

**City of Moreton Bay**

# **Events Local Law 2023**

**Explanatory Notes**

2023 | Version 1.0



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# Short title

This Local Law may be cited as the *Events Local Law 2023*.

## What is this Local Law trying to achieve and why?

With over 230 key parks and facilities, Moreton Bay plays host to a diverse and beautiful array of public and private venues across the City. City of Moreton Bay recognises that events play an important role in bringing people and communities together.

Council wants to encourage the hosting of, and attendance at events across the City, whilst ensuring that the risks associated with events are appropriately managed to ensure the safety and wellbeing of patrons, the broader community and the environment.

However, it is crucial that events are also regulated and operated in a way which appropriately considers the risks involved and allows the event to be run in a way which mitigates or alleviates those risks. On this basis, the Local Law aims to streamline the application and assessment process for events by requiring event operators to:

- Complete a risk-based assessment to determine whether the proposed event is a low, medium or high-risk event;
- Make an application to Council for approval to operate an event or events (with less onerous application requirements for low-risk events); and
- Ensure events, and activities occurring as part of events, are carried out in accordance with the requirements and conditions of an event approval.

Council has adopted a Local Law that is easy to understand and navigate. This Events Local Law brings all the rules relating to events (including assessment and approval processes, review processes and offences) into one place.

This Events Local Law provides flexibility, where the application, assessment and approval requirements can be tailored based on the nature, size, scale, impacts and risk associated with an event.

The Council's previous Local Law relating to events:

- Was contained in the *Local Law No. 1 (Administration) 2011*, which also dealt with a wide range of other matters;
- Differentiated between 'temporary entertainment events' and 'public place activities' and had a different approval process for each. 'Public place activities' covered public and private events on public land that were not for the purpose of 'entertainment' - e.g., wedding ceremonies in Council parks; and
- For 'temporary entertainment events' - did not differentiate between large and small events, or high risk and low risk events. The same application requirements and conditions applied, regardless of the scale or nature of the event. This meant that the same requirements that applied to a regional event (e.g., Kitefest) also applied to a small local event (e.g., teddy bear's picnic in a park).

To make the Local Laws easier to understand and navigate, Council has prepared a law that deals solely with events. In doing so, the Events Local Law encompasses both public events (previously temporary entertainment events) and those activities previously known as 'public place activities. In each type of event,

there is some level of risk to the community, event attendees or to Council that Council seeks to mitigate via this Local Law.

During consultation undertaken as part of the Local Law Review, numerous stakeholders raised concerns that the approval process was too onerous for smaller, lower-impact events, and that requirements and conditions of approval need to be commensurate with the size, scale, impacts and risks associated with an event. On this basis, an independent risk assessor specialising in event safety was engaged by Council to work with internal stakeholders and create an Event Screening Framework, within which the application requirements and conditions of approval could be tailored to an event based on its assessed level of risk.

# How will the Local Law achieve those aims?

This Local Law achieves its purposes by:

- empowering Council to adopt an Event Screening Framework to assess risks posed by a proposed event, which enables Council to tailor the application and approval requirements for an event based on the level of risk;
- providing a framework for approving events (an 'event approval');
- providing an exemption for small gatherings (so they do not require an event approval); and
- incorporating private events on public land under the same approval process as events on public land, to ensure risks are appropriately and effectively assessed and managed.



## (1) *Event Screening Framework*

To appropriately manage risk arising from events, Council considers that events should be subject to risk assessment. This Local Law requires Council to establish a risk framework for events and Council has tailored this framework to the type of events being held within the City and the key factors or activities occurring as part of these events (e.g., fireworks, mobile food trucks, liquor, traffic management, temporary structures, amusement devices, crowd size etc.).

The Event Screening Framework will include criteria, which will determine at what point each of these key factors or activities move from being low-risk, to medium or high-risk. *For example, in relation to waste implications for an event:*

- *if the event will produce low volumes of waste which can be removed as part of the existing infrastructure, the 'waste' activity is considered low-risk;*
- *if the event will produce a higher volume of waste and may need additional resources to remove it, the 'waste' activity is considered medium-risk; and*
- *if the event will produce an even higher quantity of waste that will require a comprehensive waste management plan to manage and potentially involve a contracted waste removal company, the 'waste' activity is considered high-risk.*

An event screening tool will take the above factors and the risk level for each activity into account and use those to calculate an overall risk score for the event (low, medium or high). The overall risk score will determine the application process that must be followed, with less onerous application requirements attaching to low-risk events. The tool is designed to be used by both Council officers and event organisers to determine what documents and information an event organiser must provide to Council as part of their event application. It also assists Council officers to impose conditions on event approvals that are tailored to the event to best manage risk.

It is Council's intention that any substantive amendment to the Event Screening Framework be based on independent advice from a risk assessment expert.

## (2) *Event approvals*

Under this Local Law, a person may operate an event if the person has an approval granted under this Local Law. A straightforward application, information request and decision-making process is established in part 3



of this Local Law and discussed in the commentary on that part below.

*(3) Exemption for small gatherings*

Under this Local Law, a person may operate certain low-risk, low-impact ‘gatherings’ without having to get an approval. These are discussed further in the commentary on part 1, division 3 below.

*(4) Private events on public land*

This Local Law incorporates private events on public land (that are not ‘small gatherings’) under the same approval process as public events, to ensure that risks are appropriately and effectively assessed and managed.

# Who did Council seek feedback from in forming this law?

In March 2021, Council sought feedback from the community to identify key issues with the Local Law regulating events 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.<sup>1</sup> Council reviewed all responses and identified one issue that was clearly prevalent for the community: the application, assessment and approval requirements for events were strict and applied to all events regardless of the size, scale or nature of the event. These requirements were too onerous for smaller, low-impact, low-risk events, and event organisers to satisfy.

In July 2021, targeted consultation on this issue occurred via a second public survey and further invitations to the relevant peak bodies and state departments. An overview of the community feedback on the issue is provided below.

Temporary Entertainment Events (aka public events)		
Survey question	Responses received	Outcome
Should Council allow certain public events to go ahead without needing a formal application, assessment, and approval process?	342	Yes = 36.5% No = 54.7% Unsure = 8.8%

The majority of respondents were of the view that events should not be allowed to go ahead without some level of application, assessment and approval process. 356 formal submissions were made to the review on events in total. Key recommendations made during consultation that have been incorporated into the Local Law include:

- a tiered, risk-based approach to assessment and approvals of events;
- flexibility in the approval process for events (e.g., simplified application and approval requirements for low-risk events compared to high-risk events); and
- reducing red tape for event operators.

<sup>1</sup> Brisbane Catholic Education, Caboolture Show Society, Dayboro Show Society, Lutheran Education Queensland, MBRIT, Pine Rivers Show Society, Redcliffe Show Society, Samford Show Society, Woodford Show Society, Department of State Development, Infrastructure and Local Government, Tourism and Events Qld, Australian Retailers Association, National Retail Association, Queensland Hotels Association, Education Queensland, Resources Safety and Health Queensland (Explosives Inspectorate), Department of Environment and Science, Maritime Safety Queensland, Queensland Fire and Emergency Service, Queensland Police Service, Workplace Health and Safety and Department of Resources. Key members of the business community were also invited to participate in a forum. These included: Bribie Island Chamber of Commerce, Commerce and Industry Redcliffe Peninsula, Pine Rivers Chambers of Commerce, Redcliffe Peninsula Chamber of Commerce, Samford District Chamber of Commerce, The Hills & Districts Chamber of Commerce, Urban Development Institute of Australia (Moreton Bay Branch), Moreton Bay Business Association, Property Council of Australia, Queensland Small Business Commissioner, SEQ Council of Mayors, Local Government Association of Queensland (LGAQ), Business and Professional Women (Caboolture), Business and Professional Women (North Lakes), Food and Agribusiness Network, MBRIT/Innovate, University of the Sunshine Coast, Queensland Tourism Industry Council, Regional Development Australia, and Moreton Maritime Alliance.

# 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 entertainment events and public place activities) 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 - Objects

This section sets the broad context and scope for each provision of this Local Law. The content of these provisions must be consistent with the objects of this Local Law, which seek to balance the desire to have events in the City, with the need to ensure the safety of the community and environment. Council wants to encourage and enable people to host events which provide entertainment and bring the community together.

The Local Law aims to:

- **Facilitate and encourage events and small gatherings** – Encouraging events and gatherings did not form part of the object of the 2011 Local Law, however Council considers this is an integral aim for this Local Law. Council recognises the invaluable role events and gatherings play in bringing people and communities together. Council wants to encourage the continuation of events which facilitate diverse interactions and experiences in our City.
- **Ensure events are properly operated and comply with appropriate standards to ensure public health and safety** – Any events open to the public or which occur in public spaces can pose safety risks for the community. Council has a responsibility to the community to ensure these risks are appropriately mitigated or managed, and that events are run in a manner compliant with safety and other industry standards.
- **Minimise impacts of events and small gatherings on the environment and amenity** – Moreton Bay is an environmentally and socially diverse City. Council recognises its responsibility to ensure that events do not adversely impact on the surrounding communities in which they are located. This includes mitigating or minimising impacts on other people and the environment.

#### Section 3 - How objects of Local Law are to be achieved

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

- the implementation of a risk-based process for assessing and approving events (i.e., Event Screening Framework); and
- giving Council officers the ability to enforce against event organisers and other people who do not comply with event approvals or the Local Law.

The risk-based assessment and approval process enables Council to reduce the red tape for event organisers in getting approval to operate an event that is deemed 'low risk', whilst ensuring the right controls are in place



for high-risk events to protect public health and safety, amenity and environment. This process will establish criteria for determining events that are considered low-risk, medium-risk and high-risk.

## Division 3 - Interpretation

### Section 4 - Definitions

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

### Section 5 - Event

This section defines **'event'** to generally include:

- temporary events open to the public and on public land; and
- temporary events open to the public and on private land; and
- temporary events that are private but on public land.

Under the 2011 Local Law, events were separated into two separate application and approval processes. Events open to the public (e.g., an annual show) were dealt with as 'temporary entertainment events'. Private events on public land (e.g., weddings or birthday parties) were dealt with as 'public place activities'. Council recognises that these events can all pose risks to the broader community and environment. By combining these under the one definition (**'event'**), the Events Local Law simplifies the law and streamlines the application and approval process for people seeking to host or operate an event in our community.

Any activities which constitute a 'small gathering' (defined in section 6 below) are not considered 'events', and do not require approval under this Local Law.

### Section 6 - Small gathering

This section defines **'small gatherings'**, which covers gatherings that are not for a 'commercial purpose' and which comply with the criteria in subsections (a) to (h). If a gathering does not comply with these criteria, it will likely require an approval under this or another Local Law.

A **'commercial purpose'** is defined in section 6(2), however it is not an exhaustive definition. The definition states that a commercial purpose does not include a gathering organised and operated by an incorporated not-for-profit entity for the purpose of fundraising. An entity may be incorporated, for example, under the *Corporations Act 2001* (Cth) or the *Associations Incorporation Act 1981* (or equivalent legislation in other States). Reference to an 'incorporated not-for-profit' includes an incorporated charity. If the not-for-profit entity is unincorporated, then any fundraising by the entity is taken to be for a commercial purpose. A 'commercial purpose' generally refers to any activity that makes money.

The effect of this section, when read with the definition of 'event' in s 5 and s 13 'need for approval', is that a person can gather without needing to obtain an approval. It also allows for that gathering to incorporate an element of fundraising (which is typically a commercial use of public land e.g., a sausage sizzle) if the fundraising is undertaken by an incorporated not-for-profit entity. If the fundraising is independent of any small gathering, then it is regulated by the *Commercial Use of Public Land and Roads Local Law 2023 (CUPLR LL)*, s 12(2). An approval under the CUPLR LL is not required where the commercial use of public land and roads is undertaken by an incorporated not-for-profit entity for the purpose of fundraising (provided the requirements in section 12(2)(c) of the CUPLR LL are complied with).

Examples of small gatherings are included below:

- **social purpose** - a child's birthday party in a local park where only existing site facilities (e.g., Council barbeques and playground) will be used.
- **educational purpose** - information booths and sessions (e.g., Council's 'Pets in Public Spaces' information sessions)
- **political purpose** - Councillors holding Q&A sessions in public places
- **gathering operated by a charity for the purpose of fundraising** - small low-impact fundraising

activities

Small gatherings are limited in attendance to 50 people, to minimise potential risks to public health and safety.

If the small gathering is on public land, you are limited to using only 'permitted structures'. '**Permitted structures**' is defined in s 6(2) to mean up to 2.3 metre by 6 metre (or under) marquees that are weighted correctly but not staked or pegged into the land. Council considers this may be necessary for shade, and that these marquees are generally safe, provided the manufacturer's requirements to weight the marquee down correctly are followed.

A small gathering is also limited to a gathering that does not include the use of any amusement devices or amusement rides. Examples of an amusement device or an amusement ride provided in the definition include a jumping castle, inflatable or collapsible slide and a ferris wheel. These are examples only and are not an exhaustive list. The use of an amusement device or an amusement ride at a public event will require an approval under this Local Law.

The criterion that the gathering does not require access to Council's water supply or electricity does not prevent a person from using existing facilities on the site (e.g., public toilets and built-in barbecues). Council supports the community's use of these facilities.

Council considers that an approval is not required for small gatherings as defined in this section, because they:

- generally, pose minimal risk to the public or environment; and
- are consistent with Council's and the community's expectations of how public parks and spaces are to be used.

## Section 7 - Event operator

This section defines '**event operator**' to mean the person or entity responsible for the entity and operation of an event.

## Division 4 - Operation of Local Law

### Section 8 - Relationship with other Acts

This section clarifies that this Local Law is intended to be consistent with and in addition to those laws regulating the use or development of land (e.g., the *Planning Act 2016*) and management of events including laws regulating:

- buildings and other structures;
- public health and safety;
- work health and safety;
- maritime safety;
- environmental protection and management;
- food and liquor safety and licensing;
- fireworks, pyrotechnics and other explosives;
- requirements for emergency services; and
- peaceful assembly.

This means that, while the event itself can ordinarily be approved by Council under this Local Law, if there is another law which sets requirements or imposes obligations on a person relevant to the event, these requirements still need to be complied with.

*For example, the Food Act 2006 regulates food safety standards and imposes requirements for certain businesses to hold a license if they are selling and supplying food. These requirements still apply to food vendors that are selling or supplying food at an annual show. As another example, any buildings or structures used or installed as part of an event will need to comply with any relevant requirements*

and standards under the *Building Act 1975*.

### **(1) Laws regulating the use or development of land**

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 an event constitutes 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 an event to the extent that it is not a matter that can be regulated under the *Planning Act 2016*. For example:

- Public liability insurance; or
- Reinstatement of public land and road following the end of an event.

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 this Act, and the safety and structural requirements applicable to different types of buildings and structures. An event operator must comply with any relevant requirements under the *Building Act 1975* and *Building Regulation 2021* where relevant to their event.

### **(2) Laws regulating public health and safety, and work health and safety**

The *Public Health Act 2005 (PH Act)* aims to protect and promote public health by mitigating public health risks (i.e., things that can potentially be hazardous to human health). For example, issues with the quality of drinking water supplied by the event operator, or the presence of designated pests at an event due to inadequate waste disposal procedures. One of the ways in which the PH Act aims to mitigate these types of risks is by designating 'local government public health risks', which Councils are responsible for dealing with and enforcing.

The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* focuses on ensuring the health and safety of workers and workplaces, by the minimisation or elimination of risks arising from work.

The *Security Providers Act 1993* establishes a licensing framework for security providers (e.g., companies providing security for events, including requirements for individual employees to hold a specific license for crowd controllers). Council may require an event operator to engage a licensed security firm for an event. Any security providers for an event must hold the relevant licenses under the *Security Providers Act 1993*.

### **(3) Laws regulating maritime safety**

The *Transport Operations (Maritime Safety) Act 1994* and *Transport Operations (Maritime Safety) Regulation 2016* regulate aquatic activities and events to ensure marine safety. This includes boat or swimming races, sailing regattas, water-based competitions or events, or fireworks and other displays likely to affect the operation of vessels in the area. If an event operator wants to hold an aquatic event, they generally must obtain an aquatic event authority from Maritime Safety Queensland. They must also apply for an event approval under this Local Law if the event is open to the public or otherwise on public land in the Moreton Bay City.

### **(4) Environmental protection and management**

The *Environmental Protection Act 1994 (EP Act)* imposes a duty on all persons to prevent and minimise environmental harm. This could be in the form of contaminants, noise, waste etc. This duty extends to event operators and all other persons involved in the operation of an event. 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.

The *Biosecurity Act 2014* provides a framework to manage and minimise biosecurity risks. Biosecurity involves taking certain action or following restrictions to prevent pests and diseases from transferring, emerging or

spreading in a way which would pose a risk to animals or humans. Every person in Queensland has an obligation to minimise biosecurity risks and to ensure they do not spread a pest, disease or contaminant. For example, if the set-up of an event involves moving certain plant material, animals, food products or soil, the event operator and other relevant persons must make sure they are doing so in a manner which complies with the biosecurity obligations under the *Biosecurity Act 2014*.

#### **(5) Laws regulating food and liquor safety and licensing**

The *Food Act 2006* establishes a licensing framework for particular food businesses, and requirements they must adhere to in order to ensure the food they provide is safe and fit for human consumption. Any person supplying food at an event (e.g., food truck vendor) will need to comply with the licensing and standards requirements under the *Food Act 2006*.

The *Liquor Act 1992 (Liquor Act)* establishes a licensing framework to regulate the sale or supply of liquor. Under the Liquor Act, individuals or entities may be able to apply for a community liquor permit, which authorises the sale of liquor at an event. However, this can be subject to time restrictions and other conditions. Any person seeking to sell or supply liquor at an event will need to comply with the licensing and standards requirements under the Liquor Act.

#### **(6) Fireworks, pyrotechnics and other explosives**

The *Explosives Act 1999 (Explosives Act)* and *Explosives Regulation 2017* set out the requirements for purchase, sale, possession, storage and use of fireworks and other explosives. Under the Explosives Act, a person must obtain a license to possess or use fireworks. Licences can be issued for fireworks contractors (the individuals or companies hired to organise a fireworks display) and fireworks operators (the individual who conducts the fireworks display for the fireworks contractor). There are also state Codes of Practice, which fireworks contractors and operators must comply with to ensure fireworks displays are carried out safely. *For example, Codes of Practice set out what an operator or contractor must consider when determining whether it is safe to have a fireworks display in a particular location, including appropriate buffer and exclusion zones, and a requirement to notify relevant authorities (e.g. Explosives Inspectorate, Queensland Fire and Rescue Service) and the surrounding community in advance.* Fireworks displays for any events in the City must be carried out by a licensed contractor and operator, and in accordance with the Explosives Act and Code of Practice.

#### **(7) Requirements for emergency services**

The *Fire and Emergency Services Act 1990* provides for prevention of, and responses to, fires and other emergency incidents. The Act imposes obligations on occupiers of buildings to maintain, for example, means of escape, prescribed fire safety installations, and a fire and evacuation plan and instructions to follow. The Act also makes it an offence to light an unauthorised fire. These are matters which should be considered and complied with by event operators in fire safety and emergency planning for their event.

#### **(8) Peaceful assembly**

The *Peaceful Assembly Act 1992* recognises the right to peaceful assembly and seeks to ensure that the exercise of the right to participate in public assemblies is subject only to restrictions necessary and reasonable in a democratic society in the interests of public safety, public order and the protection of the rights and freedoms of other persons. It also seeks to ensure the right may be exercised without payment of a fee, charge, or other amount for a licence, permit or other authorisation. This Local Law aims to regulate events on public land, or events otherwise open to the public. It does not seek to impose any restrictions or requirements on a person's right to assemble peacefully with others in a public place. This is also consistent with the *Human Rights Act 2019*, specifically the right to peaceful assembly and freedom of association.

## **Part 2 - Event Screening Framework**

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

## Section 9 - Overview

This section provides an overview of part 2, namely the requirement for Council to establish a framework for screening events, prior to an application being lodged with Council.

## Division 2 - Event Screening Framework

### Section 10 - Event Screening Framework

This section requires Council to establish a framework for screening events. This is effectively a pre-lodgement screening process to help event operators work out what documents and information needs to be provided to Council with an event application before they submit it. This section enables Council to build and implement a screening process that tailors the event application and assessment requirements to an event based on the level of risk it poses. This ensures that Council is only requiring event operators to obtain and submit documents and information that are necessary to mitigate or alleviate the risks associated with their particular event.

The screening framework must be adopted by resolution of Council. The section sets out what the framework may do, including:

- establish risk categories for activities forming part of events (for example, conducting fireworks might be categorised as a high-risk activity);
- establish criteria for determining whether an event is low-risk, medium-risk or high-risk (*impact criteria*);
- establish separate application requirements and processes for low-risk, medium-risk and high-risk events;
- set out the documents and materials that may or must be provided with an event application (these requirements may differ depending on whether the event is assessed as low, medium or high risk); and
- set out the conditions which may be imposed on an event, approval or on a category of event or approval, based on the level of risk.

This section also specifies the matters to which the impact criteria must relate (e.g., public health and safety, location of the event, amenity and environmental impacts).

Council is required to make this framework available to the public.

## Part 3 - Approvals for an event

### Division 1 - What this part is about

#### Section 11 - Overview

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

### Division 2 - Approvals

#### *Subdivision 1 - Application process*

#### Section 12 - Need for approval

This section retains section 7 of the 2011 Local Law, which provides that an approval is required to operate an event under this part of the Local Law. It is an offence to operate an event (as defined in this Local Law) unless the person has been granted an approval (see section 28). An approval for an event is required to ensure:



- Council is aware of the event; and
- events are properly operated and comply with appropriate standards; and
- impacts on environment and amenity are minimised; and
- public safety.

However, an approval is not required for:

- an event operated on private land which constitutes development, as such events will be appropriately assessed and conditioned under the *Planning Act 2016*. Events on public land that constitute development will still require an approval under this Local Law to enable Council to address matters that cannot be regulated under the *Planning Act 2016* or another law. *For example, public liability insurance;*
- a ‘special event’ on a local government-controlled road where no use of public land is required by the event. The term ‘special event’ has the same meaning as that term has in the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*. It is a public event that requires the use of roads in a way that involves some inconsistency with the requirements of the Queensland Road Rules or the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021*. In those circumstances a special event permit will be issued by the Queensland Police Service. Council is also required to consent to the proposed use of the road (where the road is a local government-controlled road); or
- an event that is an authorised public assembly under the Peaceful Assembly Act 1992 (see section 7 of that Act for what is an “authorised public assembly”). .

### Section 13 - Making an application

This section requires the event operator to screen their event (in accordance with the event screening framework) prior to submitting an event application to Council. The screening framework will determine whether the event is considered low-risk, medium-risk or high-risk. The level of risk will then trigger different documents and information that must be provided by the event operator when they submit their application to Council.

This section also partly retains section 8 of the 2011 Local Law with respect to events. It sets out the way in which an application for an approval needs to be made to Council and what it 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 Events Local Law, Council aimed to achieve more flexibility by 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. Event operators are required to complete a screening of their event under the event screening framework established by Council under section 10, before submitting an event application to Council. This is because the screening outcome may determine what documents and information the event operator must provide to Council with their application.

Council has discretion under this section to accept and consider an application that covers more than one event. This may include the following:

1. A recurring event, or series of related events occurring at one or more locations over a stated period and operated by the one event operator.  
*For example:*
  - *Annual fairs or shows.*
  - *Life-saving carnivals hosted and operated by a recognised life-saving club.*
2. A decentralised event occurring at multiple locations at the same time, or over a stated period, operated by one event operator.

*For example: a music or arts and cultural festival where the acts are performed at multiple locations on the same day.*



However, Council's ability to grant an approval in these circumstances is limited to events which do not constitute development under the *Planning Act 2016*.

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

### **Section 14 - Timeframe for deciding applications when no further information is needed**

This section sets out the timeframe within which Council must decide a properly made event 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. However, Council recognises that timeframes provide accountability and keep the decision-making process progressing for both parties.

In some cases, Council may need to consult with external agencies about certain aspects of the proposed event in order to determine whether the event should be allowed to proceed or what conditions should be imposed on the event approval to ensure public health and safety. *For example:*

- *Any event involving an activity utilising a boat ramp requires consultation with Maritime Safety Queensland;*
- *Any event involving an activity that requires road closures and all events with over 1000 expected attendees requires consultation with Queensland Police Service; and*
- *Any event involving fireworks requires consultation with Queensland Fire and Emergency Services.*

Council's experience with this consultation process is that it can take up to 8 weeks to receive feedback and make a determination. On this basis, the timeframe for Council to determine an event application has been set at 40 business days. If this level of consultation is not required, Council may be able to determine an event application in a shorter time frame.

### **Section 15 - Timeframe for deciding applications when further information is needed**

This section sets out the timeframe within which Council must decide a properly made event 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 have an event that involves additional toilet facilities and infrastructure being brought onto the site but does not indicate where all of this will be situated on the event plan submitted to Council, Council may request a more detailed event plan be submitted.*

### **Section 16 - Timeframe for dealing with applications that are not properly made**

This section applies where Council receives an event 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 13. 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 17 - Deciding an application**

This section requires Council to decide an event application by either approving it, approving it subject to conditions or refusing it. Where an application is properly made, and the event can be undertaken in a manner consistent with the objects of the Local Law, Council can approve the application.

If there are risks that need to be mitigated Council can approve the application but impose conditions, to ensure the event is operated in a manner consistent with the objects of the Local Law. See section 20 regarding the conditions that may be imposed on an approval.

*For example, the event operator must provide the required levels of amenities, facilities and services as per the Event Plan.*

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

*For example, if the event operator wants to supply or allow liquor at an event but does not obtain a relevant liquor license under the Liquor Act, Council may refuse the event application.*

Council's decision about an application (e.g., the conditions to be imposed on an approval) will be informed by whether the event is screened is low-risk, medium-risk or high-risk in accordance with the event screening framework.

Council has discretion under this section to approve an application that covers more than one event, to the extent that it does not constitute development under the *Planning Act 2016*.

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

### **Section 18 - Effect of failure to decide application on time**

This section provides that if an application is not decided by Council in the timeframe specified in sections 14 or 15 of the 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 operate the proposed event in the absence of Council's approval, even if the time in which the decision should have been made has passed. This ensures that events cannot go ahead unless Council has properly assessed an application. 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 19 - 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 20 - Permitted conditions**

Under section 17, 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 objects of the Local Law. Section 20(1) provides that any condition imposed on an event approval must relate to the objects of this Local Law. This differs from the approach in the 2011 Subordinate Local Law, which imposed onerous mandatory conditions on event 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 20 gives Council greater flexibility to impose tailored, purpose-based conditions.

*For example, if the event is located on a site that has high environmental significance (i.e., is a migratory bird habitat), Council may impose conditions on the event to ensure that it does not adversely impact those birds. These conditions will be informed by the Event Screening Framework.*

A person does not contravene a noise standard (under section 440Q of the *Environmental Protection Act 1994*) or cause an environmental nuisance (under section 440(3) of the *Environmental Protection Act 1994*) where an act is done, or omission made, under a condition of an approval given by Council. For example, a condition of an approval for operation of an event may authorise the operation of an amplifier device at specified times that would otherwise be a contravention of the noise standard in the *Environmental Protection Act 1994*, section 440Y.

## **Section 21 - Term of approval**

This section specifies that an event approval is valid for the term specified by Council in the approval. This is consistent with the 2011 Local Law. This section gives Council flexibility to determine an appropriate length for an approval, having regard to the objects of the Local Law and the nature of the approval being issued.

*For example, for one-off events (i.e., a festival), the term will ordinarily only run until the event has taken place.*

The purpose of this is to reduce red tape for event operators, so that only one application (and application fee) is required for annual or related events.

## **Subdivision 4 - Administering approvals**

### **Section 22 - Definitions for this subdivision**

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

### **Section 23 - Renewal and transfer of approval**

This section provides approval holders with the flexibility to renew or transfer their approval for the continuation of an event or events. It also gives Council the ability to reconsider an event approval to ensure it continues to meet the objects of this Local Law. An application to renew or transfer must be submitted before the expiry of the existing approval (subsection (1)). If the approval holder is seeking to transfer the approval to another person, this person must be part of the application process (subsection (3)). This is to ensure an approval is not transferred to another person without their knowledge or consent. However, an approval holder cannot apply to renew or transfer their approval if Council has given the approval holder written notice that the approval is not renewable or transferable (subsections (4) and (5)). Written conditions of an approval or a decision notice will constitute written notice, such that if the conditions of an approval or a decision notice says that the approval is not renewable or transferable, then an approval holder cannot apply to renew or transfer the approval under this section.

Council must decide a renewal or transfer 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 (where the application is a renewal application) and the objects of this Local Law. For renewal applications, Council has complete discretion to determine the term of renewal (if it decides to renew) (subsection (6)).

For renewal applications, existing approvals will remain in effect for different periods of time depending on the outcome of the application. These timeframes preserve the applicant’s right to seek review if Council refuses the renewal 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 47. The requirements for a decision notice are set out in the definition of *‘decision notice’* in the dictionary Schedule of this Local Law.

### **Section 24 - 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 event approval. This section recognises that circumstances may change, and it allows

Council the flexibility to amend approval conditions to respond to those changes and enable the approval holder to continue operating the event.

Council must decide an amendment application by either granting or refusing the application, having regard to the objects 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 47. 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 26.

## **Section 25 - 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, for the protection of public health and safety, or 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 47. 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 under section 26 or a stop order under section 39.

## **Section 26 - 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 event approval. Council recognises there are certain urgent circumstances which make it necessary for the event to immediately cease.

*For example, where the continuation of the event poses an urgent and serious threat to public health and safety.*

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 event continues.

## **Part 4 - Offences and enforcement**

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

#### **Section 27 - Overview**

This part outlines:

- 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 28 - Operating an event without approval**

This section retains section 6 of the 2011 Local Law, making it an offence for a person to operate an event, unless they have an approval under this Local Law to do so. The purpose of this provision is to deter people from operating certain events within the City, without Council being able to regulate the event and impose appropriate conditions to protect public health, safety, amenity and the environment. A person does not commit an offence under this section if they are not required by section 12 to obtain an approval under this Local Law. This means a person does not commit an offence under section 28 if they operate an event on private land which constitutes development.

#### **Section 29 - Failure to comply with conditions of approval**

This section makes it an offence if a person operating an event 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 17 and 20) enables Council to ensure the event is operated in a manner that ensures safety and minimises impacts on amenity and the environment. This section aims to ensure that any risks posed by an event are minimised and deter those operating an event from ignoring the conditions imposed on their approvals by imposing penalties for non-compliance.

#### **Section 30 - Providing false or misleading information**

This section makes it an offence for a person to give information that they 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 objects of this Local Law, or community expectations.

Council also recognises that by having less onerous processes and requirements for low-risk events, there is a potential risk that an event operator may provide misleading information about the size, scale and nature of an event in an attempt to fall within the low-risk category so that they do not have to complete the full application, assessment and approval process that high-risk events must go through. This offence section creates a penalty which aims to deter event operators from doing so.



## Section 31 - 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 32 - Attempts to commit offences

This section provides that a person who attempts to commit an offence under this Local Law 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.

## Section 33 - 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 34 - 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 34 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 35 - 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 36 - 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 event 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 37 - Power to request further and updated information**

This section empowers Council to, during the term of an event approval, require the event operator to provide further or updated information about their event or events. The purpose of this section is to ensure that Council can make enquiries over the course of an event approval to allow Council to be comfortable that the event (or events) proceed in accordance with the conditions of the approval and this Local Law. If the event operator does not provide the required updated information, it is difficult for Council to be satisfied that the event (or events) are being operated in a manner compliant with the conditions of the event approval and Local Law. To ensure public health and safety and compliance, if the event operator fails to provide the required information, Council can suspend or cancel the event approval.

### **Section 38 - 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 the Local Law. An authorised person may give the person who contravenes the Local Law, or who is involved in the contravention, a compliance notice. A contravention of this Local Law includes a 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 activities within our community are being undertaken 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 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 Council makes a decision to issue a compliance notice under this section, it 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 47. The requirements for a decision notice are set out in the definition of ‘*decision notice*’ in the dictionary Schedule of this Local Law.

### **Section 39 - 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 stop an event (or part of an event) where the event either:

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

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

This section also empowers Council to issue a stop order to a person in relation to a small gathering.

This section allows Council to stop a person from operating an event 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 operating an event, 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 26 and possibly cancelling it under section 25 (if required).

This section applies to small gatherings (that do not require Council's approval) and events where approval has been obtained under this Local Law.

If an authorised person wishes to put an immediate stop to a person's activity that is a breach of the Local Law, it may be more appropriate for them to give the person an oral direction under section 35 or issue a compliance notice requiring the person to cease the offending activity immediately.

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

### **Section 40 - 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 or road 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 or road.

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

### **Section 41 - 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.

## **Section 42 - Local government power to reinstate site and cost recover**

This section provides that, where an event has caused damage to public land or infrastructure, the event operator has an obligation to make the site safe and to notify Council of the damage. Council can then either:

- require the event operator to rectify the site to Council's satisfaction at the event operator's own cost; or
- rectify the site itself and recover the cost as a debt from the event operator.

This is a discretionary power. There may be circumstances in which it is not reasonable or appropriate to recover the cost from a person who operated the event. For example, where the damage is a result of circumstances outside the control of the person undertaking the activity (*e.g., weather causing flood damage to the public land*).

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

### **Section 43 - 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. 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 44 - 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 45 - 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 46 - 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 by providing 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 an unauthorised event was being held on someone's property without the occupier'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 47 - 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 types of decision reviewed internally by Council:

- decisions in relation to event approvals (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 48 - 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 49 - Stay 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 an event approval and the applicant applies for a review of that decision, Council's refusal is still valid while the review process is underway and the person is not allowed to operate the event.*

# **Part 6 - Administrative provisions**

## **Section 50 - 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 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 51 - 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.

*For example, if someone has organised a mass public event and does not obtain an event approval from Council, this person has committed an offence under the Local Law. If Council is unable to identify the organiser, Council may offer a reward to a member of the public who can identify them to Council. This enables Council to penalise or prosecute the offender.*

## **Section 52 - Subordinate Local Laws**

This section allows Council to make Subordinate Local Laws in relation to events. *This includes, for example, to declare individuals or organisations as third-party certifiers for particular application requirements.* The purpose of this section is to define the scope of what Council can regulate by Subordinate Local Law.

## **Section 53 - 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 Notes 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 intend behind each provision.

## **Section 54 - 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 operation of temporary entertainment events and the holding of public place activities, are contained in the CUPLR LL, part 7. This section 54 simply directs to reader to the CUPLR LL for the transitional arrangements.



# Is this law consistent with fundamental legislative principles?

The *Events Local Law 2023* is generally consistent with fundamental legislative principles.

# Is this law consistent with Human Rights?

The *Events Local Law 2023* is generally consistent with the *Human Rights Act 2019 (HRA)*. The HRA protects a person's right to peaceful assembly. This is the right of individuals to gather for a common purpose or to pursue common goals. Meetings and protests are examples of assemblies. Only peaceful assemblies are protected, not those which involve violence. The *Peaceful Assembly Act 1992 (PAA)* recognises the right to peaceful assembly and seeks to ensure that the exercise of the right to participate in public assemblies is subject only to restrictions necessary and reasonable in a democratic society in the interests of public safety, public order and the protection of the rights and freedoms of other persons. It also seeks to ensure the right may be exercised without payment of a fee, charge or other amount for a licence, permit or other authorisation. This Local Law does not affect a person's right to peaceful public assembly under the PAA or the HRA. If an event is an authorised public assembly under the PAA, then no approval is required under this Local Law.

