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## **Part 1      Preliminary**

### **1          Short title**

This local law may be cited as *Local Law No. 8 (Nuisances and Community Health and Safety) 2013*).

### **1A        Commencement**

- (1)      Section 11(3) of this local law commences on 1 July 2014.
- (2)      The remaining provisions of this local law commence on 1 August 2013.

### **2          Object**

The object of this local law is to protect the community and its environment and amenity by eliminating or reducing nuisances and risks to the community's health and safety and in particular those resulting from —

- (a)      inadequate protection against animal and plant pests; and
- (b)      vegetation overgrowth; and
- (c)      visual pollution resulting from accumulation of objects and materials or from waste; and
- (d)      diminution of amenity by the emission of light;
- (e)      waste containers remaining kerbside for extended periods of time; and
- (f)      fires and fire hazards not regulated by State law; and
- (g)      safety hazards; and
- (h)      release of odours, smoke and waste water; and
- (i)      damaged, abandoned and unregistered vehicles; and
- (j)      unreasonable noise; and
- (k)      abandoned shopping trolleys; and
- (l)      smoking in public places.

### **3          Definitions—the dictionary**

- (1)      The dictionary in the Schedule (Dictionary) defines particular words used in this local law.

- (2) The dictionaries in *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

#### **4 Relationship to other laws**

- (1) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
- (a) the *Biosecurity Act 2014*; and
  - (b) the *Vegetation Management Act 1999*; and
  - (c) the *Environmental Protection Act 1994*; and
  - (d) the *Fire and Emergency Services Act 1990*; and
  - (e) the *Stock Route Management Act 2002*; and
  - (f) the *Transport Operations (Road Use Management) Act 1995*; and
  - (g) the *Public Health Act 2005*; and
  - (h) the *Land Act 1994*; and
  - (i) the *Police Powers and Responsibilities Act 2000*; and
  - (j) the *Plumbing and Drainage Act 2018*; and
  - (k) the *Building Act 1975*; and
  - (l) the *Planning Act 2016*; and
  - (m) the *Work Health and Safety Act 2011*; and
  - (n) the *Food Production (Safety) Act 2000*.

## **Part 2 Permits and prohibited activities**

### **5 Requirement for a permit**

- (1) A person (other than a local government) must not undertake an activity which is a permit regulated activity<sup>1</sup>—
- (a) unless authorised by a permit granted pursuant to this local law and *Local Law No.4 (Permits) 2013*; or

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<sup>1</sup> For the definition of permit related activity see the Schedule.

<sup>2</sup> Local Law No. 4 (Permits) 2013 sets out the procedures for the application, granting, conditioning and enforcement of permits.

- (b) unless authorised by an official sign exhibited on a local government controlled area or on a road.

Maximum penalty for subsection (1) –

- (a) for first offence – 20 penalty units.  
(b) for second offence within a 2 year period – 30 penalty units.  
(c) for third or further offences within a 2 year period – 50 penalty units.

unless the activity is an activity referred to in section 7 (Commission of nuisance) in which case the penalty is that prescribed in section 6 (Prohibition of a nuisance).

- (2) A person must not in any manner or by any means indicate that a permit regulated activity which does not comply with this local law does comply with this local law.

Maximum penalty for subsection (2) –

- (a) for first offence – 20 penalty units.  
(b) for second offence within a 2 year period – 30 penalty units.  
(c) for third or further offences within a 2 year period – 50 penalty units.

- (3) Notwithstanding section 5(1) (Requirement for a permit and prohibited activities) of this local law, a permit is not required if—

- (a) a local law or subordinate local law specifies that a permit is not required in respect of the undertaking of the permit regulated activity; or  
(b) a local law or subordinate local law specifies circumstances under which a permit is not required in respect of the undertaking of the permit regulated activity; or  
(c) the undertaking of the permit regulated activity is authorised by a Local Government Act.

- (4) For the purposes of section 5(1) (Requirements for a permit and prohibited activities) of this local law the activities specified in column 1 of Schedule 2 are permit regulated activities.

- (5) For the purposes of section 5(3)(b) (Requirements for a permit and prohibited activities) of this local law a permit is not required for the permit regulated activities specified in column 1 of Schedule 2 in the circumstances prescribed in column 2 of Schedule 2.

## **5A Prohibited activities**

- (1) A person must not engage in a prohibited activity.

Maximum penalty for subsection (1) — 50 penalty units

- (2) For the purposes of section 5A(1) (Prohibited activities) of this local law the activities listed in column 1 Schedule 3 are prohibited activities other than in the circumstances listed in column 2 of Schedule 3.

## **Part 3 Nuisances**

### **6 Prohibition of a nuisance**

- (1) A person must not do any act or omit to do any act which causes a nuisance.

Maximum penalty for subsection (1)—

- (a) for first offence —10 penalty units.
- (b) for second offence within a 2 year period —30 penalty units.
- (c) for third or further offences within a 2 year period —50 penalty units.
- (2) Notwithstanding subsection (1), where the assessment of whether a nuisance exists is dependent on the opinion of an authorised person, the local government must issue a compliance notice before taking any other action<sup>3</sup>.

### **7 Commission of a nuisance**

For the purposes of section 6 (Prohibition of a nuisance) of this local law, a nuisance shall be deemed to exist if—

- (1) an object or material (other than a plant) on premises—
- (a) has, or in an authorised person’s opinion is likely to, fall or be carried away –
- (i) by the wind;
- (ii) by activities being carried out on the premises; or
- (iii) as a result of a lack of control measures being implemented in relation to the premises; and
- (b) has caused, or in an authorised person’s opinion is likely to cause –

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<sup>3</sup> Any compliance notice must be issued in accordance with Section 30 of *Local Law No. 1 (Administration) 2013* and is taken to have been issued under that section.

- (i) harm to human health or safety, or personal injury; or
  - (ii) property damage or a loss of amenity; or
- (2) the spillage of light from artificial illumination from a residential premises exceeds the relevant light emission standards specified in a subordinate local law; or
- (3) a plant on premises—
  - (a) is dangerous or otherwise hazardous; or
  - (b) attracts vermin; or
  - (c) is a fire hazard; or
  - (d) has caused personal injury or serious property damage (damage as a result of leaf matter, flower petals, twigs and sap does not constitute serious property damage); or
  - (e) is likely in the authorised person’s opinion to—
    - (i) be dangerous or otherwise hazardous; or
    - (ii) attract vermin; or
    - (iii) be a fire hazard; or
    - (iv) give rise to a risk of harm to human health or safety, personal injury or serious property damage (damage as a result of leaf matter, flower petals, twigs and sap does not constitute serious property damage); or
- (4) an act or omission on premises—
  - (a) has caused the breeding or harbouring of flies or vermin; or
  - (b) is likely in an authorised person’s opinion to give rise to the breeding or harbouring of flies or vermin; or
- (5) a plant or animal on a premises is a declared pest; or
- (6) a declared pest has been sold, displayed or offered for sale or supplied; or
- (7) a release on residential premises of odours, gas, fumes, smoke, dust, particles or aerosols in the authorised person’s opinion—
  - (a) has caused—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or

- (b) is likely to give rise to a risk of—
  - (i) harm to human health or safety or personal injury; or
  - (ii) property damage or a loss of amenity; or
- (8) fencing on premises—
  - (a) is dangerous fencing; or
  - (b) has caused personal injury or property damage; or
  - (c) is likely in the authorised person’s opinion to give rise to a risk of personal injury or property damage; or
- (9) a dead animal remains on premises—
  - (a) has caused harm to human health or safety or personal injury or a loss of amenity; or
  - (b) is likely in an authorised person’s opinion to give rise to a risk of harm to human health or safety or personal injury or a loss of amenity; or
- (10) a fire hazard exists on premises; or
- (11) the driving, standing, wheeling or riding of a vehicle or an animal (other than a domestic animal), on a nature strip, footpath, water channel or gutter—
  - (a) has caused personal injury or property damage; or
  - (b) is likely in the authorised person’s opinion to give rise to a risk of personal injury or property damage; or
- (12) a vehicle has been abandoned on premises or a road by the person who last drove or used it; or
- (13) a vehicle has been left unattended on premises or a road where—
  - (a) the driver of the vehicle cannot be readily located or has failed to immediately remove the vehicle when required by an authorised person to do so and the vehicle has caused in an authorised person’s opinion, or, is likely to cause in an authorised persons opinion—
    - (i) danger, hindrance or obstruction to traffic or hindrance or obstruction to the use of a road for a lawful purpose; or
    - (ii) harm to human health or safety or personal injury; or
    - (iii) property damage or loss of amenity.; or
- (14) a wasp nest, bee hive (other than a bee hive to which the *Biosecurity Act 2014* applies) or other insect nest on premises—

- (a) has caused personal injury or property damage; or
  - (b) is likely in an authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (15) a fire has been lit and maintained in the open air on premises in a residential area except where the fire—
- (a) has been lit to cook food in or on a gas, wood or coal fire, barbeque or hangi and does not cause a nuisance pursuant to subsection (7); or
  - (b) has been authorised under the *Fire and Emergency Services Act 1990*; or
  - (c) only involves the lighting of a match, cigarette lighter, candle, lamp, blow torch or other such device or the use of a bee smoker; or
- (16) there exists on premises a hole, well, excavation or other place which—
- (a) has caused personal injury or property damage; or
  - (b) is likely in an authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (17) the aggregation or accumulation of any object or material on premises is in the reasonable opinion of an authorised person unsightly when viewed from any point outside the premises; or
- Example of paragraph (17)—*  
Unsightly objects or materials include discarded or disused machinery, rusted or broken down cars, bottles, containers, general rubbish, garden waste or similar objects or materials.
- (18) vegetation on a premises is overgrown to the extent that -
- (a) in the reasonable opinion of an authorised person it has seriously affected the visual amenity of a premises or surrounding area; or
  - (b) in the reasonable opinion of an authorised person it is likely to harbour reptiles or vermin; or
- (19) a person parks or stores an unregistered or damaged vehicle or allows an unregistered or damaged vehicle to be parked or stored in a residential area and in an authorised person's opinion the vehicle has caused or is likely to cause a loss of amenity to the area; or
- (20) a person discharges or deposits waste water or other fluid onto adjoining or proximate land or road, or otherwise interferes with or allows waste water or other fluid to escape such that it impacts upon adjoining or proximate land or road; or

- (21) a person does an act or omission specified in a subordinate local law that will give rise to a risk of—
  - (a) harm to human health or safety or personal injury; or
  - (b) property damage or a loss of amenity; or
- (22) in the opinion of an authorised person or the local government—
  - (a) a person does an act or makes an omission with the intention of causing a loss of amenity for neighbouring premises; and
  - (b) the act or omission results in a loss of amenity for neighbouring premises; or
- (23) a person places, throws or otherwise discharges a stone, bottle or other object onto or over a road or other premises; or
- (24) a person paints, repairs, alters or maintains a vehicle on a road, except for minor maintenance in the event of an emergency.

## **8 Exclusion from liability**

A person does not commit an offence against section 6 (Prohibition of a nuisance) of this local law if—

- (a) the nuisance is authorised or required in the performance of an express duty, express power or an approval under—
  - (i) the *Biosecurity Act 2014*; or
  - (ii) the *Environmental Protection Act 1994*; or
  - (iii) the *Fire and Emergency Services Act 1990*; or
  - (iv) the *Stock Route Management Act 2002*; or
  - (v) the *Transport Operations (Road Use Management) Act 1995*; or
  - (vi) the *Public Health Act 2005*; or
  - (vii) the *Land Act 1994*; or
  - (viii) the *Plumbing and Drainage Act 2018*; or
  - (ix) the *Building Act 1975*; or
  - (x) the *Planning Act 2016*; or
  - (xi) the *Workplace Health and Safety Act 1995*; or
  - (xii) the *Food Production (Safety) Act 2000*; or

- (xiii) another Act (including a local law); or
- (b) the act or omission is specified in a subordinate local law not to be a nuisance.
- (c) an approval has been obtained permitting an activity which would, but for the conditions of the approval, constitute a nuisance.

## **Part 4 Waste containers**

### **9 Placement of waste containers outside property boundaries**

- (1) The owner or occupier of premises where domestic or commercial waste is produced must —
  - (a) not place any waste containers outside the property boundary earlier than the day before the day of collection; and
  - (b) bring all waste containers within the property boundary no later than the day after the day of collection; and
  - (c) not place any waste containers in a manner that is likely, in an authorised person's opinion, to cause —
    - (i) harm to human health or safety, or personal injury;
    - (ii) property damage or a loss of amenity; or
    - (iii) a traffic nuisance.

Maximum penalty — 10 penalty units.

- (2) In relation to domestic waste it is a defence to a breach of, or non-compliance with, subsection (1) if the owner or occupier has a reasonable excuse.

*Example*

An example of reasonable excuse for domestic waste may include a resident is absent for personal or family reasons; or a resident is absent on business on work related activities.

## **Part 5 Shopping trolleys**

### **10 Definitions for Part 5**

In this Part —

**retail premises** means the entire area owned, leased or utilised by a retailer including the area which is provided for the use of customers, including any car parking area, pedestrian walkways, common areas within a shopping centre or such other area specified by the local government by resolution.

**retailer** means any person who in connection with a retail or wholesale business owns, leases or otherwise makes shopping trolleys available for use by customers and includes any on-site or designated agent which provides the shopping trolleys for use by customers.

**shopping trolley** means a cart or wheeled basket used primarily for the carriage of goods by customers while on or in the retail premises.

**trolley containment system** means a wheel lock system or such other alternative system as Council may by subordinate local law prescribe to prevent shopping trolleys being removed from a retailer's premises, and to facilitate the return of the shopping trolleys to a designated location within the retail premises.

**wheel lock system** means a disabling device which makes the trolley inoperable, including by locking the wheels of the shopping trolley, if it is removed from or within a certain distance of a retail premises.

**impoundment notice** means a notice stating—

- (a) that the retailer's shopping trolley or shopping trolleys to which the notice relates have been impounded; and
- (b) that the retailer is required to claim the shopping trolley or trolleys; and
- (c) the period of not less than 14 days within which the shopping trolley or trolleys must be claimed ; and
- (d) that it is an offence not to claim an impounded shopping trolley within the period stated in the notice; and
- (e) that if the shopping trolley or trolleys are not claimed within the period stated in the notice that each shopping trolley is forfeited to the local government which may dispose of the shopping trolley or trolleys; and
- (f) the prescribed fee for claiming each shopping trolley.

**collection notice** means a notice stating —

- (a) that the retailer's shopping trolley or shopping trolleys to which the notice relates have been found outside the retail premises; and
- (b) the location at which the shopping trolley or trolleys have been found; and

- (c) the period of not less than 2 working days within which the shopping trolley or trolleys must be collected and removed by the retailer; and
- (d) that it is an offence not to collect and remove a shopping trolley to which the notice relates within the period stated in the notice.

## **11 Shopping trolleys to remain within retail premises**

- (1) A retailer must ensure that all of the shopping trolleys which the retailer provides for its customers remain within the retail premises.

Maximum penalty - 10 penalty units

- (2) It is a defence to a proceeding for a contravention of subsection (1) for the retailer to prove that it took all reasonable measures to ensure that the shopping trolley remains within the retail premises.

*Examples of reasonable measures may include development and implementation of a trolley containment system.*

- (3) A retailer must implement a trolley containment system —
  - (a) if the number of shopping trolleys owned, leased or otherwise made available to customers by that retailer exceeds the number prescribed by subordinate local law; or
  - (b) if otherwise prescribed by subordinate local law.

Maximum penalty - 50 penalty units

- (4) The local government may resolve to exempt a retailer from implementing a trolley containment system on such conditions it considers appropriate.

## **11A Leaving or taking shopping trolleys outside retail premises**

A person must not take a shopping trolley from retail premises or leave a shopping trolley at a place outside retail premises unless –

- (a) the person takes or leaves the trolley with the consent of the owner of that trolley; or
- (b) the person has a reasonable excuse.

Maximum penalty—20 penalty units

## **12 Identification of shopping trolleys**

- (1) A retailer must display the following information on each shopping trolley—
  - (a) the name of the retailer;

- (b) contact details, including a telephone number to report shopping trolleys found or abandoned outside of the retailer's premises; and
  - (c) any other information prescribed by subordinate local law.
- (2) The information must be—
- (a) legible;
  - (b) conspicuously displayed; and
  - (c) permanently affixed and not easily removed.

Maximum penalty - 10 penalty units

### **13 Impoundment and collection notices**

- (1) If a shopping trolley is found in a public place other than the retail premises then the local government may —
- (a) seize and impound the shopping trolley and give an impoundment notice to the retailer; or
  - (b) give the retailer a collection notice.
- (2) An impoundment notice or a collection notice may relate to one or more shopping trolleys.

### **14 Claiming or collecting a shopping trolley**

- (1) A person claiming an impounded shopping trolley within the period stated in an impoundment notice must—
- (a) prove ownership or right to possession to the local government's satisfaction;
  - (b) sign a release, in the approved form, which releases the local government, an authorised person or other person acting in accordance with a local law from any claim or action for conversion or damages; and
  - (c) pay the prescribed fee.
- (2) It is an offence for a retailer to fail to claim a shopping trolley referred to in an impoundment notice given under section 13(1)(a) within the period stated in the notice.

Maximum penalty for each offence under subsection (2) - 50 penalty units

- (3) It is an offence for a retailer not to collect and remove each shopping trolley referred to in a collection notice given under section 13(1)(b) within the period sated in the notice.

Maximum penalty for each offence under subsection (3) - 50 penalty units

- (4) To avoid doubt, a failure to claim or collect each of the shopping trolleys referred to within an impoundment notice or collection notice within the period stated in the notice constitutes a separate offence.

## 15 Disposal of trolleys

- (1) The local government may dispose of any impounded shopping trolley not claimed within the period stated in an impoundment notice in accordance with section 41 (Confiscated goods) of *Local Law No. 1 (Administration) 2013*.
- (2) The retailer of a shopping trolley impounded or disposed of under this local law will have no cause of action for damages, conversion or otherwise against the local government, an authorised person or other person acting in accordance with a local law.

## Part 6 Smoke free areas

### 16 Definitions for part 6—

In this part—

***smoke free area*** means an area or areas declared in a subordinate local law to be a smoke free area.

***smoke*** has the meaning in the *Tobacco and Other Smoking Products Act 1998*.

***no smoking signs*** means a sign in the form and with the content prescribed by subordinate local law.

### 16A No smoking signs

- (1) The local government may place and maintain no smoking signs at the main entrances to smoke free places.
- (2) It is not material to the commission of an offence under sections 17 (No smoking in a smoke free area) or 18 (Direction) that a person was not aware of the sign in subsection (1).

### 17 No smoking in a smoke free area

A person must not smoke in a smoke free area.

Maximum penalty - 10 penalty units

## 18 Direction

- (1) An authorised person may give a person smoking, or that the authorised person reasonably believes has been smoking, in a smoke free area, a verbal direction to stop smoking or not to smoke in the area.
- (2) A person must comply with a verbal direction of an authorised person given under subsection (1).

Maximum penalty - 20 penalty units

- (3) Any direction given under subsection (1) is in addition to any other action that may be taken by the local government or authorised person under this or any other local law.<sup>4</sup>

## Part 6A Graffiti

### 18A Graffiti

- (1) This section shall not apply to —
  - (a) public art commissioned on a commercial basis by or with the consent of the owner of the premises; or
  - (b) public art on a wall or structure in a public place designated for its legal application.
- (2) If any building or other structure is marked with graffiti an authorised person may give a written notice ("**graffiti removal notice**") to the owner or occupier of the land on which the building or structure is erected requiring the owner or occupier to remove the graffiti within 14 days of the notice being given.
- (3) If the graffiti is marked on a construction site hoarding erected beyond the boundary of the property on which the construction site is located, the graffiti removal notice may be given to the owner or occupier of the land on which the construction site is located.
- (4) If the graffiti is marked on a billboard or billboard structure, the graffiti removal notice may be given to the owner of the billboard requiring the billboard owner to remove the graffiti within 14 days of the notice being given.
- (5) A graffiti removal notice may be given by post or by personal service.

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<sup>4</sup> For example the *Environmental Protection Act*, section 440D provides the general offence of littering which would apply to the disposal of cigarette butts.

- (6) The recipient of a graffiti removal notice must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

## **Part 7 Subordinate local laws**

### **19 Subordinate local laws**

- (1) The local government may make a subordinate local law with respect to—
- (a) when a permit is not required for undertaking a permit regulated activity pursuant to section 5 (Requirement for a permit) of this local law; and
  - (b) light emission standards for the purposes of section 7(a) (Commission of a nuisance) of this local law; and
  - (c) an act or omission that is a nuisance pursuant to section 7(21) (Commission of a nuisance) of this local law; and
  - (d) an act or omission that is not a nuisance pursuant to section 8(b) (Exclusion from liability) of this local law; and
  - (e) a trolley containment system pursuant to section 10 (Definitions for part 4) ; and
  - (f) the number of shopping trolleys pursuant to section 10 (Definitions for part 4); and
  - (g) information to be included on shopping trolleys pursuant to section 10 (Definitions for part 4); and
  - (h) areas declared as a smoke free area pursuant to section 11 (Definitions for part 5); and
  - (i) a fence as a dangerous fence pursuant to the Schedule (Dictionary— definition of dangerous fence)) of this local law; and
  - (j) a place specified as a footpath pursuant to the Schedule (Dictionary— definition of footpath) of this local law; and
  - (k) activities that are permit regulated activities pursuant to the Schedule (Dictionary— definition of permit regulated activity) of this local law; and
  - (l) a plant or animal as a declared pest pursuant to the Schedule (Dictionary— definition of declared pest) of this local law; and

- (m) a thing as a fire hazard pursuant to the Schedule (Dictionary—definition of fire hazard) of this local law;

## **Part 8 Transition, Savings and Repeals**

### **20 Repeals**

The following Local Laws are repealed —

- (a) *Local Law No.8 (Control of Pests) 2005*, gazetted 20 May 2005;
- (b) *Local Law No.9 (Entertainment Venues) 1999*, gazetted 18 June 1999;
- (c) *Local Law No. 10 (Health and Safety) 1999*, gazetted 13 August 1999;
- (d) *Local Law No. 18 (Control of Nuisances) 1998*, gazetted 27 November 1998;
- (e) *Local Law No. 22 (Water Supply) 1999*, gazetted 18 June 1999;
- (f) *Local Law No. 23 (Telecommunications Cabling) 1997*, gazetted 5 December 1997;
- (g) *Local Law No. 28 (Spray Painting) 1999*, gazetted 18 June 1999;
- (h) *Local Law No. 29 (Temporary Homes)*, gazetted 19 May 2000;
- (i) *Local Law No. 45 (Construction of Dams) 1999*, gazetted 18 June 1999;
- (j) *Local Law No. 51 (Private Railways) 1999*, gazetted 18 June 1999; and
- (k) *Interim Local Law No. 1 (Smoke Free Areas) 2013*, gazetted 22 March 2013.

### **21 Existing Permits**

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a licence regulated activity under this local law is taken to be a holder of a permit under this local law and *Local Law No. 4 (Permits) 2013* to operate that activity.

## Schedule 1 Dictionary

### Section 3

**abandoned vehicle** includes an unregistered vehicle parked on a local government controlled area or road.

**approval** has the meaning given in *Local Law No. 1 (Administration) 2013* and includes all conditions of consent, permission, permit, licence, authorisation or approval.

**authorised person** means a person authorised by the local government under *Local Law No. 1 (Administration) 2013* to exercise the powers of an authorised person under this local law.

**camping ground** has the same meaning as in the planning scheme.

**caravan park** has the same meaning as in the planning scheme.

**cemetery** means a place for disposing of human remains by—

- (a) burial;
- (b) cremation; or
- (c) placement in a columbarium, mausoleum or vault.

**damaged vehicle** means a vehicle which is in a condition which renders it unable to be used readily on a road.

**dangerous fencing** means any of the following —

- (a) a razor wire fence;
- (b) a barbed wire fence adjoining a local government controlled area or road;
- (c) an electric fence adjoining a local government controlled area or road; or
- (d) a fence specified in a subordinate local law.

**declared pest** means a plant or animal declared to be a pest by a subordinate local law.

**disturbance of human remains** includes to move, remove, relocate, exhume or otherwise interfere with human remains.

**establishment or occupation of a temporary home** means the erection, construction, installation, positioning or placement of a structure used or intended for temporary use as a place of residence but does not include—

- (a) a residential structure authorised under the Planning Act; or

- (b) a residential structure declared to be prohibited development or assessable development under the Planning Act and no development permit exists to authorise the use or construction of the structure; or
- (c) the establishment or the occupation of a temporary home on or in an approved or dedicated camping ground or caravan park; or
- (d) the establishment or occupation of a temporary home on or in a part of the local government area excluded by subordinate local law.

*Examples –*

- *a caravan;*
- *a car, bus, van or other vehicle used, or intended for use, as a place of residence;*
- *a tent;*
- *a prefabricated structure used, or intended for use, as a place of residence;*
- *a structure designed to be readily assembled and disassembled and used, or intended for use, as a place of residence.*

**fire hazard** means anything that because of its flammable or combustible nature, its position, or its quantity, exposes premises or other property (such as plant, equipment or chattels) to a significant risk of damage or destruction by fire and includes anything that is declared under a subordinate local law to be a fire hazard.

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

**local government controlled area—**

- (a) means land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road; and

*Examples of local government controlled areas—*

- *parks, reserves and recreational areas*
- *conservation parks*
- *cemeteries*
- *local government operated library, including mobile libraries*
- *local government Chambers and local government offices*
- *jetties.*
- *a pedestrian mall*

- (b) includes part of a local government controlled area.

**noise** includes vibration of any frequency, whether emitted through air or another medium.

**occupier** of premises means the person who has the control or management of the premises.

**park** means a local government controlled area which the local government has resolved be set apart for as a park or for recreation or environmental purposes.

**permit regulated activity** means—

- (a) an activity which is specified as a permit regulated activity or nuisance in this local law; or
- (b) an activity which would ordinarily be prohibited by this local law or subordinate local law unless authorised by a permit; or
- (c) an activity which would ordinarily be prohibited by this local law or subordinate local law unless authorised by a permit, but for which a local law or subordinate local law specifies that a permit is not required.

**Planning Act** means the *Planning Act 2016* (Qld) and includes the predecessor legislation to that Act.

**planning scheme** means the planning scheme made or amended from time-to-time under the Planning Act.

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

**prohibited activity** means the activities set out in Schedule 3.

**public place** - see the Act, section 125(5).

**residential area** includes areas comprising predominantly residential development and land (other than *roads*), that is situated in one or more of the following zones or other similar designation under a Structure Plan under the planning scheme –

- (a) within the Urban Areas—
  - (i) Large Lot Residential Zone;
  - (ii) Residential Low Density Zone;
  - (iii) Residential Medium Density Zone;
  - (iv) Character Areas - Housing Zone;
  - (v) Future Urban Zone;
  - (vi) Character Areas - Mixed Use Zone;
  - (vii) Business Incubator Zone;
  - (viii) Bundamba Racecourse Stables Area Zone;
  - (ix) Special Uses Zone;
  - (x) Special Opportunity Zone;
- (b) within the Rosewood Area –

- (i) Character Areas - Housing Zone;
  - (ii) Residential Low Density Zone;
  - (iii) Residential Medium Density Zone;
  - (iv) Urban Investigation Zone;
  - (v) Special Uses Zone;
- (c) within the City Centre—
- (i) Residential High Density Zone;
- (d) within the Township Areas—
- (i) Township Residential Zone;
  - (ii) Township Character Housing Zone;
  - (iii) Township Character Mixed Use Zone;
  - (iv) Special Uses Zone.
- (e) within the Springfield Structure Plan –
- (i) Community Residential Designation.
- (f) within the Rural Areas—
- (i) Rural C (Rural Living) Zone.

and includes land approved for residential development pursuant to a development approval, including a development which is recorded on the planning scheme pursuant to section 3.5.27 *Integrated Planning Act 1997*, section 391 of the *Sustainable Planning Act 2009* or section 89 of the *Planning Act 2016*.

**residential premises** means premises used for a residential use.

**residential use** means the uses included in the Residential use class under the planning scheme.

**road** means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road in respect of which the chief executive has given written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b) where that act requires such agreement.

**the Act** means the *Local Government Act 2009*.

**vegetation** includes a tree, bush, shrub, plant or grass, but does not include vegetation which is not permitted to be removed or damaged under a law of the State or Commonwealth, or under the planning scheme or any local law, either specifically or in the absence of an approval under that law, local law or the planning scheme.

**vehicle** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4, definitions.

**vermin** includes insects, rodents, ants, mosquitos, bugs, rats, snakes, termites, lice, mice, cockroaches and other similar small animals or insects.

**waste container** means a wheelie bin or other receptacle which is used for the temporary storage of refuse such as garbage, recyclables, food scraps, vegetation matter or decomposing material pending collection or removal of the refuse.

**Schedule 2** Permit regulated activities

## Section 5

<b>Column 1</b> <b>Permit regulated activities</b>	<b>Column 2</b> <b>Circumstances that do not require a permit under the Local Law</b>
Disturbance of human remains buried within or outside of a cemetery	A permit is not required for the disturbance of human remains on the order of a coroner or other lawful authority, including the local government.
Occupation of a temporary home	None prescribed

### Schedule 3 Prohibited activities

Section 5A

<b>Column 1 Prohibited Activity</b>	<b>Column 2 Circumstances in which activity not prohibited</b>
Burial or disposal of human remains outside of a cemetery.	The scattering of human cremated remains is not prohibited.
Interfering with a funeral or commemorative service being lawfully conducted in a cemetery or memorial area in the local government area	None prescribed

## Endnotes

### 1 Index to Endnotes

- 2 Date to which amendments incorporated
- 3 Key
- 4 Table of reprints
- 5 List of legislation
- 6 List of annotations

### 2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before 1 November 2019

### 3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation
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amd	= amended
ch	= chapter
def	= definition
div	= division
hdg	= heading
ins	= inserted
om	= omitted
p	= page
pt	= part
renum	= renumbered
rep	= repealed
s	= section
sch	= schedule
sdiv	= subdivision

### 4 Table of reprints

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this local law – no amendments

Reprint No.	Amending Local Law	Date of commencement
1	Local Law (Amending) Local Law No.8 (Nuisances and Community Health and Safety) 2019	01.11.2019

### 5 List of Legislation

#### Original Local Law

*Local Law No.8 (Nuisances and Community Health and Safety) 2013*

date of gazettal 5 July 2013