

Subordinate Local Law No. 1.18 (Loading Zone and Other Parking Permits) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.18 (Loading Zone and Other Parking Permits) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
 - (a) various matters regarding the granting of approvals for prescribed activities; and
 - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for each prescribed activity named in schedule 1, section 1.

3 Authorising local law

- (1) The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).
- (2) Each activity named in schedule 1, section 1 is a prescribed activity for the purposes of section 5(b) of the authorising local law.

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
 - (a) names 2 prescribed activities in section 1; and

- (b) prescribes the matters specified in this section for each prescribed activity.¹
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.
 - (3) For section 6(4) of the authorising local law, it is declared that each prescribed activity named in section 1 of schedule 1 is a category 1 activity.
 - (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for each prescribed activity are stated in section 3 of schedule 1.
 - (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for each prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
 - (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for each prescribed activity are stated in section 5 of schedule 1.
 - (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for each prescribed activity are stated in section 6 of schedule 1.
 - (8) For section 13(a) of the authorising local law, the term of an approval for each prescribed activity is provided for in section 7 of schedule 1.
 - (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for each prescribed activity is provided for in section 8 of schedule 1.

6 Approvals that are non-transferable—Authorising local law, s 15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

Part 3 Application to State-controlled roads

7 State-controlled roads to which the local law applies – authorising local law, schedule 1

¹ Section 103(4) of the TORUM Act relevantly provides that under a local law, a local government may—

- (a) allow a vehicle to park contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays a permit issued by the local government; and
- (b) define the persons that may be issued with a permit (as distinct from an approval).

The local government has defined the persons that may be issued with a permit (as distinct from an approval) under *Local Law No. 5 (Parking) 2011*. *Local Law No. 1 (Administration) 2011* is a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws and provides for miscellaneous administrative matters. *Local Law No. 1 (Administration) 2011* provides for consistent and comprehensive processes for the local government to grant and regulate approvals (as distinct from permits) to undertake prescribed activities. Each activity identified in schedule 1, section 1 is a prescribed activity. *Local Law No. 1 (Administration) 2011*, schedule 1 defines approval to include, relevantly, a permit. Each category of permit identified under *Local Law No. 5 (Parking) 2011* is an approval for the purposes of *Local Law No. 1 (Administration) 2011*.

For the purposes of the definition of **road** in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are the roads to which the authorising local law applies unless otherwise provided in the local law.

Schedule 1 Loading zone and other parking permits

Section 5

1. Prescribed activity

- (1) Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee (see *Local Law No. 5 (Parking) 2011* section 7) (*prescribed activity 1*).
- (2) Parking in a loading zone by displaying a commercial vehicle identification label under the *Transport Operations (Road Use Management) Act 1995*, section 103(5) (*prescribed activity 2*).

2. Activities that do not require an approval under the authorising local law

No activities stated.

3. Documents and materials that must accompany an application for an approval

- (1) An application detailing—
 - (a) the name of the applicant; and
 - (b) the type and make of the vehicle; and
 - (c) the registration number of the vehicle and the date the current registration expires; and
 - (d) the registered owner of the vehicle; and
 - (e) the reason why the approval is required by the applicant; and
 - (f) the period during which the applicant requires the approval.
- (2) If the application is for a works zone parking permit—
 - (a) details of the specified part of the road adjacent to the site of the proposed building or construction work which the applicant proposes will be declared as a works zone; and
 - (b) evidence that the applicant intends undertaking the building or construction work at the site during the term of the permit.
- (3) If the application is for an approval for prescribed activity 2—details of the commercial activity undertaken by the applicant which are relevant to the application for the approval.

4. Additional criteria for the granting of an approval

- (1) If the activity is prescribed activity 1 and the parking permit is a resident parking permit—the applicant must satisfy the criteria specified in *Subordinate*

Local Law No. 5 (Parking) 2011, section 7(2).

- (2) If the activity is prescribed activity 1 and the parking permit is a community service organisation parking permit—the applicant must satisfy the criteria specified in *Subordinate Local Law No. 5 (Parking) 2011*, section 7(3).
- (3) If the activity is prescribed activity 1 and the parking permit is a temporary parking permit—the applicant must satisfy the criteria specified in *Subordinate Local Law No. 5 (Parking) 2011*, section 7(4) and (5).
- (4) If the activity is prescribed activity 1 and the parking permit is a works zone parking permit—the applicant must satisfy the local government that—
 - (a) the part of the road to which the application relates is adjacent to a site at which the person is proposing to undertake building or construction work; and
 - (b) the carrying out of the building or construction work is lawful; and
 - (c) having regard to the nature of the building or construction work and the characteristics of the site, it is not reasonably practical for all work activity involving vehicle loading and unloading and associated vehicle movements to be confined within the site; and
 - (d) the applicant is the person undertaking the building or construction work.
- (5) If the activity is prescribed activity 1 and the parking permit is a local government works parking permit—the applicant must satisfy the local government that—
 - (a) the permit is to be issued to allow a person to park 1 or more vehicles in a designated parking space or spaces, for a specified period; and
 - (b) the applicant is—
 - (i) an employee, contractor or agent of the local government; and
 - (ii) parking the vehicle or vehicles in the space or spaces—
 - (A) for the purpose of carrying out work for or on behalf of the local government; and
 - (B) in the course of carrying out his or her duties for or on behalf of the local government.
- (6) If the activity is prescribed activity 1 and the parking permit is a visitor parking permit—the applicant must satisfy the criteria specified in *Subordinate Local Law No. 5 (Parking) 2011*, section 7(8).
- (7) The vehicle must be properly registered.
- (8) The vehicle must be appropriate for the proposed use.

5. Conditions that must be imposed on an approval

No conditions prescribed.

6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions that will ordinarily be imposed in approval for prescribed activity 1 are—
 - (a) the approval is only valid for the designated parking space or spaces specified in the approval; and
 - (b) the approval is only valid at the times specified in the approval; and
 - (c) the approval is only valid for the dates specified in the approval; and
 - (d) the approval must be publicly displayed within the vehicle while it is parked at the designated parking space or spaces identified in the approval.
- (2) The conditions of an approval for prescribed activity 1 may also require the approval holder to—
 - (a) affix the approval to, or exhibit the approval on, a specified part of the vehicle identified in the approval facing outwards and as near as practicable to the registration label for the vehicle; and
 - (b) if the approval holder requests the issue of a replacement approval—complete a statutory declaration detailing the facts and circumstances of the loss, destruction or damage of the original approval; and
 - (c) enter into an agreement with the local government to indemnify the local government against claims (including claims made against the approval holder by the local government) for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the use of a vehicle under the approval; and
 - (d) if the approval holder is a business—take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the approval; and
 - (e) take specified measures to reduce the impact of the activities authorised by the approval so that the activities do not—
 - (i) create a traffic nuisance; or
 - (ii) increase an existing traffic nuisance; or
 - (iii) detrimentally affect the efficiency of the road network in which the activity is undertaken.
- (3) Also, the conditions of an approval for prescribed activity 1 which is a resident parking permit may require that the approval holder—

- (a) only use the permit in respect of the parking of a vehicle identified in the permit at the location identified in the permit which must be—
 - (i) the road adjacent to the residence identified in the permit; or
 - (ii) the one or more segments of road in close proximity to the residence identified in the permit; and
 - (b) only use the permit whilst the holder resides at the residence identified in the permit.
- (4) Also, the conditions of an approval for prescribed activity 1 which is a works zone parking permit may—
- (a) specify the part of the road to which the permit relates; and
 - (b) require the approval holder to pay a prescribed fee, as determined by the local government, for the installation of official traffic signs, or other signs and markings, as determined by the local government to be appropriate, to identify the boundaries of the works zone identified in the permit; and
 - (c) require that the approval holder not park a vehicle within the works zone except while the vehicle is being loaded or unloaded in connection with the building or construction work to which the permit relates; and
 - (d) require that materials of any kind not be stacked, placed or otherwise left on the road or footpath (either within or outside of the works zone); and
 - (e) require that a vehicle not be parked, loaded or unloaded or that other operations be carried out, in a manner which obstructs pedestrian movement along a footpath within or adjacent to the works zone.
- (5) Also, the conditions of an approval for prescribed activity 1 which is a visitor parking permit may—
- (a) require that the approval holder only use the permit in respect of the parking of a vehicle at the locations identified in the permit which must be—
 - (i) the road adjacent to the residence identified in the permit; or
 - (ii) the one or more segments of road in close proximity to the residence identified in the permit; and
 - (b) require that the permit must only be used by a person visiting or attending at the residence identified in the permit; and
 - (c) specify that the visitor parking permit is not specific to any particular vehicle.
- (6) The conditions that will ordinarily be imposed in an approval for prescribed

activity 2 are that the commercial vehicle identification label must be—

- (a) prominently displayed on the left hand side front of the vehicle; and
- (b) if the vehicle is equipped with hinged ventilation windows—affixed to one of the hinged ventilation windows; and
- (c) if the vehicle is not equipped with a hinged ventilation windows—affixed on the lowest most left hand section of the windscreen of the vehicle.

7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.
- (3) An approval may, for example, remain in force for, if the approval is—
 - (a) a resident parking permit—12 months;
 - (b) a temporary parking permit—the term of the proposed temporary activity;
 - (d) a works zone parking permit—the term of the proposed building or construction work;
 - (e) a local government works parking permit—the term of the proposed carrying out of work for or on behalf of the local government;
 - (f) a visitor parking permit—12 months.
- (4) However, the local government may fix some other term for an approval if it is desirable to do so—
 - (a) to provide common expiry dates for approvals; or
 - (b) for some other reason.

8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.
- (3) The term for which an approval may be extended or renewed is, if the approval is—
 - (a) a resident parking permit—12 months;
 - (b) a visitor parking permit—12 months.

- (4) No term is provided for which an approval may be extended or renewed if the approval is—
 - (a) a temporary parking permit; or
 - (b) a works zone parking permit; or
 - (c) a local government works parking permit.
- (5) However, the local government may fix some other term for the extension or renewal of an approval if it is desirable to do so—
 - (a) to provide common expiry dates for approvals; or
 - (b) for some other reason.

Schedule 2 Categories of approval that are non-transferable

Section 6

Every approval for a prescribed activity named in schedule 1, section 1 is non-transferable.

Schedule 3 State-controlled roads to which the local law applies

Section 7

Subject to the chief executive's written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b), every State-controlled road in the local government area of the local government.

Schedule 4 Dictionary

Section 4

commercial vehicle identification label means a label of the type specified as a commercial vehicle identification label by the Manual of Uniform Traffic Control Devices.

community service organisation parking permit see *Subordinate Local Law No. 5 (Parking) 2011*, schedule 4.

local government works parking permit see *Subordinate Local Law No. 5 (Parking) 2011*, schedule 4.

official traffic sign has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

prescribed activity 1 see schedule 1, section 1(1).

prescribed activity 2 see schedule 1, section 1(2).

resident parking permit see *Subordinate Local Law No. 5 (Parking) 2011*, schedule 4.

temporary parking permit see *Subordinate Local Law No. 5 (Parking) 2011*, schedule 4.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

visitor parking permit see *Subordinate Local Law No. 5 (Parking) 2011*, schedule 4.

works zone parking permit see *Subordinate Local Law No. 5 (Parking) 2011*, schedule 4.

This and the preceding 12 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.18 (Loading Zone and Other Parking Permits) 2011* made in accordance with the provisions of the *Local Government Act 2009* by Mackay Regional Council by resolution dated the day of (*insert the date of the relevant resolution of Council*) 2011.

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Chief Executive Officer