

**Sunshine Coast Regional Council
Local Law No. 4 (Local Government Controlled
Areas, Facilities, Infrastructure and Roads)
2011**

CONSOLIDATED VERSION NO.1

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section 32 of the *Local Government Act 2009*

Sunshine Coast Regional Council

Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011*.

1A Commencement

This local law commences on 1 January 2012.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to—
- (a) protect the health and safety of persons using local government controlled areas, facilities, infrastructure and roads; and
 - (b) regulate the use of local government controlled land, facilities, infrastructure and roads to prevent—
 - (i) property damage; or
 - (ii) a loss of amenity; or
 - (iii) a nuisance; and
 - (c) preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads.
- (2) The purpose is to be achieved by providing for—
- (a) the regulation of access to local government controlled areas, facilities, and infrastructure; and
 - (b) the prohibition or restriction of particular activities on local government controlled areas or roads; and
 - (c) miscellaneous matters affecting roads.

3 Definitions—the dictionary

Schedule 1 (Dictionary) in *Local Law No. 1 (Administration) 2011* defines particular words used in this local law.

4 Relationship with other laws¹

This local law is—

- (a) in addition to and does not derogate from laws² regulating the use of trust land and roads; and
- (b) is to be read with *Local Law No. 1 (Administration) 2011*.

¹ This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

² Other legislation that may be relevant in the application of this local law includes the *Land Act 1994*, the *Land Regulation 2009* and the *Land Protection (Pest and Stock Route Management) Act 2002*.

Part 2 Use of local government controlled areas, facilities, infrastructure and roads³

5 Prohibited activities, restricted activities and prohibited conduct in local government controlled areas and roads

- (1) The local government may, by subordinate local law, declare—
 - (a) an activity to be prohibited in a local government controlled area or on a road (a *prohibited activity*); or
 - (b) an activity to be restricted in a local government controlled area or on a road (a *restricted activity*); or
 - (c) conduct to be prohibited in a local government controlled area or on a road (*prohibited conduct*).
- (2) The local government must take reasonable steps to provide notice to the community regarding the prohibited activities, restricted activities and prohibited conduct declared for local government controlled areas or roads.
- (3) In this section—

reasonable steps may include the display of a notice at a prominent place within each local government controlled area for which a declaration under subsection (1) has been made, stating—

 - (a) if the declaration relates to the whole area—the prohibited activities, regulated activities and prohibited conduct; and
 - (b) if the declaration relates to a part of the area—the prohibited activities, regulated activities and prohibited conduct and a description of the part of the area to which the declaration applies; and
 - (c) in general terms, the provisions of subsection (4).
- (4) A person must not engage in a prohibited activity, a restricted activity or prohibited conduct.

Maximum penalty for subsection (4)—

 - (a) for a prohibited activity—20 penalty units; or
 - (b) for a restricted activity—20 penalty units; or
 - (c) for prohibited conduct—50 penalty units.

6 Motor vehicle access to local government controlled areas

- (1) A *motor vehicle access area* is an area within a local government controlled area that is—

³ *Local Law No. 1 (Administration) 2011* deals with activities on local government controlled areas and roads that require the local government's approval, such as commercial use of local government controlled areas and roads, alterations or improvements to local government controlled areas, and other miscellaneous regulated activities.

- (a) a car park or roadway for which there is no sign or traffic control device indicating that vehicles owned by members of the public are excluded; or
 - (b) declared under a subordinate local law for this paragraph as a motor vehicle access area.
- (2) For the purposes of *Local Law No.1 (Administration) 2011*, section 5(b), it is a prescribed activity⁴ to bring a motor vehicle onto or drive a motor vehicle on any part of a local government controlled area that is not a motor vehicle access area.
- (3) The local government may, by subordinate local law, declare a specific type of motor vehicle (a ***prohibited vehicle***) as prohibited in a specified motor vehicle access area.
- (4) For the purposes of *Local Law No.1 (Administration) 2011*, section 5(b), it is a prescribed activity⁵ to bring a prohibited vehicle onto or drive a prohibited vehicle on the specified motor vehicle access area.
- (5) However, subsections (2) and (4) do not apply to—
- (a) an emergency vehicle; or
 - (b) a local government vehicle being used—
 - (i) in the course of maintaining facilities on the local government controlled area; or
 - (ii) in the course of enforcing a Local Government Act.
- (6) The local government must take reasonable steps to provide notice to members of the public regarding—
- (a) declarations of motor vehicle access areas under subsection (1)(b); and
 - (b) declarations of prohibited vehicles under subsection (3).
- (7) In this section—
- emergency vehicle*** includes the following—
- (a) an ambulance;
 - (b) a fire-engine;
 - (c) a police vehicle;
 - (d) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.

⁴ *Local Law No.1 (Administration) 2011*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

⁵ See footnote 4.

police vehicle has the meaning given in the *Transport Operations (Road Use Management – Road Rules) Regulation 2009*, schedule 5.

reasonable steps include, as a minimum, the display of a notice at a prominent place within each declared motor vehicle access area stating—

- (a) a description of the declared motor vehicle access area; and
- (b) a description of prohibited vehicles for the area; and
- (c) in general terms, the provisions of subsections (2) and (4).

7 Management of local government controlled areas, facilities, infrastructure and roads

Subject to the *Land Act 1994*, the local government may do the following things in respect of a local government controlled area (the **relevant place**)—

- (a) give the relevant place a name; and
- (b) establish specified classes, criteria and terms of membership regarding persons entitled to use the relevant place and any local government property, assets or resources at the relevant place; and
- (c) establish policies, guidelines and procedures regarding the operation and use of the relevant place; and
- (d) require the keeping of records by any person using the relevant place, including the—
 - (i) records that must be kept; and
 - (ii) place at which records must be kept; and
 - (iii) period for which the records must be kept.

8 Opening hours of local government controlled areas, facilities and infrastructure

- (1) The local government may, by installing a sign, declare the times when a local government controlled area, or a facility within a local government controlled area, is open to community use (the **opening hours**).
- (2) A person must not enter or remain in a local government controlled area, or a facility within a local government controlled area, outside the opening hours unless the person is authorised to do so by the chief executive officer⁶.
Maximum penalty for subsection (2)—20 penalty units.
- (3) However, subsection (2) does not apply to a police officer entering an area or facility in the performance of the police officer's duties.
- (4) A sign installed pursuant to subsection (1) must—
 - (a) be placed at each public entrance to the area or facility; and

⁶ See definition of **chief executive officer** in the Act, schedule 4.

- (b) clearly indicate the area or facility to which the opening hours relate; and
- (c) state, in general terms, the provisions of subsection (2).

9 Power to close a local government controlled area, facility or infrastructure

- (1) The local government may, by resolution, temporarily close a local government controlled area or road to public access—
 - (a) to carry out improvements, construction, maintenance, repair or restoration work; or
 - (b) to protect the health and safety of a person or the security of a person's property; or
 - (c) because of a fire or other natural disaster; or
 - (d) to conserve or protect the cultural or natural resources of the area or native wildlife.
- (2) A resolution under subsection (1)—
 - (a) must state a period, not greater than 6 months, during which the area will be closed; and
 - (b) must be revoked by the local government as soon as practicable after the local government becomes satisfied that the reason for making the resolution no longer exists.
- (3) The local government may, by subordinate local law, permanently close a local government controlled area to public access for any of the following reasons—
 - (a) the conservation of the cultural or natural resources of the area, including, for example—
 - (i) to protect significant cultural or natural resources; or
 - (ii) to enable the restoration or rehabilitation of the area; or
 - (iii) to protect a breeding area for native wildlife; or
 - (iv) to manage a significant Aboriginal area in the area in a way that is consistent with Aboriginal tradition; or
 - (v) to manage a significant Torres Strait Islander area in the area in a way that is consistent with Island custom;
 - (b) protection of the health and safety of members of the community;
 - (c) protection of a facility or service in the area, including, for example, infrastructure, water supply facilities or power generating equipment;
 - (d) protection of the amenity of an area adjacent to the area;
 - (e) the orderly or proper management of the area.

- (4) If the local government closes a local government controlled area under subsections (1) or (3), it must place at each public entrance to the area a notice of the closure, including a statement of the duration of the closure.

Example—

If the local government closes an area that is part of a wider local government controlled area, it must place notices at each public entrance to the closed area.

- (5) A person must not enter or remain in or on a local government controlled area while it is closed to community access under this section, unless the person is authorised to do so by the chief executive officer.

Maximum penalty for subsection (5)—20 penalty units.

- (6) However, subsection (5) does not apply to a police officer entering an area in the performance of the police officer's duties.

- (7) The local government may, notwithstanding that the local government controlled area is the subject of a contractual arrangement, reasonably exercise its powers to maintain the area where a contractor fails to meet contractual arrangements.

- (8) In this section—

significant Aboriginal area see the *Aboriginal Cultural Heritage Act 2003*, section 9.

10 Power to remove or reduce risk

- (1) If a person brings an object into a local government controlled area that may, in the opinion of an authorised person, present a risk to other users of the area, the authorised person may direct the person to take a specified action to remove or reduce the risk.

- (2) A person must comply with a direction given under subsection (1) unless the person has a reasonable excuse for not complying with the direction.

Maximum penalty for subsection (2)—20 penalty units.

11 Protected areas

- (1) The local government may, by resolution, designate a local government controlled area or road or any part thereof as a *protected area* for the—

- (a) cultivation of vegetation; or
- (b) protection of fauna or flora.

- (2) A protected area shall be identified by an enclosure or a sign.

- (3) The local government may, by subordinate local law, restrict entry to a protected area or prohibit or restrict activities that may be conducted in a protected area.

- (4) The local government must take reasonable steps to provide notice to the community regarding the restrictions imposed pursuant to subsection (3).

- (5) A person must not, unless authorised by the local government—

- (a) enter a protected area contrary to a restriction imposed pursuant to subsection (3); or
- (b) act in contravention of a prohibition or restriction imposed pursuant to subsection (3).

Maximum penalty for subsection (5)—50 penalty units.

12 Protection of vegetation

- (1) A person must not, without lawful excuse, interfere with vegetation in a local government controlled area or road.

Maximum penalty for subsection (1)—850 penalty units.

- (2) However, subsection (1) does not apply to—
 - (a) an employee of the local government acting in the course of the employee's duties; or
 - (b) a person authorised by the local government to interfere with the vegetation.

Example for paragraph (a)—

A local government employee may be engaged in pruning or trimming trees or removing dead or damaged vegetation.

Example for paragraph (b)—

Members of a community group may be authorised by the local government to undertake weed clearing in a local government controlled area.

- (3) If a person is convicted of an offence against subsection (1), the court in which the conviction is made shall have jurisdiction to make an order, in addition to the penalty, requiring the person to pay to the local government—
 - (a) an amount to compensate the community for the value of the vegetation interfered with as if the value of the vegetation was a debt; and
 - (b) the amount of any cost or expense incurred by the local government in rectifying the damage caused by the person's interference with vegetation.

Example for paragraph (b) of rectifying damage caused by a person—

- Revegetating the area to the same state as before the vegetation was interfered with.
- Installing a screen to protect vegetation planted to replace vegetation that has been interfered with.

- (4) In this section—

interfere with means to engage in any activity damaging or leading to the death, disfigurement or mutilation of vegetation and includes any of the following—

- (a) to poison (including by contamination);

- (b) to spill oil, petroleum, paint, cement, mortar or other deleterious substances onto a root zone;
- (c) to cut or tear branches and roots other than in the course of pruning permitted under this local law;
- (d) to ringbark;
- (e) to scar bark;
- (f) to fix any object into living tissue or surrounding bark;
- (g) to damage a root zone by compaction, excavation or filling;
- (h) to uproot or displace;
- (i) to effect any hydrological scheme which causes draining or flooding of vegetation;
- (j) to burn, scorch, singe, or damage by radiant heat.

Part 3 Matters affecting roads

13 Power to require owner of land adjoining road to fence land

- (1) This section applies if, in the local government's opinion, it is necessary for land adjoining a road to be fenced to prevent the risk of—
 - (a) animals escaping from the land onto the road; or
 - (b) interference with the safe movement of traffic or the safe use of the road.
- (2) The local government may, by giving a compliance notice⁷ to the owner—
 - (a) if the land is not currently fenced—require the owner to fence the land; or
 - (b) if a current fence on the land is in disrepair—require the owner to repair or replace the fence.
- (3) The local government may, by subordinate local law, set out the minimum standards with which the fence must comply.
- (4) In this section—
 - animal* does not include a native animal, feral animal or pest animal.
 - feral animal* see *Animal Care and Protection Act 2001*, section 42.
 - pest animal* see *Animal Care and Protection Act 2001*, section 42.

⁷ See *Local Law No.1 (Administration) 2011*, section 27, regarding the requirements for compliance notices.

14 Numbering of premises and allotments adjoining a road⁸

- (1) An owner of land must not adopt a number for a building or allotment that is inconsistent with a numbering system adopted by the local government under this section.

Maximum penalty for subsection (1)—10 penalty units.

- (2) An owner of land (other than vacant land) must display the number allocated so as to be easily identified from the adjoining road.

Maximum penalty for subsection (2)—10 penalty units.

Part 4 Enforcement

15 Damage to local government roads

- (1) A person who, without the local government's authority, intentionally or negligently damages a local government road or a structure associated with a local government road is liable to the local government in damages.
- (2) The local government may recover damages under subsection (1) in the same way as damages for a tort.

Part 5 Miscellaneous

16 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the declaration of prohibited activities, restricted activities or prohibited conduct;⁹ and
- (b) the declaration of motor vehicle access areas;¹⁰ and
- (c) the declaration of prohibited vehicles;¹¹ and
- (d) closing a local government controlled area to public access;¹² and
- (e) the restriction of entry to protected areas and the declaration of prohibited or restricted activities in protected areas;¹³ and
- (f) minimum standards for fences on land adjoining a road.¹⁴

⁸ See the Act, section 60, regarding control of roads by a local government.

⁹ See section 5(1).

¹⁰ See section 6(1)(b).

¹¹ See section 6(3).

¹² See section 9(3).

¹³ See section 11(3).

¹⁴ See section 13(3).

Endnotes

1 Date to which amendments incorporated

This consolidated version includes all amendments that commenced operation on or before 26 July 2013.

2 Table of consolidated versions

Consolidated Version No.	Amendments included	Effective	Notes
1	Amendment Local Law No.1 (Miscellaneous) 2013	26 July 2013	

3 List of amending local laws

Amendment Local Law No.1 (Miscellaneous) 2013

date of Council resolution 25 July 2013

date of gazettal 26 July 2013

commenced on date of gazettal

4 List of annotations

Management of local government controlled areas, facilities, infrastructure and roads

s7 amended by Amendment Local Law No.1 (Miscellaneous) 2013 s12