



**Temporary Homes  
Local Law 2023**

# Moreton Bay City Council Temporary Homes Local Law 2023

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# Moreton Bay City Council

## Temporary Homes Local Law 2023

### Part 1 Preliminary

#### Division 1 Introductory provisions

##### 1 Short title

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

#### Division 2 Object and achievement of Local Law

##### 2 Object

The object of this Local Law is to regulate the non-commercial occupation of temporary homes on private land within the local government area to minimise impacts on health, safety, amenity and the environment.

##### 3 How object of Local Law is to be achieved

The object of this Local Law is to be achieved by—

- (a) allowing for the occupation of a temporary home without an approval in certain circumstances; and
- (b) providing for the local government to prescribe minimum requirements for the occupation of a temporary home where no approval is required; and
- (c) prescribing the circumstances in which a person may apply for approval to occupy a temporary home; and
- (d) providing mechanisms for enforcement where there is non-compliance with minimum requirements, conditions of approval or provisions of this Local Law.

#### Division 3 Interpretation

##### Subdivision 1 Dictionary

##### 4 Definitions

The dictionary in the Schedule defines particular words used in this Local Law.

## Subdivision 2 Key concepts

### 5 Temporary home

*temporary home* means a tent or vehicle, which is fit to be used as a place of temporary residence.

### 6 Occupation of a temporary home

(1) *Occupation of a temporary home* means the occupation, or establishment and occupation, of a temporary home on private land, but does not include—

- (a) a temporary home on or in a camping ground or caravan park; or
- (b) a temporary home that is unoccupied and stored on private land.

(2) In this section—

*establishment*, of a temporary home, means the installation, positioning, placement or setting up of a temporary home on private land, for the purpose of occupying the temporary home.

## Division 4 Operation of Local Law

### 7 Relationship with other Acts

This Local Law is in addition to and does not derogate from—

- (a) any other laws that may regulate the occupation of temporary homes, including laws about—
  - (i) the use or development of land; or
  - (ii) buildings and other structures; or
  - (iii) plumbing and drainage; or
  - (iv) public health and safety; or
  - (v) environmental management and protection; or
  - (vi) residential tenancy and rooming accommodation agreements; or
- (b) any provision of the *Local Government Act 2009*.

## Part 2 Temporary homes that do not require approval

### 8 Self-assessable temporary homes

- (1) The local government may, by Subordinate Local Law, prescribe minimum requirements for the occupation of a temporary home.
- (2) The occupation of a temporary home does not require an approval under part 3 of this Local Law, if it complies with the minimum requirements prescribed under subsection (1) (*self-assessable temporary home*).

## **Part 3                    Approvals for the occupation of a temporary home**

### **Division 1            What this part is about**

#### **9            Overview**

This part details—

- (a) the circumstances in which a person may obtain approval to occupy a temporary home; and
- (b) the process for obtaining an approval.

### **Division 2            Approvals**

#### **Subdivision 1            Application process**

##### **10          Need for approval**

(1) A person must not occupy a temporary home without an approval under this part (*approval*), unless—

- (a) the temporary home is a self-assessable temporary home under section 8; or
- (b) the person is authorised under an Act to occupy the temporary home and does so in accordance with any conditions of that authorisation.

Maximum penalty— 20 penalty units.

(2) An approval may only be granted if—

- (a) the applicant proposes, within the period for which the approval is granted, to—
  - (i) erect, or convert an existing building on an allotment into a permanent dwelling; or
  - (ii) carry out building work on a permanent dwelling on an allotment that will make the dwelling temporarily unfit for occupation as a place of residence; and
- (b) the temporary home will be occupied on the same allotment as the permanent dwelling referred to in paragraph (a); and
- (c) the allotment on which the temporary home will be occupied is 3000m<sup>2</sup> or larger; and
- (d) the proposed siting of the temporary home on the allotment does not unreasonably impact on the amenity of adjoining neighbours or the general public; and
- (e) the temporary home is a vehicle.



## **11 Making an application**

- (1) An application for an approval (*application*) must be—
  - (a) made in the form prescribed by the local government; and
  - (b) accompanied by—
    - (i) the documents required by the prescribed form; and
    - (ii) the prescribed fee for the application.
- (2) The local government—
  - (a) must accept an application that the local government is satisfied complies with subsection (1); and
  - (b) may accept an application that the local government is satisfied does not comply with subsection (1).
- (3) An application that complies with subsection (1), or that the local government accepts under subsection (2)(b), is a properly made application (*properly made application*).
- (4) The local government may prescribe forms for this Local Law.

## **Subdivision 2 Timeframes for deciding applications**

### **12 Timeframe for deciding applications when no further information is needed**

- (1) This section applies if the local government—
  - (a) receives a properly made application; and
  - (b) does not require any further information in relation to the application.
- (2) The local government must decide the application within 21 business days of receiving it, or a further period agreed with the applicant.

### **13 Timeframe for deciding applications when further information is needed**

- (1) This section applies if the local government—
  - (a) receives a properly made application; and
  - (b) requires further information in relation to the application.
- (2) The local government may make an information request to the applicant within 21 business days of receiving an application, or a further period agreed with the applicant.
- (3) An applicant must respond to an information request within 10 business days of receiving it, or a further period agreed with the local government (*information request response period*).
- (4) The local government must decide the application within 21 business days of the earlier of—
  - (a) an information request response being received; or

- (b) the information request response period ending.
- (5) In this section—

*information request* means a notice to the applicant, requiring them to provide further information or documents in relation to the properly made application.

*information request response* means a response to an information request.

#### **14 Timeframe for dealing with applications that are not properly made**

If the local government receives an application which is not a properly made application, the local government must—

- (a) provide the applicant with written notice to that effect within 21 business days of receiving the application, or a further period agreed with the applicant; and
- (b) take no further action in relation to the application.

### **Subdivision 3 Deciding an application**

#### **15 Deciding an application**

- (1) The local government must, after carrying out an assessment of a properly made application, decide to—
  - (a) approve the application; or
  - (b) approve the application, but impose conditions on the approval; or
  - (c) refuse the application.
- (2) The local government may refuse an application under subsection (1)(c) if it considers that approving the application would be inconsistent with the object of this Local Law.
- (3) For a decision made under subsection (1), the local government must give a decision notice to the applicant.

#### **16 Effect of failure to decide application on time**

The local government is taken to have refused an application if the local government fails to decide a properly made application in accordance with—

- (a) section 12(2); or
- (b) section 13(4).

#### **17 Third-party certification**

- (1) In deciding an application under this part, the local government may accept the certificate of a third-party certifier as evidence about any application requirement that is mentioned in a Subordinate Local Law for this subsection.

- (2) In this section—

*application requirement* means a matter that the local government must be satisfied about, or have regard to, before granting an application for approval under this Local Law.

*third-party certifier* means—

- (a) an individual or organisation declared under a Subordinate Local Law for this paragraph as a third-party certifier for particular application requirements; or
- (b) an individual or organisation that has the qualifications prescribed under a Subordinate Local Law for this paragraph as necessary to provide a certificate about particular application requirements.

## **18 Permitted conditions**

Any condition imposed on an approval must relate to the object of this Local Law.

## **19 Term of approval**

An approval is valid for the term specified in the approval, but must not exceed 6 months.

# **Subdivision 4 Administering approvals**

## **20 Definitions for this subdivision**

In this subdivision—

*show cause notice* means a written notice stating—

- (a) the proposed action; and
- (b) the grounds for the proposed action; and
- (c) an outline of the facts and circumstances that are the basis of the grounds; and
- (d) if the proposed action is suspension of the approval— the proposed suspension period; and
- (e) that the approval holder may make written submissions within the stated reasonable time as to why the proposed action should not be taken.

## **21 Renewal and extension of approval**

- (1) Subject to subsection (2), an approval under this Local Law is not renewable.
- (2) An approval holder may, before the end of the term of an approval granted under section 15 (the *existing approval*), apply to the local government to extend the approval (*extension application*), if—
  - (a) the existing approval was granted for a term less than 6 months; and
  - (b) the extension sought would not result in the approval holder occupying the temporary home for longer than 6 months in total.
- (3) An extension application must be—
  - (a) made in the form prescribed by the local government; and
  - (b) accompanied by—

- (i) the documents required by the prescribed form; and
  - (ii) the prescribed fee for the application.
- (4) The local government may determine the term of extension.
- (5) Subdivision 2 applies to an extension application as if it were a properly made application.
- (6) The local government must, after carrying out an assessment of an extension application, decide to—
  - (a) grant the application; or
  - (b) grant the application and amend the conditions of the existing approval; or
  - (c) refuse the application.
- (7) In deciding an extension application under subsection (6), the local government may have regard to—
  - (a) the object of this Local Law; and
  - (b) whether the conditions of the existing approval have been or are being complied with by the applicant.
- (8) For a decision made under subsection (6), the local government must give a decision notice to the applicant.
- (9) The local government may amend the conditions of the existing approval under subsection (6)(b) without following the procedure in section 24.
- (10) If an approval holder makes an extension application, the existing approval remains in force until—
  - (a) if the extension application is granted, with or without amendment of the conditions— the date the extension application is granted; or
  - (b) if the extension application is refused and—
    - (i) the applicant applies for a review of the decision under part 5, the earlier of the following—
      - (A) the date the applicant is given notice of the review decision; or
      - (B) 6 months from the commencement date stated in the existing approval; or
    - (ii) the applicant has not applied for a review of the decision under part 5, the earlier of the following—
      - (A) 15 business days after the applicant is given a decision notice under subsection (6); or
      - (B) 6 months from the commencement date stated in the existing approval.

## **22 Transfer of approval**

An approval under this Local Law is not transferable.

## **23 Approval holder may apply to amend conditions**

- (1) An approval holder may apply to the local government to amend the conditions of the approval (*amendment application*).
- (2) An amendment application must be—
  - (a) made in the form prescribed by the local government; and
  - (b) accompanied by—
    - (i) the documents required by the prescribed form; and
    - (ii) a statement of the proposed amendment and reasons for it; and
    - (iii) the prescribed fee.
- (3) Sections 12 and 13 apply to an amendment application as if it were a properly made application.
- (4) The local government must, after carrying out an assessment of an amendment application, decide to—
  - (a) grant the application; or
  - (b) refuse the application.
- (5) In deciding an amendment application under subsection (4), the local government may have regard to—
  - (a) the object of this Local Law; and
  - (b) whether the conditions of the existing approval have been or are being complied with by the applicant.
- (6) For a decision made under subsection (4), the local government must give a decision notice to the applicant.
- (7) The local government may amend the conditions of the approval under this section without following the procedure in section 24.

## **24 Local government may amend, suspend or cancel approval**

- (1) This section applies if the local government is satisfied that one of the following grounds for amending, suspending or cancelling an approval exists—
  - (a) amendment, suspension or cancellation is necessary—
    - (i) for the protection of public health or safety; or
    - (ii) to prevent environmental harm; or
    - (iii) to prevent property damage or loss of amenity; or
  - (b) another approval required for the temporary home under an Act has been suspended or cancelled; or
  - (c) in occupying the temporary home, the approval holder has failed to comply with an Act; or
  - (d) the approval holder has failed to comply with—
    - (i) a direction under section 34; or

- (ii) a compliance notice; or
    - (iii) a stop order; or
  - (e) the approval holder has failed to comply with a condition of the approval; or
  - (f) the approval was granted because of a document or representation that was—
    - (i) false or misleading; or
    - (ii) obtained or made in another improper way.
- (2) Before taking action to amend, suspend or cancel an approval (***proposed action***), the local government must give the approval holder a show cause notice.
- (3) If a show cause notice is issued, the approval holder may, within a stated reasonable time of at least 15 business days after the notice is given (***stated reasonable time***), make written submissions to the local government as to why the proposed action should not be taken.
- (4) Notwithstanding subsection (3), where the approval holder consents or agrees to the proposed action, they may waive their right to provide written submissions within the stated reasonable time.
- (5) The local government must consider all submissions made in accordance with subsection (3).
- (6) If the local government decides that—
  - (a) a ground under subsection (1) no longer exists to take the proposed action, the local government must take no further action in respect of the show cause notice; or
  - (b) a ground exists to take the proposed action, the local government may—
    - (i) if the proposed action was to amend the approval— amend the approval; or
    - (ii) if the proposed action was to suspend the approval— suspend the approval for no longer than the period stated in the notice; or
    - (iii) if the proposed action was to cancel the approval— amend the approval, suspend it for a period or cancel it.
- (7) For any decision made under subsection (6), the local government must give a decision notice to the approval holder.
- (8) This section does not limit the power a local government may have apart from this section to amend, suspend or cancel an approval.

## **25 Procedure for immediate suspension of approval**

- (1) Despite section 24, the local government may immediately suspend an approval if the local government believes that the continued occupation of the temporary home by the approval holder poses—
  - (a) an urgent and serious threat to public health or safety; or
  - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (2) The local government must give a notice to the approval holder about the decision to immediately suspend the approval (*suspension notice*), together with a show cause notice about the proposed action under section 24.
- (3) The suspension operates immediately upon the notices in subsection (2) being given to the approval holder.
- (4) The suspension continues to operate until the earliest of the following occurs—
  - (a) the local government cancels the suspension; or
  - (b) the local government gives the approval holder a decision notice under section 24(7) for a decision made under section 24(6); or
  - (c) 15 business days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice; or
  - (d) 15 business days have passed since the approval holder notifies the local government that it has made its final written submissions regarding the show cause notice.

## **Part 4 Offences and enforcement**

### **Division 1 What this part is about**

#### **26 Overview**

This part outlines—

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

## **Division 2      Offences**

### **27      Failure to comply with minimum requirements for self-assessable temporary homes**

A person who occupies a self-assessable temporary home must comply with the minimum requirements prescribed under section 8.

Maximum penalty— 50 penalty units.

### **28      Failure to comply with conditions of approval**

A person must not contravene an approval.

Maximum penalty— 50 penalty units.

### **29      Providing false or misleading information**

A person must not give information in connection with this Local Law (either orally or in a document) that the person reasonably knows or ought to have known is false or misleading.

Maximum penalty— 20 penalty units.

### **30      Threatening an authorised person**

A person must not threaten, insult or use abusive language to an authorised person.

Maximum penalty— 50 penalty units.

### **31      Attempts to commit offences**

- (1) A person who attempts to commit an offence under this Local Law commits an offence.

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

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

### **32      Liability of third parties**

- (1) Any person involved in a contravention of this Local Law commits an offence.

Maximum penalty— the penalty for which any person who committed the contravention would be liable.

- (2) For subsection (1), a person involved in a contravention of this Local Law is any person who—

- (a) has aided, abetted, counselled or procured the contravention; or
- (b) has induced, whether by a threat or a promise or otherwise, the contravention; or
- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or



- (d) has conspired with another person to effect the contravention; or
- (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

## Division 3 Powers of the local government

### 33 Appointment of authorised persons

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

### 34 Directions generally

- (1) An authorised person may direct a person contravening this Local Law to—
  - (a) cease any conduct or activity which contravenes this Local Law; and
  - (b) take such action determined by the authorised person to ensure that the person does not contravene this Local Law.
- (2) A person must comply with a direction of an authorised person given under subsection (1).

Maximum penalty for subsection (2)— 50 penalty units.

### 35 Production of records

- (1) This section applies where an authorised person has entered a property under the *Local Government Act 2009* to find out whether the conditions of an approval have been complied with.
- (2) The authorised person may require the occupier of the property or another relevant person to produce for inspection records that are required by the conditions of an approval.
- (3) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty— 10 penalty units.

- (4) In this section—

*occupier of the property* includes a person who reasonably appears to be the occupier of, or in charge of, the property.

*property* has the same meaning as in the *Local Government Act 2009*.

### 36 Compliance notice for contravention of Local Law

- (1) This section applies if a person contravenes this Local Law.
- (2) An authorised person may give a notice, in writing (*compliance notice*), to—
  - (a) a person who contravenes this Local Law; or
  - (b) any person involved in the contravention of this Local Law under section 32.

- (3) The compliance notice may require a person to—
- (a) stop a contravention, if the contravention is of a continuing or recurring nature; or
  - (b) take reasonable steps necessary to stop or remedy the contravention, by the date and time specified in the compliance notice, whether or not the contravention is of a continuing or recurring nature.
- (4) The compliance notice must state the following—
- (a) the particular provision of this Local Law the authorised person believes is being, or has been, contravened; and
  - (b) briefly, how the provision of this Local Law is being, or has been, contravened; and
  - (c) the date and time by which the person must stop or remedy the contravention; and
  - (d) the reasonable steps necessary to remedy the contravention or avoid further contravention; and
  - (e) that it is an offence to fail to comply with the compliance notice; and
  - (f) the maximum penalty for failing to comply with the compliance notice.

*Examples of reasonable steps to avoid further contravention in paragraph (d)—*

- *The repetition of a specified action at stated intervals for a certain period.*
- *Stopping taking an action that is prohibited by this Local Law.*

- (5) The date and time under subsection (4)(c) must be reasonable having regard to—
- (a) the action required to stop or remedy the contravention; and
  - (b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm posed by the contravention; and
  - (c) how long the person has been aware of the contravention.

(6) The compliance notice must include, or be accompanied by, a decision notice.

(7) A person who is given a compliance notice must comply with the compliance notice.

Maximum penalty for subsection (7)— 50 penalty units.

*Note—*

*A compliance notice may be a remedial notice under the Local Government Act 2009, chapter 5, part 2, division 2.*

### **37 Stop orders**

- (1) This section applies if a relevant person is occupying—
- (a) a self-assessable temporary home; or
  - (b) a temporary home authorised by an approval.

- (2) An authorised person may give a relevant person an order to immediately stop occupation of a temporary home, if the authorised person believes that the occupation causes, exacerbates or impedes the local government's ability to respond to—
  - (a) an urgent and serious threat to public health or safety; or
  - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (3) An order under this section—
  - (a) may be given orally or in writing; and
  - (b) operates until the earliest of the following happens—
    - (i) the expiry of the period, of no more than 5 business days, specified by the authorised person when the order is given; or
    - (ii) where there is an approval— the local government immediately suspends the approval under section 25.
- (4) An authorised person must confirm an oral order in writing by the next business day following the giving of the order.
- (5) A person who receives an order under this section must comply with the order.  
Maximum penalty for subsection (5)— 50 penalty units.
- (6) This section does not affect the local government's powers under another law.

### **38 Local government power to seize and cost recover**

- (1) An authorised person may seize, by dismantling if necessary, and impound an item where the item has been brought onto or installed in, on, across, under or over land within the local government area in a manner that contravenes this Local Law, if—
  - (a) in the reasonable opinion of the authorised person, the immediate removal of the item is necessary in the interests of public health or safety or to prevent environmental harm, property damage or loss of amenity; or
  - (b) a person has not complied with a compliance notice requiring the person to remove the item.
- (2) The local government may recover the cost of action taken under this section as a debt from the person responsible for the item seized under subsection (1) being brought onto or installed in, on, across, under or over land within the local government area.

### **39 Dealing with impounded items**

- (1) This section applies where an item has been seized and impounded under section 38 (an *impounded item*).
- (2) If an impounded item is, in the reasonable opinion of an authorised person, perishable or of negligible commercial value, then the local government may

immediately dispose of it as the chief executive officer directs.

- (3) If the local government possesses an impounded item, then a person may reclaim that impounded item from the local government by—
  - (a) making a written application to the chief executive officer to reclaim the impounded item; and
  - (b) producing proof, to the satisfaction of the chief executive officer, that the person is the owner of the impounded item; and
  - (c) paying the prescribed fee for the impounding of the impounded item.
- (4) If an impounded item is not reclaimed under subsection (3) within 20 business days of the item being seized and impounded under section 38, that item is forfeited to the local government.
- (5) If an impounded item has been forfeited to the local government under subsection (4), then the local government may dispose of that impounded item—
  - (a) 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— as the chief executive officer directs; or
  - (b) by sale through a public auction; or
  - (c) if the impounded item has been offered for sale under paragraph (b) but has not been sold within a period that, in the reasonable opinion of the authorised person, is reasonable for the sale of that type of item— as the chief executive officer directs.
- (6) Where an impounded item has been sold under this section, the proceeds of the sale must be applied in order—
  - (a) firstly, towards the direct and indirect costs of the sale; and
  - (b) secondly, towards the local government in an amount equivalent to the prescribed fee for the impounding of the impounded item as if it was to be reclaimed under subsection (3); and
  - (c) thirdly, if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cth)— in payment of the amount owing under the security interest; and
  - (d) fourthly, to the former owner of the impounded item.
- (7) If no person establishes a valid claim for the amount to which the former owner of an impounded item that has been sold under this section is entitled to under subsection (6)(d) within 3 months of the date of that entitlement arising, the amount becomes the property of the local government.
- (8) Except where expressly stated, the local government incurs no liability to a person, and no person has any claim for relief or compensation against the local government, in respect of any action taken by the local government under this section or section 38, if the local government has acted in good faith and without negligence.

## **Division 4      Offence proceedings in Magistrates Court**

### **40      Enforcement orders**

- (1) After hearing proceedings for an offence against this Local Law, a Magistrates Court may make an order (an *enforcement order*) for the defendant to take stated action within a stated period.
- (2) The enforcement order may be in terms the Court considers appropriate to secure compliance with this Local Law.
- (3) An enforcement order must state the period within which the defendant must comply with the order.
- (4) An enforcement order may be made under this section in addition to the imposition of a penalty.

### **41      Joint and several liability**

- (1) Where this Local Law imposes a liability on an owner or occupier of a place, or a person engaged in a particular activity, and 2 or more persons are the owners or occupiers of the relevant place, or are jointly engaged in the relevant activity, the liability is joint and several.
- (2) This section applies both to civil liabilities and liabilities enforced by summary proceedings under the *Justices Act 1886*.

## **Division 5      Defences**

### **42      Defence of reasonable excuse**

If a person is charged with an offence involving a contravention of this Local Law, it is a defence to prove that the person had a reasonable excuse for the contravention.

### **43      Owners and occupiers must ensure compliance with this Local Law**

- (1) Except where the owner and occupier of a place is the local, State or Commonwealth government, the owner and occupier of the place must ensure that an offence is not committed in or on a place.
- (2) If an offence is committed in or on a place, the owner and occupier of the place also commits an offence, namely the offence of failing to ensure that an offence is not committed in or on the place.

Maximum penalty— the penalty for the commission of the offence in or on the place.

- (3) Evidence that an offence has been committed on a place is evidence that the owner and occupier of the place committed the offence of failing to ensure that the offence is not committed in or on the place.
- (4) However, it is a defence for an owner or occupier to prove that—
  - (a) the owner or occupier exercised reasonable diligence to ensure that an offence was not committed in or on the place; and

- (b) the offence was committed in or on the place without that person's knowledge or consent.

## **Part 5                      Reviewing decisions**

### **44      Application for review**

- (1) A person who is given, or is entitled to be given, a decision notice may apply to the local government for a review of the decision (a *review application*).
- (2) The review application must be made within 15 business days of—
  - (a) if the person is given a decision notice— the day the person receives the notice; or
  - (b) if paragraph (a) does not apply— the day the person otherwise becomes aware of the decision.
- (3) The review application must be in writing and accompanied by a statement of the grounds on which the applicant seeks the review of the decision.

### **45      Review decision**

- (1) The local government must review the original decision within 20 business days of receiving a review application and make a decision (the *review decision*) to—
  - (a) confirm the original decision; or
  - (b) amend the original decision; or
  - (c) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
  - (a) the person who made the original decision; or
  - (b) a person in a less senior office than the person who made the original decision unless that person was the chief executive officer.
- (3) The local government must, within 5 business days of the review decision being made, give the applicant notice of the decision (the *review notice*).
- (4) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.
- (5) If the local government does not give the review notice to the applicant in accordance with subsection (3), the local government is taken to have made a review decision confirming the original decision.

### **46      Stay of operation of original decision**

A review application does not stay the original decision that is the subject of the application.

## **Part 6                      Administrative provisions**

### **47      Fees**

- (1) If this Local Law provides for payment of a fee and does not itself fix the

amount of the fee, the fee is to be fixed by resolution under the *Local Government Act 2009*, chapter 4, part 2.

- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.
- (3) Unless specific provision to the contrary is made in this Local Law or resolution fixing a fee, the local government may, in an appropriate case, waive or partially remit a fee.

#### **48 Rewards**

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of a person for an offence against this Local Law.
- (2) The amount of the reward, and the conditions on which it is payable, must be decided by resolution of the local government.

#### **49 Subordinate Local Laws**

The local government may make Subordinate Local Laws—

- (a) prescribing minimum requirements for the occupation of self-assessable temporary homes under section 8; and
- (b) about any application requirement for which a third-party certifier's certificate may be accepted by the local government under section 17(1); and
- (c) declaring an individual or organisation as a third-party certifier for particular application requirements under section 17(2)(a); and
- (d) prescribing qualifications necessary for an individual or organisation to provide a certificate about particular application requirements under section 17(2)(b).

#### **50 Extrinsic material**

- (1) The local government may make an explanatory note to assist in the interpretation of this Local Law.
- (2) The local government makes an explanatory note by—
  - (a) passing a resolution to make the explanatory note; and
  - (b) publishing the explanatory note on the local government's website.
- (3) An explanatory note made in accordance with this section is declared to be a relevant document for the purposes of section 14B of the *Acts Interpretation Act 1954* (as modified by section 15 of the *Statutory Instruments Act 1992*).

*Note—*

*Pursuant to part 4, division 1 of the Statutory Instruments Act 1992, the Acts Interpretation Act 1954 (AIA) is modified so that a document declared by a Local Law to be a "relevant document" for the purposes of section 14B of the AIA is extrinsic material which may assist in the interpretation of a provision of this Local Law.*

**51 Transitional provisions**

The transitional provisions for decisions made under the repealed *Moreton Bay Regional Council Local Law No. 1 (Administration) 2011* relating to the establishment or occupation of temporary homes are set out in the *Commercial Use of Public Land and Roads Local Law 2023*, part 7.



## Schedule Dictionary

### Section 4

**Act**—

- (a) has the same meaning as in the *Acts Interpretation Act 1954*, sections 6 and 7; and
- (b) includes a local law made by the local government.

**agent** includes a contractor, assistant, driver and any other person aiding the person occupying a—

- (a) self-assessable temporary home under this Local Law; or
- (b) temporary home for which an approval has been issued under this Local Law.

**allotment** means an individual parcel or piece of land.

**amend**, for an approval, includes varying a condition, removing a condition or adding a condition.

**amendment application** see section 23(1).

**application** see section 11(1).

**application requirement** see section 17(2).

**approval** see section 10(1).

**authorised person** means a person—

- (a) appointed by the chief executive officer as an authorised person under section 202 of the *Local Government Act 2009*; and
- (b) whose document of appointment provides that they are an authorised person for this Local Law, or provisions of this Local Law.

**building** has the same meaning as in the *Building Act 1975*.

**chief executive officer** means the chief executive officer of the local government.

**compliance notice** means a compliance notice given under section 36.

**decision** means—

- (a) a decision made by the local government under sections 15, 21, 23, 24; or
- (b) a decision made by an authorised person to give a compliance notice under section 36.

**decision notice**, for a decision, means a written notice stating the following—

- (a) the decision; and
- (b) any relevant details about the decision; and
- (c) the reasons for the decision; and
- (d) that the person to whom the notice is given may apply for a review of the decision within 15 business days after the notice is given; and

- (e) how to apply for a review.

*Examples for paragraph (b)—*

- *Conditions on an approval.*
- *The date on which the decision takes effect or actions required under the notice must be taken.*

**development** has the same meaning as in the *Planning Act 2016*.

**enforcement order** see section 40(1).

**environmental harm** has the same meaning as in the *Environmental Protection Act 1994*.

**establishment**, of a temporary home, see section 6(2).

**existing approval** see section 21(2).

**extension application** see section 21(2).

**impounded item** see section 39(1).

**information request** see section 13(5).

**information request response** see section 13(5).

**information request response period** see section 13(3).

**item** means any material thing, including a building or structure or vehicle, other than an animal.

**land**—

- (a) has the same meaning as in the *Planning Act 2016*, Schedule 2; and
- (b) includes land occupied by water.

**local government** means Moreton Bay City Council.

**Local Government Act** has the same meaning as in the *Local Government Act 2009*.

**local government area** means the local government area of the local government under the *Local Government Act 2009*, including an area taken to be part of a local government area under a Local Government Act.

*Examples of areas taken to be part of a local government area—*

- *Bathing reserve.*
- *Foreshore.*

**Local Law** includes any Subordinate Local Laws made under this Local Law.

**occupation of a temporary home** see section 6.

**occupier**, of a place, means—

- (a) the person who occupies, or has the control or management of, or is apparently in charge of, the place; and
- (b) includes a person who has a lease, licence, permission, approval, right or authority to occupy the place, including under an Act.

**occupier of the property** see section 35(4).

**original decision** means a decision the subject of a review application under section 44.

**owner**, of a place, means the person for the time being entitled to receive the rent for the place or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

**place** means land, property, building, vehicle, boat or structure and includes any part of a place.

**prescribed fee** means a fee fixed by the local government under section 48 or under the *Local Government Act 2009*, section 97.

**prescribed form** means a document which the local government makes available at its administration centres or on its website for the purpose of making an application, an amendment application or an extension application under this Local Law.

**private land** means land that is not a public land or a road.

**properly made application** see section 11(3).

**property**—

- (a) for section 35— see section 35(4); or
- (b) otherwise, has the same meaning as in the *Acts Interpretation Act 1954*.

**proposed action** see section 24(2).

**public land** means the whole or part of land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road.

*Examples of public land—*

- *Parks, reserves and gazetted foreshores.*
- *Camping grounds or caravan parks on land owned or controlled by the local government.*
- *Local government swimming pools.*
- *Local government cemeteries.*
- *Council chambers and local government offices.*
- *Jetties.*
- *Canals.*

**public notice** means a notice that is published in a newspaper that is circulating generally in the local government area or on the local government's website.

**registered vehicle** has the same meaning as in the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021*.

**relevant person**, for section 37, means—

- (a) the approval holder, or an agent of the approval holder, currently occupying the temporary home; or
- (b) the person responsible for the self-assessable temporary home.

**review application** see section 44(1).

**review decision** see section 45(1).

**review notice** see section 45(3).

**road** has the same meaning as in the *Transport Infrastructure Act 1995*.

**self-assessable temporary home** see section 8.

**show cause notice** see section 20.

**stated reasonable time** see section 24(3).

**stop order** means an order given under section 37.

**structure**—

(a) has the same meaning as in the *Local Government Act 2009*; and

(b) includes a structure as defined in the *Building Act 1975*.

**suspension notice** see section 25(2).

**temporary home** see section 5.

**tent** has the same meaning as in the *Building Regulation 2021*.

**third-party certifier** see section 17(2).

**vehicle** means a car, campervan, caravan, motorhome, bus or trailer on wheels that is a registered vehicle.