified amount by way of security of monies, or bank guarantee acceptable to Council, with Council to secure compliance with the obligations imposed under the permit.
 - (3) Council may, by subordinate local law, prescribe conditions that:
 - (a) must be imposed on a permit; or
 - (b) may be ordinarily be imposed on a permit.

Compliance with conditions

- 27.** The holder of a permit must comply with the conditions of the permit.

Maximum penalty - 850 penalty units.

27A. Section not used

PART 4 - STOP ORDER

Stop Order

27B.(1) An authorised person may, verbally or in writing, order a person to stop an activity (a ‘**stop order**’) if in the authorised person’s opinion the person has unlawfully damaged protected vegetation or may be about to unlawfully damage protected vegetation.

(2) A stop order may be issued to:

- (a) the owner or occupier of the land upon which the protected vegetation is located; or
- (b) any person who the authorised person has reasonable cause to believe is about to cause or assist in causing damage to the protected vegetation.

(3) A person against whom a stop order is made must comply with the stop order.

Maximum penalty – 850 penalty units

PART 5 - REMOVAL ORDER

Removal Order

28.(1) Where in the opinion of an authorised person, vegetation is a danger to life or property, the authorised person may, by written order (a ‘removal order’), direct the owner or occupier of the land on which the vegetation is situated to remove the vegetation as directed in the removal order.

(2) A removal order may be made in relation to vegetation irrespective of whether or not the vegetation is also subject to a vegetation protection order or interim protection order.

Time for Compliance with Removal Order

29. In giving a removal order pursuant to section 28, Council may specify a time limit by which the removal order shall be complied with.

Compliance with Removal Order

30. A person against whom a removal order is made must comply with the removal order.

Maximum Penalty - 100 Penalty Units.

Application of Removal Order

31. Section not used

PART 6 - COMPLIANCE ORDERS

Compliance order

- 32.(1) An authorised person may give written notice (a ‘compliance order’) to any person if the authorised person suspects, on reasonable grounds, the person has contravened, or is about to contravene, a provision of this local law or a condition of a permit.
- (2) A compliance order may:
- (a) require the person to whom the compliance order is given to stop the contravention; or
 - (b) require the person to whom the compliance order is given to take specified action to remedy the contravention;
- within a time specified in the compliance order.
- (3) A person to whom a compliance order is given must comply with the compliance order.

Maximum penalty - 850 penalty units.

- (4) Council may withdraw a compliance order.

Reinstatement order

- 33.(1) An authorised person may give written notice (a ‘**reinstatement order**’) to any person who the authorised person suspects on reasonable grounds is responsible for unlawful damage to protected vegetation in contravention of this local law.
- (2) A reinstatement order may require the person to whom the reinstatement order is given to:
- (a) take specified action to restore the vegetation or re-establish the vegetation, or
 - (b) compensate the community for the value of the vegetation as if the value of the vegetation was a debt.
- (3) A reinstatement order may also require the person to whom the reinstatement order is given to make good any environmental damage directly or indirectly resulting from the interference with the vegetation.
- (4) If a reinstatement order requires the planting of vegetation:
- (a) the reinstatement order must specify the type of vegetation and where it is to be planted and the period within which it is to be planted; and
 - (b) the reinstatement order may require the person to undertake:

- (i) specified action over a period stated in the notice to nurture the vegetation; and
 - (ii) if the vegetation fails to germinate or thrive, further action as directed by an authorised person; and
 - (iii) other measures including but not limited to erosion and sediment control.
- (5) A person must comply with a reinstatement order unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (5) – 850 penalty units.

PART 7 - INVESTIGATION AND ENFORCEMENT

Inspection

- 34.** An authorised person may inspect any land to which this local law applies, to determine whether the owner of the land or any permit holder has complied or is complying with:
- (a) the conditions of a permit; or
 - (b) a compliance order;
 - (c) a reinstatement order ; or
 - (d) a removal order; or
 - (e) a stop order; or
 - (f) the requirements of this local law and any relevant subordinate local law.

Suspension or cancellation of permit

- 35.(1)** Council may suspend or cancel a permit if –
- (a) the permit holder has failed to comply with the conditions of a compliance order or reinstatement order; or
 - (b) the permit was issued because of a materially false or misleading representation or declaration (made orally or in writing) by or on behalf of the applicant or in support of the application; or
 - (c) vulnerable or endangered vegetation or wildlife is discovered within an area to which a permit applies; or
 - (d) the carrying out of the work associated with the damage to vegetation is causing serious or material environmental harm.

- (2) A subordinate local law may specify other grounds on which Council may suspend or cancel a permit.
- (3) Council may suspend a permit for a period of up to 2 months by giving the permit holder written notice, in which case the permit is suspended from the time the notice is received by the permit holder.
- (4) Where Council intends to extend the period of a permit suspension, or cancel a permit following a period of suspension, Council must:
 - (a) give the permit holder written notice of the proposed suspension or cancellation and invite the permit holder to make written representations about the proposed change within 1 month of the date of the written notice; and
 - (b) take the written representation of the permit holder into account; and
 - (c) give the permit holder written notice of the decision regarding the suspension or cancellation of the permit within 1 month of receipt of written representations by the permit holder.
- (5) If the permit holder is not notified as required by subsection 35(c), the proposed suspension or cancellation will lapse.

Executive officer liability

- 36.(1) The executive officers of a corporation or company must ensure that the corporation complies with the local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the executive officers of the corporation also commits an offence, namely, the offence of failing to ensure that the corporation complies with this local law.

Maximum penalty for subsection (2) - the penalty for the contravention of the provision by an individual.
- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with this local law.
- (4) However, it is a defence for an executive officer to prove that:
 - (a) they were not in a position to influence the conduct of the corporation in relation to the offence; and
 - (b) the executive officer took all reasonable steps to ensure that the corporation complied with this local law.

Liability of third parties

37.(1) Any person who authorises, undertakes and benefits from a contravention of this local law commits an offence.

Maximum penalty for subsection (1) - the penalty for the contravention of the provision by an individual.

- (2) A person is involved in a contravention of this local law if they:
- (a) aid, abet, counsel or procure the contravention; or
 - (b) induce, whether by treats or promises or otherwise, the contravention; or
 - (c) are in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) conspire with others to effect the contravention; or
 - (e) knowingly benefit from or knowingly were capable of benefiting from the contravention.

Attempts to commit offences

38.(1) A person who attempts to commit an offence under this local law commits an offence.

Maximum penalty for subsection (1) - the maximum penalty for committing the offence.

- (2) The provisions of the Criminal Code (relevant to attempts to commit offences) apply to the attempt.

39. Section not used

PART 8 - REVIEW

Reviewable decisions

40. A decision of Council or an authorised person under this local law is reviewable (a '**reviewable decision**') unless it is:

- (a) a decision made by resolution of Council; or
- (b) a decision made on an earlier application for review.

Application for review

41.(1) A person who is aggrieved by a reviewable decision may apply to Council for a review of the decision.

- (2) An application for review of a reviewable decision must:

- (a) be in writing; and
- (b) state the reasons why the applicant considers the decision should be reviewed; and
- (c) be lodged at the office of Council within 21 days after the date on which notice of the decision was given to the applicant or within a further period allowed by Council (before or after the end of that period).

Carrying out a review

42.(1) Council must either –

- (a) carry out a review at a meeting of Council; or
 - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

Decision on review

- 43.(1)** On completing a review, Council may confirm, vary or reverse the decision under review.
- (2) Council must give the applicant written notice of the result of the review within 40 days of a decision made under subsection (1).
- (3) Council has the power to extend the time period specified in subsection (2) in special circumstances, provided that it gives the applicant a written notice outlining the reason for the extension and the revised time frame before the relevant time period expires.

PART 9 - MISCELLANEOUS

Defence of reasonable excuse

- 44.** If a person is charged with an offence involving a contravention of a provision of this local law, it is a defence to prove that the person had a reasonable and lawful excuse for the contravention.

PART 10 - SUBORDINATE LOCAL LAWS

Subordinate local laws

- 45.** The local government may make a subordinate local law with respect to:
- (a) the distance from an existing building or structure, or the site of a proposed building or structure for which all necessary development approvals have been obtained, that damage to protected vegetation is permitted;

- (b) the distance from a boundary between land under separate ownership and internal property fences, that damage to protected vegetation is permitted;
- (c) the distance reasonably necessary for a survey by a registered surveyor, that damage to protected vegetation is permitted;
- (d) the minor purposes for which damage to protected vegetation is permitted to establish or maintain a firebreak;
- (e) criteria for the operation of lawful agricultural or animal husbandry activities for which damage to protected vegetation is permitted;
- (f) criteria for the operations of land clearing activities for which damage to protected vegetation is permitted;
- (g) the area of land on which land clearing operations are carried out for which damage to protected vegetation is permitted;
- (h) land on which the protection of vegetation is of paramount importance;
- (i) other circumstances in which damage to protected vegetation is permitted;
- (j) criteria Council may consider when deciding to grant a permit;
- (k) criteria that must be complied with if a permit is granted;
- (l) the term of a permit;
- (m) the conditions that must be imposed on a permit, and that may ordinarily be imposed on a permit; or
- (n) grounds on which Council may suspend or cancel a permit.