

Ipswich

City Council

Draft

Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law (Amending) Local Law No. 49 (Vegetation Management) 2019*.

2 Commencement

This local law commences on the date notice of the making of the local law is published in the gazette.

3 Local laws amended

This local law amends *Local Law No. 49 (Vegetation Management) 1997*.

Part 2 Amendment of Local Law No. 49 (Vegetation Management) 1997

4 Amendment of s 1 (Citation)

Section 1, 'Vegetation Management' –

omit, insert –

Protection of Important Vegetation

5 Amendment of s 2 (Objects)

(1) Section 2(1)(a), 'significant' –

omit, insert –

important

- (2) Section 2(3), 'significant' –

omit, insert –

considered important vegetation

- (3) Section 2(3), subsection (b), 'of a rare of' –

omit, insert –

of a

- (3) Section 2(3), subsection (b), 'a rare or threatened' –

omit, insert –

a threatened

- (4) Section 2(3), subsection (g), 'a significant' –

omit, insert –

an important

- (5) Section 2(3), subsection (h), 'a significant' –

omit, insert –

a key

- (6) Section 2(3), subsection (i) –

omit.

- (7) Section 2(3), subsection (l) –

omit, insert –

- (l) planted for the purpose of meeting obligations under offsets or related environmental management schemes or legislation.

6 Amendment of s 3 (Definitions)

- (1) Section 3, definition *development*, '*Integrated Planning Act 1997*' –

omit, insert –

Planning Act 2016

- (2) Section 3, definition *development approval*, '*Integrated Planning Act 1997*' –

omit, insert –

Planning Act 2016

- (3) Section 3, after definition *development approval* –

insert –

'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.

- (4) Section 3, definition *protected vegetation*, after 'means' –

omit, insert –

vegetation the subject of a vegetation protection order or interim protection order made under this local law.

- (5) Section 3, definition *vegetation*, '*Land protection (Pest and Stock Route Management) Act 2002*' –

omit, insert –

Stock Route Management Act 2002

7 Amendment of s 5 (Grounds on which vegetation protection order may be made)

- (1) Section 5, 'Examples', 2nd dot point, 'of a rare or' –

omit, insert –

of a

- (2) Section 5, 'Examples', 2nd dot point, 'become, a rare or' –

omit, insert –

become, a

8 Amendment of s 6 (Vegetation to which order may relate)

Section 6(1), 'related' –

omit, insert –

relates

9 Amendment of s 7 (Notice of order to be given)

Section 7(1), subsection (b), after 'by' –

omit, insert –

:

- (a) publishing a notice in a newspaper circulating in the Council's local government area; or
- (b) publishing a notice on the Council's website.

10 Insertion of new s 7A

After section 7 –

insert –

7A Request for vegetation protection order

- (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.

11 Amendment of s 8 (How submissions are to be made)

- (1) Section 8, subsections (2) to (3) –

omit.

12 Amendment of s 9 (Consideration of submissions)

- Section 9, 'made in accordance with section 8' –

omit.

13 Amendment of s 10 (Confirmation of order)

- (1) Section 10, heading, after 'Confirmation' –

insert –

or revocation

(2) Section 10(1), after 'may' –

omit, insert –

:

(a) confirm the vegetation protection order, with or without modification; or

(b) revoke the vegetation protection order, in whole or in part.

(3) Section 10(2) –

omit.

14 Insertion of new s 10A

After section 10 –

insert –

10A Notice of confirmation of order

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.

15 Insertion of new s 11A

After section 10A –

insert –

11A Term of vegetation protection order

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

16 Amendment of s 12 (Interim protection orders)

(1) Section 12 –

omit, insert –

- (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.
- (2) Instead of complying with section 7 of this local law, Council must, as soon as possible, give written notice of the interim protection order to the owner of the land upon which the vegetation is situated.
- (3) 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:
 - (i) earlier revoked by Council; or
 - (iii) 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.

17 Omission of s 13 (Revocation of unconfirmed order)

Section 13 –

omit.

18 Amendment of s 14 (Proposal to revoke order)

- (1) Section 14, heading –

omit, insert –

Revocation of order after confirmation

- (2) Before subsection (1) –

insert –

- (1) Council may revoke a confirmed vegetation protection order or interim protection order, in whole or in part.

- (3) Section 14(1), 'proposes' –

omit, insert –

intends

- (4) Section 14(1), after '10(1)' –

insert –

, it must first:

- (5) Section 14(1), subsection (a), 'it must' –

omit.

- (6) Section 14(1), subsection (b), 'it must' –

omit.

- (7) Section 14(1), subsection (b), before 'revocation' –

insert –

proposed

19 Amendment of s 15 (How submissions are made)

Section 15, subsection (2) to (3) –

omit.

20 Amendment of s 16 (Consideration of submissions)

Section 16, 'made in accordance with section 15' –

omit.

21 Replacement of s 17 (Revocation of vegetation protection order after its confirmation)

Section 17 –

omit, insert –

17 Notice of revocation of order

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.

22 Replacement of s 18 (Management policies for protected vegetation)

Section 18, 'The sub-ordinate local law may include policies for the management of protected vegetation' –

omit, insert –

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

23 Insertion of new Div 3A

After section 18 –

insert –

Division 3A – Vegetation management plans

18A Vegetation management plans

- (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.

(2) A vegetation management plan may be prepared jointly by the landowner and Council.

(3) 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.

(4) Council may provide these management inputs as technical support, material provisions, direct grants or other relevant mechanisms.

24 Amendment of s 19 (Vegetation protection orders to be entered in land record)

(1) Section 19, after 'If a vegetation protection order' –

insert –

or interim protection order

(2) Section 19, 'effect of the vegetation protection order' –

omit, insert –

effect of the order

25 Amendment of s 21 (Prohibition of damage)

(1) Section 21(1), after 'vegetation.' –

insert –

Maximum penalty – 850 penalty units.

- (2) Section 21(2), '850 penalty units' –

omit, insert –

500 penalty units

- (3) Section 21(3), after 'In' –

insert –

a

26 Amendment of s 22 (Permitted damage)

Section 22(k) –

omit, insert –

(k) if the damage is otherwise permitted under a subordinate local law.

27 Amendment of s 23 (Application for permit)

- (1) Section 23, before subsection (1) –

insert –

(1) A person may apply to Council for a permit to permit damage to protected vegetation.

- (2) Section 23(1)(a), from 'and' to 'proposed' –

omit.

(3) Section 23(1) –

renumber as subsection (2)

(4) Section 23(1), after subsection (d) –

insert –

- (e) if the vegetation proposed to be damaged is subject to a vegetation protection order or interim protection order, particulars of the order; and

(5) Section 23(1), subsection (e), ‘.’ –

omit, insert –

; and

(6) Section 23(1), subsection (e) –

renumber as subsection (f)

(7) Section 23(1), after subsection (e) –

insert –

- (g) any prescribed fee.

(8) Section 23(3), ‘the proposed damage’ –

omit, insert –

on which the protected vegetation proposed to be damaged is located

28 Amendment of s 24 (Grant of permit)

(1) Section 24, heading –

omit, insert –

Deciding application for permit

(2) Section 24(1) –

omit, insert –

(1) Council may:

- (a) approve the application;
- (b) approve the application subject to conditions; or
- (c) refuse the application.

(3) Section 24, after subsection (3) –

insert –

(4) Council must give notice of its decision under section (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.

29 Amendment of s 26 (Conditions of permit)

Section 26(2)(d), 'after amount' –

insert –

by way of security of monies, or bank guarantee acceptable to Council,

30 Omissions of s 27A (Refusal of permit)

Section 27A –

omit.

31 Amendment of s 28 (Removal order)

(1) Section 28, before 'Where' –

insert –

(1)

(2) Section 28, after 'removal order.' –

insert –

(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.

32 Replacement of s 29, hdg (Notice of removal order)

Section 29, heading –

omit, insert –

Time for Compliance with Removal Order

33 Omissions of s 31 (Application or removal order)

Section 31 –

omit.

34 Amendment of s 32 (Compliance order)

Section 32(1), 'a person contravenes' –

insert –

the authorised person suspects, on reasonable grounds, the person has
contravened,

35 Amendment of s 33 (Reinstatement order)

(1) Section 33(2), 'that' –

omit.

(2) Section 33(2), ', either' –

omit, insert –

to

36 Amendment of s 35 (Suspension or cancellation of permit)

Section 35(1)(c), 'rare,' –

omit.

37 Omission of s 39 (Responsibility for unlawful damage of protected vegetation)

Section 39 –

omit.

38 Omission of s 45 (Subordinate local laws)

Section 45 –

omit.

39 Insertion of new pt 10

After section 44 –

insert –

Part 10 – Subordinate Local Laws

45 Subordinate local laws

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.