

City of Moreton Bay

Temporary Homes Local Law 2023

Explanatory Notes

2023 | Version 1.0



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Short title

This Local Law may be cited as the *Temporary Homes Local Law 2023*.

What is this Local Law trying to achieve and why?

Moreton Bay City prides itself on being a vibrant place where residents have a strong sense of community and where visitors can feel at home.

City of Moreton Bay's previous Local Law strictly limited the ability of residents to have family and friends visit and stay with them in caravans and other temporary homes on their properties. As a result of feedback from the community, Council recognises the need for a more flexible approach. Council wants to enable residents to use their land to support family and friends via the provision of temporary accommodation (whether for visiting or other purposes).

However, this needs to be balanced with the right of neighbours to peaceful enjoyment of their land, and the broader community's expectations with respect to safety and amenity. On that basis, Council has created a Local Law that aims to meet the needs and concerns of individual residents by allowing short-term accommodation in temporary homes on private properties, whilst preserving safety and amenity in line with community expectations.

The Council's previous Local Law relating to temporary homes was contained in *Local Law No. 1 (Administration) 2011*, which also dealt with a wide range of other matters. To make the Local Laws easier to understand and navigate, Council has adopted a Local Law that deals solely with the occupation of temporary homes. In doing so, it brings all the local law rules relating to temporary homes (including assessment and approval processes, review processes and offences) into one place.

How will the Local Law achieve those aims?

The Council's previous Local Law dealing with temporary homes was focused on allowing a person to occupy a temporary home:

- whilst they were building a permanent home on the same property; or
- where they were carrying out building work on a permanent residence on the same property that made the residence temporarily unfit for occupation.

While this Local Law continues to allow occupation of caravans in these circumstances via approval, it also allows for individuals or families to occupy temporary homes (e.g. caravans) on another person's property for a short period of time without the need for approval (*e.g. if they are*

visiting family on holidays or otherwise in need of a short-term, affordable housing option) if they meet the minimum requirements set by Council.

(1) As of right occupation of a temporary home for longer period

Under the previous Local Laws, a person or family group was only permitted to camp on someone else's property for a maximum of 4 days at a time. Council considers this was extremely limiting, as it meant, *for example*:

- *having extended family stay in a caravan on your property for school holidays was not allowed; and*
- *people were not given sufficient opportunity to support family and friends who find themselves in exceptional circumstances (e.g. in between rental properties or at risk of homelessness).*

This Local Law allows a person or family to occupy a caravan (or other vehicle fit to be used as a temporary residence) on another person's property for up to 42 days in any given 52-week period for any reason, without needing Council's approval (subject to minimum requirements). This could be either 42 consecutive days, or multiple shorter periods throughout the year that add up to 42 days or less. The 52-week period does not have to be a calendar year, but commences from the first day of occupation of a temporary home on the allotment. Minimum requirements set by Council are necessary to ensure that the occupation is done in a manner which minimises impacts on safety and amenity. This also gives effect to the overwhelming community support Council received in consultation on the Local Law, to allow diverse short-term housing options.

(2) Occupation by approval when building or renovating

Under this Local Law, a person can apply to Council to establish or occupy a temporary home (caravan) for up to 6 months if they are building or substantially renovating a permanent home. Under the previous Local Law, the temporary home could be a converted shed or caravan. As building regulations have since been introduced which specifically regulate sheds and other buildings where they are used as temporary accommodation buildings, Council no longer regulates these under a local law. This Local Law only provides for approvals to be issued for the occupation of caravans or other vehicles fit to be used as a place of temporary residence.



Who did Council seek feedback from in forming this law?

In April 2021, Council sought feedback from the community to identify key issues with the Local Law regulating temporary homes and invited recommendations on how those issues could be addressed. This consultation took the form of a public survey, as well as invitations to relevant peak body organisations and state departments. Council reviewed the responses and identified a key issue with the previous Local Law, being that the community sees a need for more temporary affordable housing options to be made available to residents.

In July 2021, targeted consultation on this issue occurred via a second public survey and further invitations to the Department of Communities, Housing and Digital Economy and the Department of Development, Infrastructure, Local Government and Planning. An overview of the community feedback on the issue is provided below.

Temporary Homes		
Survey question	Responses received	Outcome
Should Council allow people to reside in temporary homes (e.g. caravans) at other peoples' properties for short periods of time?	624	Yes = 90.5% No = 7.7% Unsure = 1.8%

The key recommendation arising from the consultation, which has been incorporated into the Local Law, is to make the regulations less restrictive to facilitate short-term housing options.

Plain English explanations of each section of the Local Law

Note: The relevant sections of Local Law No. 1 (Administration) 2011 (which deal with temporary homes) will be referred to throughout this section as '**the 2011 Local Law**'.

Part 1 - Preliminary

Division 1 - Introductory provisions

Section 1 - Short title

This section establishes the short title of this Local Law.

Division 2 - Object and achievement of Local Law

Section 2 - Object

This section sets the broad context and scope for each provision in the Local Law. The content of these provisions must be consistent with the object of this Local Law, which seek to balance residents being able to provide safe temporary accommodation for family and friends on their properties, with the need to preserve amenity and environment for the surrounding community.

This aim did not form part of the 2011 Local Law, the focus of which was on enabling people in rural and rural-residential areas to occupy temporary homes whilst they were building or renovating on their own properties. However, having regard to the overwhelming community support, Council considers this an integral aim for this Local Law. Council acknowledges that this needs to be balanced with the rights of other members of the community to peaceful enjoyment of their own properties.

Section 3 - How object of Local Law is to be achieved

This section sets out how the object of the Local Law will be achieved. This includes:

- setting out the circumstances in which short-term occupation of temporary homes is allowed without approval, and enabling Council to prescribe minimum requirements that these temporary homes must comply with (to ensure consistency with the object of the Local Law); and
- regulating the circumstances in which a person may apply for approval to establish or occupy a temporary home.

Division 3 - Interpretation

Section 4 - Definitions

This section states that the dictionary in the Schedule defines particular words used in the Local Law.

Section 5 - Temporary home

This section defines the term '**temporary home**' and amends the meaning from the 2011 Local Law. It includes a tent or vehicle fit to be used as a place of temporary residence, but no longer

includes structures such as sheds (which are now regulated by building legislation where they are being used as temporary accommodation buildings). **‘Vehicle’** is defined to mean a car, campervan, caravan, motorhome, bus or trailer on wheels that is a registered vehicle.

Section 6 - Occupation of a temporary home

This section defines the term **‘occupation of a temporary home’** to make it clear that the local law:

- only applies to temporary homes established and occupied on private land (Camping on public land is regulated under the *Camping on Public Land Local Law 2023*);
- does not regulate temporary homes in camping grounds or caravan parks, as these are regulated by other laws and agreements; and
- does not regulate temporary homes that are unoccupied and merely being stored on private land.

Division 4 - Operation of Local Law

Section 7 - Relationship with other Acts

This section affirms that this Local Law does not interfere with, or derogate from the *Local Government Act 2009 (Local Government Act)* or any other laws (local, state or federal) regulating:

- the use or development of land;
- buildings and other structures;
- plumbing and drainage;
- public health and safety; or
- environmental management and protection; or
- residential and rooming accommodation.

This means that, while the temporary home itself may be self-assessable, or approved by Council, under this Local Law, if there is another law which sets requirements or imposes obligations on a person with respect to the occupation of a temporary home, these requirements still need to be complied with. *For example, the Environmental Protection Act 1994 makes it an offence for a person to cause environmental nuisance. This could, for example, take the form of noise or odour generated by a temporary home.*

Laws regulating the use or development of land & buildings and other structures

Nothing in this Local Law is intended to establish an alternative development process and any obligation or requirement imposed by or under this Local Law does not involve an assessment of development. To the extent that the occupation of a temporary home constitutes assessable development as that term is defined in the *Planning Act 2016*, that use ought to be assessed pursuant to the development process in that Act. This Local Law should not be relied on to regulate any activity dealt with, or that could have been dealt with, under a development approval, an existing land use right.

However, this Local Law can regulate matters relating to the occupation of temporary homes to the extent that it is not assessable development under the *Planning Act 2016*.

The *Building Act 1975* and *Building Regulation 2021* form part of the regulatory framework that governs building work in Queensland. They set out the types of building work that must obtain building approval under the Act, and the safety and structural requirements applicable to different types of buildings and structures. A person seeking to establish or occupy a temporary home

must comply with any relevant requirements under the *Building Act* and *Building Regulation* where relevant to their temporary home.

Laws regulating plumbing and drainage

The *Plumbing and Drainage Act 2018* regulates the manner in which waste can and cannot be disposed of. This could include waste produced by occupants of a temporary home.

Laws regulating environmental management and protection and health and safety

The *Environmental Protection Act 1994 (EP Act)* imposes a duty on all persons to prevent and minimise environmental nuisance or harm. This could be in the form of contaminants, noise, waste etc. This duty extends to all persons involved in the establishment or occupation of a temporary home. Council has powers under the EP Act to investigate, fine and prosecute persons for causing environmental nuisance, contravening noise standards and committing offences relating to water contamination amongst other matters.

Residential tenancy and rooming accommodation

The *Residential Tenancies and Rooming Accommodation Act 2008 (RTRA Act)* imposes obligations on lessors and tenants where a tenant occupies a moveable dwelling. The RTRA Act may apply notwithstanding that the occupation of a temporary home is self-assessable under this Local Law. See for example, section 47 of the RTRA Act regarding short tenancies of movable dwellings. See also section 31 of the RTRA Act as it relates to premises used for holidays.

Part 2 - Temporary homes that do not require approval

Section 8 - Self-assessable temporary homes

This section sets out Council's power to, by subordinate law, prescribe minimum requirements for the occupation of a temporary home, which if complied with, make the occupation of the temporary home self-assessable. This means that if a person complies with the minimum requirements prescribed by Council, they do not need Council's approval to occupy the temporary home. These minimum requirements are aimed at ensuring consistency with the object of the Local Law. *They may include, for example:*

- *The specific type of temporary home being regulated (i.e. caravan or tent);*
- *A limit on the length of occupation of the temporary home; or*
- *Restrictions around the siting and occupation of the temporary home aimed at minimising amenity impacts for adjoining neighbours.*

It is an offence if you occupy a temporary home but do not comply with the minimum requirements prescribed under this section (see section 27), unless you have an approval under part 3.

The minimum requirements prescribed by the Subordinate Local Law are set out in the table below, along with an explanation for each requirement.

Minimum requirements for vehicles (e.g. caravan)	
Minimum Requirements	Reason for requirements
<p>Occupancy</p> <p>(a) Occupancy is limited to the number of persons the vehicle is designed to accommodate; and</p> <p>(b) No fee or charge is paid for the occupation of a temporary home.</p>	<p>Paragraph (a) is aimed at ensuring that the designed or intended occupancy of a home is not exceeded, for safety reasons (<i>e.g. 6 people are not crammed into a 2-person caravan</i>).</p> <p>Paragraph (b) is to ensure that occupation of a temporary home complies with the object of the Local Law to regulate non-commercial occupation of temporary homes. This minimum requirement limits occupation on another person's property to circumstances where a family or friend is visiting the permanent residents, or where the permanent resident is providing short-term accommodation to a family or friend in need.</p>
<p>The allotment</p> <p>(c) Only 1 temporary home is to be occupied on the allotment at any given time;</p> <p>(d) A permanent dwelling is situated on the allotment and permanently occupied at all times whilst the temporary home is being used as a place of residence; and</p> <p>(e) The allotment contains only a single detached dwelling and no secondary dwellings.</p>	<p>Paragraph (c) is to ensure that residents are not inadvertently establishing a camping ground or caravan park on their allotment by allowing occupation of multiple temporary homes at the same time and to also achieve the object of the Local Law.</p> <p>Paragraph (d) is to ensure that a person cannot establish and occupy a caravan on a vacant allotment.</p> <p>Paragraph (e) is to limit the occupation of temporary homes to allotments that only have 1 permanent residence, taking into consideration the need to manage amenity and other impacts for the surrounding community.</p>
<p>Timeframe for occupation</p> <p>(f) The occupation of any temporary home on the allotment is not undertaken, cumulatively, for more than 42-days in a 12-month period.</p> <p><i>Examples for paragraph (f)—</i></p> <ul style="list-style-type: none"> • <i>A person may occupy a temporary home for 42 consecutive days on an allotment; or</i> • <i>An owner of an allotment could allow one family to occupy a</i> 	<p>Paragraph (f) sets a maximum time limit on occupation of a temporary home. This maximum timeframe is 42 days in a 12-month period.</p> <p>Council considers this a reasonable 'as-of-right' timeframe, having regard to the needs and expectations of the community (<i>e.g. to allow occupation for holiday visits and as short-term housing</i>) and the desire to minimise impacts on surrounding neighbourhood amenity.</p>

<p><i>temporary home on the property for 2 weeks in March, a person to occupy for 2 weeks in August, and 2 friends to occupy for 2 weeks in the following February. The owner cannot allow the different groups of people to occupy for 42 days each in a 52-week period.</i></p>	<p>The 42-day limit attaches to the allotment, such that the owner of an allotment cannot allow the occupation of any temporary home on their allotment for more than 42-days in a 52-week period.</p>
<p>Consent</p> <p>(g) Occupation of the temporary home is undertaken with the consent of the owner of the allotment.</p>	<p>Paragraph (g) is to ensure that a person does not establish, or attempt to establish, and occupy a temporary home on someone else's allotment without their consent.</p>
<p>Setbacks</p> <p>(h) The temporary home is sited in accordance with the following setbacks from the front, rear and side boundaries of the allotment, measured from the outermost projection of the temporary home—</p> <ul style="list-style-type: none"> (i) On a residential allotment—1.5 metres; or (ii) On a rural allotment or rural residential allotment—the greater of 4.5m, or the distance required to ensure the temporary home is fully contained within the development footprint; and <p>(i) The temporary home is set back at least 1.8 metres from the permanent dwelling on the allotment, measured from the outermost projection of the temporary home to the external wall or veranda posted of the permanent dwelling.</p>	<p>Paragraphs (h) and (i) are aimed at ensuring sufficient setbacks between the temporary home, the permanent residence and the neighbouring properties, from both a safety and amenity perspective. They are also informed by relevant building and planning legislation. Paragraph (h) refers to a setback from the front, rear and side boundaries. The intention is for the setback to be from every boundary of the property. Reference to 'front, rear and side' has been included for the avoidance of doubt.</p>
<p>Facilities and waste</p> <p>(j) The permanent dwelling, or a domestic outbuilding of the permanent dwelling, has sanitary and laundry facilities that each occupant of the temporary home can access and use;</p> <p>(k) If the temporary home is fitted with sanitary or laundry facilities—all waste from the sanitary and laundry facilities is contained within the temporary home, regularly collected and disposed of in</p>	<p>Paragraph (j) is to ensure that the occupants of the temporary home have access to a shower, toilet and sink for washing clothes for the duration of the occupation. This can either be using the facilities in the permanent dwelling, or if there is an outbuilding on the allotment, the occupants can use those facilities.</p> <p>Paragraphs (k), (l) and (m) are to ensure that any waste material generated by the occupation of the temporary home (e.g.</p>

<p>accordance with any applicable laws;</p> <p>(l) Any waste material, including greywater, solid sewage mass, compost or cassette waste from portable toilets or the like, generated from occupation of the temporary home is stored, collected and disposed of in accordance with applicable laws;</p> <p>(m) The permanent dwelling is provided with an adequate means of waste disposal and sanitation to ensure that reasonable standards of health and hygiene can be maintained for the duration that the temporary home is occupied on the allotment; and</p> <p>(n) An adequate source of potable water is available at the permanent dwelling to each occupant of the temporary home.</p>	<p>sewerage, grey water) is disposed of in accordance with any applicable laws to ensure health and safety, and prevent damage to the environment. <i>For example, section 74 of the Plumbing and Drainage Act 2018 sets out obligations on the owner of premises to ensure waste and water from a toilet is discharged in a particular manner (e.g. to an on-site sewerage facility or sewerage system for the area).</i></p> <p>Paragraph (n) is to ensure the occupants of the temporary home have access to safe drinking water for the duration of their occupation.</p>
<p>Notification to the local government</p> <p>(o) The owner or occupier of the permanent dwelling must give written notice of the commencement of occupation of the temporary home to the local government and the written notice must—</p> <ul style="list-style-type: none"> (i) be given within 7 days after the occupation of the temporary home commences; (ii) be in the form prescribed by the local government; and (iii) certify that the occupation of the temporary home complies with the requirements of this Local Law. 	<p>Paragraph (o) requires the owner or occupier of the permanent dwelling (on the allotment where the temporary home is proposed to be occupied) to notify Council of the occupation. This requirement is important to enable Council to monitor and enforce compliance with the timeframe for occupation (42 days).</p>

Minimum requirements for tents	
Minimum requirements	Reason for requirements
<p>(a) Occupation is for a continuous period of not more than 96 hours; and</p> <p>(b) Occupation is undertaken by—</p> <p style="padding-left: 40px;">(i) an individual or family group at the invitation of the resident of the permanent dwelling on the allotment; or</p> <p style="padding-left: 40px;">(ii) Scouts Australia, Guides Australia, Army Cadets, Navy Cadets, Air Force Cadets, Boys and Girls Brigade, sporting clubs or schools.</p> <p><i>Note: To comply with these minimum requirements, a person is required to comply with paragraph (a), and must also comply with either paragraph (b)(i), or (b)(ii) but not both.</i></p>	<p>Paragraphs (a) and (b) retain an exemption for short-term camping by a family, or community groups such as scouts, sporting clubs and schools on private land. While community groups often utilise public land for temporary occupation, this Local Law recognises that in some circumstances, private land may be utilised.</p>

Part 3 - Approvals for the occupation of a temporary home

Division 1 - What this part is about

Section 9 - Overview

This section sets out the matters dealt with in part 3.

Division 2 - Approvals

Subdivision 1 - Application process

Section 10 - Need for approval

This section provides that it is an offence to occupy a temporary home without an approval under this Local Law, unless certain circumstances apply. *For example:*

- *A person occupies a self-assessable temporary home under section 8; or*
- *The person is authorised by another law to establish or occupy the temporary home.*

The purpose of this provision is to stop people from occupying temporary homes without Council being able to regulate the temporary home and impose appropriate conditions to protect health, safety, amenity and the environment.

Council can only grant an approval for the occupation of a temporary home under this Local Law where a person is building or substantially renovating a permanent home and seeks to live in a temporary home on the same land for the duration of the building work or renovations. The land must be a minimum of 3000m², to ensure that the temporary home does not create adverse impacts for adjoining neighbours. An approval is required in these circumstances to ensure that:

- Council is aware of the temporary home;
- temporary homes are occupied in compliance with appropriate standards;
- impacts on environment and amenity are minimised; and
- Council can take appropriate compliance and enforcement measures in relation to the temporary home.

Section 11 - Making an application

This section partly retains section 8 of the 2011 Local Law with respect to temporary home. It sets out the way in which an application for approval needs to be made to Council and what the application must be accompanied by. Under the 2011 Subordinate Local Law, Council imposed several application requirements, including mandating extensive documents and materials to accompany an application. In this Local Law, Council has aimed to achieve more flexibility, removing excessive application requirements so that only essential documents are required. The intention of this amendment is to ensure the community has a simple, straightforward application process to navigate.

Subdivision 2 - Timeframes for deciding applications

Section 12 - Timeframe for deciding applications when no further information is needed

This section sets out the timeframe within which Council must decide a properly made application, where no further information is required from the applicant. This timeframe may be extended where both parties agree.

Previously, Council did not have a set time within which it had to decide an application to establish or occupy a temporary home. However, Council recognises that timeframes provide accountability and keep the decision-making process progressing for both parties.

Section 13 - Timeframe for deciding applications when further information is needed

This section sets out the timeframe within which Council must decide a properly made application where Council requires further information from the applicant to make a decision. Under this section, Council can make an information request to the applicant and the applicant must respond within the timeframe stated in the section. Council then has further time to consider this information and make a decision. If the further information is not provided by the applicant within the timeframe, Council can still decide the application. The purpose of this section is to allow the parties to request and provide further information necessary for Council to properly assess and decide the application. *For example, if an applicant proposes to live in a temporary home while they renovate a permanent home, Council may seek further information in relation to the estimated date of completion for the renovations.*

Section 14 - Timeframe for dealing with applications that are not properly made

This section applies where Council receives an application that is not properly made. It requires Council to advise the applicant in writing that the application is not properly made. Following this, Council is not required to take any further action. The consequence of this section is that the applicant will need to make a fresh application under section 11. This provision is intended to

ensure applications are being properly made and that Council is not required to assess and decide an application if there is insufficient information to do so.

Subdivision 3 - Deciding an application

Section 15 - Deciding an application

This section requires Council to decide an application by either approving it, approving it subject to conditions or refusing the application. Council may refuse the application where the occupation of the temporary home cannot be undertaken in a manner consistent with the object of the Local Law.

If there are risks that need to be mitigated, Council can approve the application but impose conditions to ensure the approval is consistent with the object of this Local Law. See section 18 regarding the conditions that may be imposed on an approval.

If it is not possible to condition an approval in a way which sufficiently mitigates risks or ensures the object of this Local Law, Council can refuse the application.

For example, the occupant must site the temporary home at the rear of the property to minimise amenity impacts for adjoining neighbours. If it is not possible to condition the temporary home in a way which sufficiently mitigates risks or ensures the object of the Local Law, Council can refuse the application.

When Council makes a decision under this section, it must provide a notice of the decision to the applicant. This means the applicant may apply to review the decision under section 44. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary Schedule of this Local Law.

Section 16 - Effect of failure to decide application on time

This section provides that if an application is not decided by Council in the timeframes specified in sections 12 or 13 of this Local Law, or such further period as agreed to by the applicant, the application is taken to be refused. This means that an applicant cannot occupy the temporary home in the absence of Council's approval, even if the time in which the decision should have been made has passed. This ensures that temporary homes cannot be occupied unless Council has properly assessed an application (with the exception of self-assessable temporary homes under section 8). If a decision is taken to be refused because Council did not make a decision on time, the applicant will need to re-apply. Where an applicant reapplies, the timeframes for deciding an application will re-commence.

Section 17 - Third-party certification

This section retains section 12 of the 2011 Local Law, which gives Council the power to accept evidence from a qualified third-party that a particular application requirement is met. It also enables Council to specify (by Subordinate Local Law):

- individuals or organisations that are considered to be third-party certifiers; or
- particular qualifications that individuals or organisations must have to be considered third-party certifiers under the Local Law.

The purpose of this section is to enable Council to rely on external expertise in assessing certain application requirements. This may assist Council's consideration of the application.

Section 18 - Permitted conditions

Under section 15, Council may approve an application subject to conditions. Council may condition an approval to mitigate risks and to ensure an approval is undertaken in a manner consistent with the object of the Local Law. Section 18(1) provides that any condition imposed on

an approval must relate to the object of this Local Law. This differs from the approach in the 2011 Subordinate Local Law, which imposed onerous mandatory conditions on approvals. This approach was in-flexible, which sometimes made it difficult to achieve the best outcomes for both the community and Council. This new section gives Council greater flexibility to impose tailored, purpose-based conditions. *For example, Council may impose a condition that specifies where the temporary home must be situated on the land, to minimise amenity impacts for adjoining neighbours.*

Section 19 - Term of approval

This section specifies that an approval is valid for the term specified by Council in the approval, provided it does not exceed 6 months. This section gives Council some flexibility to determine an appropriate length for an approval, having regard to the object of the Local Law and how long proposed renovations or construction of a permanent home are expected to take. However, it caps approvals under this Local Law at 6 months. If a person needs to occupy a temporary home for longer than 6 months, for example due to delays with building or renovating their permanent home, they will need to seek approval under the *Planning Act 2016*. An approval for a further period under the Local Law would not be available to an applicant (see section 21, below).

Subdivision 4 - Administering approvals

Section 20 - Definitions for this subdivision

This section defines a *‘show cause notice’*.

Section 21 - Renewal and extension of approval

This section provides that an approval holder cannot apply to renew their approval.

However, where the term of an existing approval is less than 6 months, this section provides approval holders with flexibility to extend their approval, provided the overall timeframe for occupation of the temporary home does not exceed 6 months. *For example, if an existing approval was issued for 4 months, but the applicant requires an additional 2 months due to building delays, Council may grant an extension for the additional 2 months under this Local Law.*

Council considers that occupation of a temporary home for a period up to 6 months (maximum term of approval under this Local Law) can be sufficiently dealt with by a Local Law (and will be accommodated by Council’s Planning Scheme). However, it is more appropriate that the planning scheme regulate the occupation of a temporary home in excess of 6 months, having regard to the impacts and the duration of those impacts.

An application to extend an approval under this Local Law must be submitted before the expiry of the existing approval (subsection (2)).

Council must decide an extension application by either approving it, approving it with amended conditions or refusing the application. Factors which Council may consider in deciding an application include the approval holder’s history of compliance with approval conditions and the object of this Local Law. Council has discretion to determine the term of extension, provided the total length of occupation of the temporary home does not exceed 6 months.

Existing approvals will remain in effect for different periods of time depending on the outcome of an application. These timeframes take into consideration the applicant’s right to seek review if Council refuses the extension application. However, once the applicant exceeds the 6-month maximum period for occupying a temporary home (even if the review process is still underway), they can no longer lawfully occupy a temporary home under this Local Law. If they need to occupy the temporary home for longer than 6 months, they may be required to make an application under the *Planning Act 2016* to do so (if the prolonged occupation constitutes assessable development). If the prolonged occupation does not constitute assessable development, a fresh application under the local law will be required.

When Council makes a decision under this section, it must provide a notice of the decision to the applicant. This means the applicant may apply to review the decision under section 44. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary schedule of this Local Law.

Section 22 - Transfer of approval

This section provides that an approval to occupy a temporary home is not transferable.

Section 23 - Approval holder may apply to amend conditions

This section retains section 16 of the 2011 Local Law. It allows an approval holder to apply to Council to amend the conditions of an approval. This section recognises that circumstances may change and allows Council the flexibility to amend approval conditions to respond to those changes and enable the approval holder to continue occupying their temporary home.

Council must decide an amendment application by either granting or refusing the application, having regard to the object of this Local Law and the approval holder's history of compliance with approval conditions.

When Council makes a decision under this section, it must provide a notice of the decision to the applicant. This means the applicant may apply to review the decision under section 44. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary Schedule of this Local Law.

Where an amendment is made at the request of the approval holder, Council can amend the approval without having to follow the process in section 24.

Section 24 - Local government may amend, suspend or cancel approval

This section allows Council to amend, suspend or cancel an approval in certain limited circumstances. *This includes, for example, where the approval holder has failed to comply with the approval.*

Before making a decision, Council must provide the approval holder with a show cause notice. This gives the approval holder an opportunity to explain in writing why Council should not amend, suspend or cancel the approval, as proposed. *For example, the approval holder may have a reasonable excuse for not complying with a condition of an approval.*

An approval holder does not have to make a submission in response to the show cause notice and may waive their right to do so. An approval holder may choose to do this in circumstances where they consent or agree to the proposed action (*for example, Council's proposal to amend conditions to mitigate risk of environmental harm* (see subsection (4))). In that case, Council does not need to wait for the time stated in the show cause notice to pass before it makes a decision under subsection (6).

Where a submission is made by the approval holder, Council must consider the submission and then decide whether a reason to amend, suspend or cancel the approval still exists. If a reason no longer exists, Council will not take further action, meaning the existing approval remains in effect. If a reason still exists, Council can take the action proposed in the show cause notice. However, if Council proposed to cancel the approval, it is open to Council to either amend, suspend or cancel the approval. This allows Council to consider the submissions made and determine whether amendment or temporary suspension of the approval would be more appropriate than a cancellation.

When Council makes a decision under this section, it must provide a notice of the decision to the approval holder. This means the approval holder may apply to review the decision under section

44. The requirements for a decision notice are set out in the definition of **decision notice** in the dictionary Schedule of this Local Law.

This section is not intended to restrict Council's power to amend, suspend or cancel an approval under other sections of the Local Law, such as through an immediate suspension section 25 or a stop order under section 37.

Section 25 - Procedure for immediate suspension of approval

This section retains section 19 of the 2011 Local Law, which gives Council the power to immediately suspend an approval. Council recognises there are certain urgent circumstances which make it necessary for the occupation of a temporary home to immediately cease.

For example, where the continued occupation poses an urgent and serious risk of environmental harm.

While this may impact the approval holder, it is intended to be used only where there is an urgent and/or serious need. The suspension can only operate for a limited period of time, until the risk is minimised, or Council decides to either amend, suspend or cancel the approval. As such, this provision is intended as a temporary measure while Council decides how to proceed with an approval.

Under this section, Council is required to give the approval holder both a suspension notice and a show cause notice. The show cause notice invites the approval holder to make written submissions to Council, as to why Council should not proceed to permanently amend, suspend or cancel the approval. This gives the approval holder an opportunity to demonstrate why permanently amending, suspending or cancelling the approval would be unjust. Council may then decide to either amend, suspend or cancel the approval, or alternatively lift the suspension. If Council lifts the suspension, the existing approval continues.

Part 4 - Offences and enforcement

Division 1 - What this part is about

Section 26 - Overview

This part outlines:

- further offences relating to this Local Law;
- the enforcement mechanisms that can be utilised by the local government;
- offence proceedings in the Magistrates Court; and
- defences for offences against this Local Law.

Division 2 - Offences

Section 27 - Failure to comply with minimum requirements

This section makes it an offence if a person is occupying a self-assessable temporary home (i.e. a temporary home that does not require approval) but fails to comply with the minimum requirements prescribed by subordinate law. The power to prescribe minimum requirements (see section 8) enables Council to ensure that self-assessable temporary homes are occupied in a manner that ensures safety and minimises impacts on amenity and the environment. This section aims to ensure that any risks posed by the occupation of a self-assessable temporary home are minimised and deter occupants from ignoring the prescribed minimum requirements by imposing penalties for non-compliance.

Section 28 - Failure to comply with conditions of approval

This section makes it an offence if a person occupying a temporary home under this Local Law fails to comply with their approval, including the conditions provided for in their approval. The power to impose conditions (see sections 15 and 18) enables Council to ensure the temporary home is occupied in a manner that ensures safety and minimises impacts on amenity and the environment. This section aims to ensure that any risks posed by occupation of a temporary home are minimised and deter those who are occupying a temporary home from ignoring the conditions imposed on their approvals, by imposing penalties for non-compliance.

Section 29 - Providing false or misleading information

This section makes it an offence for a person to give information that they reasonably know or ought to know is false or misleading in relation to this Local Law. This aims to ensure the community is aware of their obligations to provide correct and truthful information to Council and to deter the community from providing false or misleading information, through penalties. False or misleading information could result in Council making a decision that is not consistent with the object of this Local Law, or community expectations.

Section 30 - Threatening an authorised person

This section retains the offence in section 21 of the 2011 Local Law, which makes it an offence to threaten, insult or use abusive language to an authorised person. The intention of this provision is to protect the safety of authorised persons and enable them to perform their roles and responsibilities under the Local Law in a safe and effective manner. If a person commits an offence under this section, an authorised person can issue them with a penalty infringement notice. Given the seriousness of this offence, the maximum penalty has been increased from 20 penalty units to 50 penalty units

Section 31 - Attempts to commit offences

This section provides that a person who attempts to commit an offence under the Local Law also commits an offence. This means that even if a person unsuccessfully attempts to commit an offence, the person has committed the offence of attempting to commit an offence. The 'attempt' offence is not intended to operate, or be capable of operating, in respect of all offences. The offence of 'attempt' will only apply to those offences where it is possible to attempt the offence. In other words, an 'attempt' cannot reasonably and sensibly apply to that which is not capable of being attempted. To illustrate, to avoid doing something is not attempting not to do the thing; it simply is not doing the thing.

An attempt to commit an offence will most likely be capable of occurring, and being identified, where the offence involves:

- the doing of a positive act;
- the person taking steps with the intention to perform or otherwise carry out the positive act (and whether or not they are all the steps necessary to carry out the offending act); or
- an intervening event (not being an act necessary to perform the positive act) such that the person does not do the offending positive act.

The maximum penalties which apply to the offence of attempt under this section depend on and will be half the penalty that applies to the offence attempted.

For example, if a person attempts to breach a condition of an approval, the maximum penalty for contravening an approval (under section 28) is 50 penalty units. The maximum penalty for the attempt offence will therefore be 25 penalty units.

Section 32 - Liability of third parties

This section provides that a person involved in a contravention of the Local Law (*for example, by aiding a contravention*) also commits an offence.

Division 3 - Powers of the local government

Section 33 - Appointment of authorised persons

This section establishes an additional requirement for how certain qualified persons are to be appointed as authorised persons under this Local Law.

Under section 202 of the *Local Government Act 2009*, Council's CEO may appoint certain qualified persons to be authorised persons for specific Local Laws. *For example, a Council employee who is a qualified person may be appointed as an authorised person for this Local Law.*

Section 33 provides that the document that appointed an authorised person must state this Local Law, or the provisions of this Local Law, for which the person is appointed as an authorised person.

This section ensures that appropriately qualified persons are authorised to take certain actions under the Local Law, and that the extent and limitations of an authorised person's powers are documented, transparent and well defined.

Section 34 - Directions generally

This section provides that an authorised person may give an oral compliance direction to a person contravening this Local Law. The direction may require a person to cease any conduct or activity which contravenes this Local Law or take other such action so the person does not contravene this Local Law. It is an offence for a person to not comply with such a direction.

Section 35 - Production of records

This section retains section 25 of the 2011 Local Law. Where an authorised person has entered a property under section 132 of the *Local Government Act 2009* to determine if conditions of an approval are being complied with, they may ask the occupier to produce records for inspection that are required to be kept under an approval. The purpose of this section is to assist authorised persons with their enquiries, to ensure approval holders are complying with their obligations under this Local Law. Because this power is linked to the power of entry under section 132 of the *Local Government Act 2009*, the definitions of '**occupier**' and '**property**' in this section are consistent with that Act.

Section 36 - Compliance notice for contravention of Local Law

This section retains in part section 26 of the 2011 Local Law and applies if a person contravenes this Local Law. An authorised person may give the person who contravenes this Local Law, or who is involved in the contravention, a compliance notice. A contravention of this Local Law includes a contravention of a minimum requirement for a self-assessable temporary home, or contravention of any approval condition. A compliance notice must contain those matters stated in subsection (4), including the timeframe to remedy the breach and the consequences of failing to do so. It is an offence not to comply with a compliance notice.

An authorised person may 'give' a compliance notice by delivering it to the person personally, or by leaving it at, or sending it to the person's place of residence or business. See *Acts Interpretation Act 1954*, section 39.

The purpose of this section is to enable an authorised person to give a person responsible an opportunity to stop or remedy a breach of the Local Law (including an approval condition), if appropriate to do so.

Compliance notices allow Council to work with the person to ensure temporary homes are being occupied in a lawful manner. This aligns with Council's general enforcement approach, emphasising educating the community first, and escalating to stronger methods of enforcement as required. Non-compliance with a notice may result in Council amending, suspending or cancelling an approval, or issuing fines or commencing legal proceedings.

Where a compliance notice is given to the owner of a property and requires specific action to be taken in relation to that property, then it will constitute a remedial notice under the *Local Government Act 2009*, chapter 5, part 2, division 2. This means that if the person fails to take the action specified in the notice, Council can, in certain circumstances, enter the property and take the specified action. If the amount Council properly and reasonably incurs in taking the action required under the notice is not paid by the person who failed to take the action, Council may, if the debt is not paid within 30 days of Council having given a person a notice of the amount of such a debt, recover the amount, as a debt, as if the debt were overdue rates under the *Local Government Act 2009*, section 142.

When an authorised person makes a decision to issue a compliance notice under this section, they must provide a notice of the decision to the applicant. This means the person given the compliance notice may apply to review the giving of the notice under section 44. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary Schedule of this Local Law.

Section 37 - Stop orders

This section retains, in part, section 29 of the 2011 Local Law, which allows Council to issue a stop order to a relevant person requiring them to immediately cease occupying a temporary home, where the temporary home or its occupation either:

- (a) poses,
- (b) exacerbates, or
- (c) inhibits Council's ability to respond to,

those urgent and/or serious threats specified in subsections (2)(a) and (b).

This section applies to both self-assessable temporary homes (i.e. temporary homes where an approval is not required provided certain minimum requirements are met) and temporary homes established via approvals. Council can stop a person from occupying an approved or self-assessable temporary home for a period of no more than 5 business days.

The intention of this provision is to act as an interim measure to immediately stop a person from continuing to either occupy the temporary home, giving Council the opportunity to:

- attend to the urgent and/or serious matters giving rise to the stop order; or
- where an approval has been issued, commence the process for suspending the approval under section 25 and possibly cancelling it under section 24 (if required).

It is an offence not to comply with a stop order issued under this section, which may trigger other enforcement measures.

If a self-assessable temporary home meets the minimum requirements prescribed under this Local Law, but after the expiry of the stop order the risks are still present at the site, Council may need to take other action to address the risks.

This section applies only where a person has an approval to occupy a temporary home or is doing so in compliance with the minimum requirements for a self-assessable temporary home. If an authorised person wishes to put an immediate stop to a person's activity that is otherwise a breach of the Local Law, it may be more appropriate for them to give the person an oral direction under section 34, or to issue a compliance notice requiring the person to cease the offending activity immediately.

Section 38 - Local government power to seize and cost recover

This section expands on section 28 of the 2011 Local Law and provides for circumstances in which an authorised person may seize and impound an item brought onto or erected or installed in, on, across, under or over land within the local government area in a manner that contravenes the Local Law. This section gives an authorised person the power to seize the item in two circumstances:

- where immediate removal of the item is necessary in the interest of public health or safety, or to prevent environmental harm, property damage or loss of amenity; or
- where a compliance notice has been issued to the owner to remove the item and the owner has failed to do so. In this circumstance, Council will need to wait for the review period for the compliance notice to expire, before seizing the item.

Council has the power to recoup the cost of seizing and impounding an item under this section, as a debt from the person responsible for it being on the land.

The term '*item*' is defined in the dictionary Schedule of the Local Law.

Section 39 - Dealing with impounded items

This section retains in part section 37 of the 2011 Local Law, which sets out:

- how a person can reclaim an impounded item;
- Council's powers to dispose of impounded items in certain circumstances; and
- how any proceeds from the sale or disposal of an impounded item must be dealt with.

A person can reclaim an impounded item by applying, providing proof of ownership of the item and paying the prescribed fee to Council. However, Council has powers to immediately dispose of items that are perishable or where the item is of negligible commercial value. This allows Council to immediately dispose of items where they will not reasonably keep (e.g., food), or where the commercial value is insignificant. Whether an item is perishable or of negligible commercial value will be determined by the reasonable opinion of the authorised officer. Items that are of negligible commercial value may include, for example, items that are dilapidated or damaged (e.g., fire or water damage) and cannot reasonably be reused or are not fit for re-use for public health reasons.

If an impounded item (other than an item that is perishable or of negligible commercial value) has not been reclaimed within 20 business days of the item being impounded, Council may:

- if in the reasonable opinion of the authorised person, the commercial value of the impounded item is so slight that it would not cover the reasonable cost of seizing, impounding and selling the impounded item, the item can be disposed of as the chief executive officer directs. The reasonable costs can be determined having regard to the costs associated with seizing, impounding and selling an item by auction, including an officer's time in facilitating this; or
- sell the item through a public auction. If the item does not sell at auction within a reasonable time, the item can be disposed of as the CEO directs (*for example, by private sale, giving away the item or destroying the item*).

In relation to the disposal of impounded items, Council's liability is limited. Council will only be liable under this section, where it is proved that Council has not acted in good faith or has been negligent. This section aims to strike a balance between:

- Council's need to manage and responsibly maintain land and roads within the local government area (by seizing and impounding items);
- Council's desire to have transparent processes for managing seized and impounded items; and
- ensuring the owners of the items are not unreasonably deprived of their property and are given a reasonable opportunity to reclaim it before it is forfeited.

The term '*item*' is defined in the dictionary Schedule of the Local Law.

Division 4 - Offence proceedings in Magistrates Court

Section 40 - Enforcement orders

This section gives the Magistrates Court discretion to make an enforcement order requiring a person to take certain action within a specified period. The purpose of this section is to give the presiding Magistrate power to order a person to comply with a direction to secure compliance with this Local Law. This is particularly useful where a person has previously been given opportunities to comply by Council officers but has refused to do so (*for example, a person has been issued with a compliance notice to remove a temporary home from private land, but has failed to do so*). This section also provides for further potential consequences that can be imposed by the court on the person if they fail to comply with the enforcement order.

Section 41 - Joint and several liability

This section retains section 32 of the 2011 Local Law. This section provides that where this Local Law imposes responsibility on multiple people that are either engaged in the activity or joint owners/occupiers of a place, each person can be held liable, with or separate from the other. The aim of this section is to ensure any and all responsible parties can be held accountable via compliance and enforcement mechanisms under this Local Law.

Division 5 - Defences

Section 42 - Defence of reasonable excuse

This section retains section 30 of the 2011 Local Law. It provides a defence for a person charged with an offence against this Local Law, where they can prove they had a reasonable excuse for the contravention. This defence is typically used where extenuating circumstances or circumstances outside a person's control have caused the contravention of the Local Law.

For example, it is a defence to any breach or non-compliance of any provision contained in this Local Law if a person was not criminally responsible in accordance with the Criminal Code, chapter 5.

Section 43 - Owners and occupiers must ensure compliance with this Local Law

This section provides that owners and occupiers of places must ensure that an offence under this Local Law is not committed in or on a place. Failure to do so means the owner or occupier also commits an offence. The intent of this provision is to ensure persons take responsibility for activities occurring in places they own or occupy.

This section retains the defence in section 31 of the 2011 Local Law, which provides a defence for an owner or occupier of a place where the offence occurred, to prove that they did not have knowledge of the act/omission which led to an offence, and they could not have reasonably prevented it. Council recognises that there are some circumstances where it may not be reasonable or fair to hold the owner or occupier of a place responsible for an offence. *For example, if a temporary home was unlawfully occupied on someone's property without the person's knowledge or consent.*

The words '*place*', '*owner*' and '*occupier*' are defined in the dictionary Schedule of this Local Law.

Part 5 - Reviewing decisions

Section 44 - Application for review

This section retains section 22 of the 2011 Local Law, which provides that a person who is given, or is entitled to be given a decision notice may apply to Council for a review of a decision. This gives the person a right to have the following decisions reviewed internally by Council:

- decisions in relation to applications (conditions imposed, refusals, etc);
- decisions in relation to changing approvals (refusal to renew, refusal to amend conditions upon request, Council decisions to amend, suspend or cancel an approval); and
- decisions to issue compliance notices.

A review application must be made within the period stated in subsection (2) and be accompanied by a statement of grounds on which the applicant seeks the review of the decision. It is important to state the grounds so that Council can properly assess the application and review the relevant decision.

This section allows Council to take a fresh look at its original decision to determine whether it was correct. Internal reviews also help Council ensure consistency in decision-making. If a person wishes to complain about any other issues that do not attract a formal review right under this Local Law, they may be able to do so through the administrative actions complaints process, which Council must administer under the *Local Government Act 2009*.

Section 45 - Review decision

This section retains section 23 of the 2011 Local Law, which sets out requirements for Council's review of a decision. Council is required to either confirm or amend the original decision or substitute another decision. It is a requirement that the review application cannot be handled by the same person who made the original decision or a less senior person, unless the original decision was made by the CEO. This is to ensure the objectivity, impartiality and fairness of the review decision.

Section 46 - Stay of operation of original decision

This section retains in part, section 24 of the 2011 Local Law, providing that a review application does not stay the original decision. This means a person remains bound by the original decision unless and until the original decision is amended or substituted by another decision. *For example, if Council refuses an application for a temporary home and the applicant applies for review of that decision, Council's refusal is still valid while the review process is underway, and the person is not allowed to occupy the temporary home.*

Part 6 - Administrative provisions

Section 47 - Fees

This section retains section 35 of the 2011 Local Law. Chapter 4, part 2 of the *Local Government Act 2009* allows Council to set cost-recovery fees under a Local Law or by resolution of Council. A cost recovery fee can be, for example, a fee for an application for a temporary home or a fee for seizing property under a Local Government Act (which includes a Local Law). Where the Local Law provides for payment of a fee but does not specify the amount payable, this amount will need to be decided by resolution of Council.

The purpose of this section and the provisions of the *Local Government Act 2009* are to ensure that Council is transparent and accountable to the community in charging fees under this Local Law. Cost recovery fees cannot be more than the cost to Council of taking the action for which the fee is charged.

Subsection (2) gives Council the flexibility to determine, by resolution, appropriate circumstances for the reimbursement of a fee. *For example, where an approval is surrendered before the end of its duration, Council can resolve to give a partial reimbursement of the approval fee if considered appropriate.* Under subsection (3) the local government may, where appropriate, waive or partially remit a fee, unless specific provision to the contrary is made in a Local Law or resolution.

Section 48 - Rewards

This section retains section 33 of the 2011 Local Law and allows Council to offer a reward for information leading to conviction of a person for offences against this Local Law. This enables Council to, in appropriate circumstances, provide an incentive to the public, to provide information which can assist Council's enforcement of this Local Law.

Section 49 - Subordinate Local Laws

This section retains section 39 of the 2011 Local Law and allows Council to make Subordinate Local Laws in relation to the establishment or occupation of temporary homes. *This includes, for example, to prescribe minimum requirements that must be complied with for a self-assessable temporary home.* The purpose of this section is to define the scope of what Council can regulate by Subordinate Local Law.

Section 50 - Extrinsic material

This section enables Council to make an explanatory note (which includes this document), which can be used to assist in the interpretation of this Local Law. The explanatory note must be passed by a resolution of Council and published on Council's website. The effect of this provision is that, where the meaning of a section of the Local Law is unclear or is debated, Council can refer to the explanation of that section in this Explanatory Note (or another Explanatory Note passed by Council resolution) to try and determine the meaning of the section. The information provided in the Explanatory Note should not be treated as an exhaustive statement on the subject, but rather a tool to inform of the operation and intent behind each provision.

Section 51 - Transitional provisions

The transitional provisions for decisions made under the 2011 Local Law are all contained in the *Commercial Use of Public Land and Roads Local Law 2023 (CUPLR LL)*. The CUPLR LL repeals the 2011 Local Law and for this reason, the transitional provisions for decisions made under the 2011 Local Law, including decisions about the establishment or occupation of temporary homes, are contained in the CUPLR LL, part 7. This section 51 simply directs to reader to the CUPLR LL for the transitional arrangements.

Is this law consistent with fundamental legislative principles?

The Local Law is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below. These principles include requiring that legislation has sufficient regard to rights and liberties of individuals (*Legislative Standards Act 1992*, s 4(2)(a)).

(1) Rights and liberties dependent on administrative power only if the power is subject to appropriate review (*Legislative Standards Act 1992*, s 4(3)(a))

This Local Law operates to affect the right of people to do what they wish on their own property in terms of allowing friends and family to visit or stay in temporary homes. However, the restrictions imposed by this Local Law are necessary to ensure consistency with the object of the Local Law, namely to regulate temporary homes on private land to minimise impacts on health, safety, amenity and the environment. The law aims to balance the rights of individuals to use their own property, with the rights of neighbours to peaceful enjoyment of theirs, and to also uphold community expectations with respect to amenity, safety and environment.

The following decisions made by Council are subject to review under this Local Law:

- Decision regarding an application to establish or occupy a temporary home (section 15);
- Decision regarding an application to extend an approval (section 21);
- Decision regarding an application by an approval holder to amend conditions of an approval (section 23);
- Council's decision to amend, suspend or cancel an approval (section 24); and
- Council's decision to issue a compliance notice (section 36).

Section 21 (renewal and extension of approval) provides that Council's decision about an extension application is subject to review. However, where an extension application is refused and a review (or review application period) is on foot, the law provides that the existing approval will only remain in effect until the review decision (or expiry of the review application period), or the occupation of the temporary home reaches 6 months (if this occurs first). This means that once the occupation reaches 6 months, the existing approval will expire and the occupant will no longer be able to reside in the temporary home under the existing approval, even if the review decision (or review application period) has not been finalised. Occupation of a temporary home for longer than 6 months may constitute assessable development, which cannot be regulated by the Local Law and must be regulated by the *Planning Act 2016*. On that basis, the expiry of an approval at 6 months under section 21 (even while a review decision or period is underway) is necessary to ensure that the Local Law is not allowing a person to occupy a temporary home for longer than 6 months, as this may trigger assessable development. Where occupation beyond 6 months does not constitute assessable development, a fresh local law approval will be required. This section does not prevent a person from being able to apply for review of an extension application decision under this section.

(2) Rights and liberties dependent on administrative power only if the power is subject to appropriate review (*Legislative Standards Act 1992*, s 4(3)(a))

Section 25 gives Council power, in certain limited circumstances, to immediately suspend a person's approval to occupy a temporary home. Immediate suspension of an approval may not be

consistent with principles of natural justice. Natural justice refers to a person's right to be made aware of, and respond to, information relied on in making a decision which will adversely impact the person. Although this section allows Council to immediately suspend an approval to occupy a temporary home, Council can only do so if there is an urgent and serious threat or risk to public health or safety, or of environmental harm, property damage or loss of amenity. If Council does immediately suspend an approval to occupy a temporary home under this section, Council must give the approval holder a notice ('show cause notice') which gives them an opportunity to make written submissions to Council as to why the approval should not be suspended. Council is required to consider any written representations made before deciding upon a final course of action (*for example, whether to permanently cancel or amend the approval*).

Is this law consistent with Human Rights?

This Local Law is generally compatible the *Human Rights Act 2019* (the **HR Act**). Consideration has been given to whether the Local Law engages certain human rights under the HR Act and which rights might be relevant to the Local Law.

Council considers that property rights, protected by section 24 of the HR Act, may be limited by this Local Law. Generally, this section relates to the right to own, and not be arbitrarily deprived of property. However, Council notes this provision can extend to restrictions on the use of private property.

This Local Law limits a person's ability to occupy a temporary home (e.g. caravan) on their own land. Council considers that the limits imposed by this Local Law are reasonable and demonstrably justifiable, having regard to:

- the desire to enable residents to use their land to support family and friends via the provision of temporary accommodation (whether for visiting or other purposes);
- the right of neighbours to peaceful enjoyment of their land; and
- broader community expectations with respect to safety and amenity.

The time period for which a person can occupy a temporary home on private land is limited under this Local Law. However, Council considers this is not an unreasonable limitation of the right to property, as a person may still be able to establish and occupy a temporary home for longer periods of time, by obtaining approvals under other legislation (e.g. an approval under the *Planning Act 2016*).

