

Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 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 the prescribed activity named in schedule 1, section 1.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (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 a prescribed activity in section 1; and
 - (b) prescribes the matters specified in this section for the prescribed activity.
- (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 the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the 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 the 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 the 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 the 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 the 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 the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
 - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
 - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 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

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 roads to which the authorising local law applies unless otherwise provided in the local law.

Schedule 1 Alteration or improvement to local government controlled areas and roads

Section 5

1. Prescribed activity

Alteration or improvement to local government controlled areas and roads.

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

(1) Section 6(2) of the authorising local law does not apply to—

- (a) a person undertaking vegetation management on a footpath or nature strip immediately adjacent to the person's property provided the activity is not likely to create a risk to the safety of pedestrian or vehicular traffic; or
- (b) an alteration or improvement to a local government controlled area or road undertaken by, or on behalf of, the local government.

(2) In this section, *vegetation management* means—

- (a) mowing, slashing or edging grass; and
- (b) weeding or watering grass.

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

- (1) If requested, full details of the proposed alteration or improvement including plans.
- (2) Details of all building work and other work to be carried out under the approval.
- (3) Details of the time and place at which the prescribed activity will be undertaken.
- (4) The proposed term of the approval.
- (5) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.
- (6) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.
- (7) Plans and specifications detailing—
 - (a) the relevant part of the local government controlled area or road that is to be used for the undertaking of the prescribed activity; and
 - (b) the proposed location of each structure and item of equipment to be used in the undertaking of the prescribed activity; and
 - (c) the type and location of any utility, service or infrastructure to be used

in the undertaking of the prescribed activity.

4. Additional criteria for the granting of an approval

The alteration or improvement must not—

- (a) result in—
 - (i) harm to human health or safety; or
 - (ii) property damage or loss of amenity; or
 - (iii) nuisance; or
 - (iv) undue obstruction of vehicular or pedestrian traffic; or
 - (v) environmental harm; or
 - (vi) environmental nuisance; or
 - (vii) interference with the proper maintenance of a road; or
- (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken.

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 of an approval may—
 - (a) require compliance with specified safety requirements; and
 - (b) regulate the time within which the alteration or approval must be carried out; and
 - (c) specify standards with which the alteration or improvement must comply; and
 - (d) require the approval holder to—
 - (i) carry out specified additional work such as earthwork and drainage work; and
 - (ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before commencement of the alteration or improvement; and
 - (iii) give the local government specified indemnities; and
 - (iv) maintain structures erected or installed, or vegetation planted, under the approval, in good condition including, for example, a

- requirement that the approval holder destroy noxious plants and weeds in a specified area; and
- (v) remove a structure erected or installed, under the approval, at the end of a stated period; and
 - (vi) exhibit specified signage warning about the conduct of the prescribed activity; and
 - (vii) if the approval authorises the approval holder to use a specified part of a road for the undertaking of the prescribed activity—pay a licence fee to the local government at specified intervals.
- (2) The conditions of an approval may require the approval holder to take specified measures to—
- (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
 - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
 - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic; and
 - (d) if the undertaking of the prescribed activity includes the installation or erection of a structure —ensure that the structure does not prejudice the proper maintenance of a road.

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.

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.

Table 1 – Third party certification

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirement stated		

Schedule 2 Categories of approval that are non-transferable

Section 6

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

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

Section 7

No State-controlled roads listed.

Schedule 4 Dictionary

Section 4

building work has the meaning given in the *Building Act 1975*.

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

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

structure has the meaning given in the *Local Government Act 2009*.

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