

Subordinate Local Law No. 1.15 (Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.15 (Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee) 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

- (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) The 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 a prescribed activity in section 1; and

- (b) prescribes the matters specified in this section for the 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 the 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 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.

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.

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. The 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*.

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

Schedule 1 Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee

Section 5

1. Prescribed activity

Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee.

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) The name and contact details of the applicant.
- (2) A description of the type and make of the vehicle.
- (3) The registration number of the vehicle and the date of expiry of the registration.
- (4) Details of the registered owner of the vehicle.
- (5) Details of why the applicant requires the approval.
- (6) The period during which the applicant requires the approval.
- (7) 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.
- (8) If a community service organisation is applying for a community service organisation parking permit—details of off-street parking that is, or could reasonably be, made available for use by persons undertaking activities for or on behalf of the community service organisation on land of which the community service organisation is the owner or the occupier.
- (9) If the application is for a tourist vehicle parking permit—
 - (a) details of—
 - (i) if the tourist vehicle is a horse drawn vehicle—the horses to be used in the undertaking of the prescribed activity, including the condition and fitness of the horses and the address where the horses are normally stabled; and

- (ii) the passenger carrying capacity of the tourist vehicle; and
 - (iii) lighting and warning devices attached to the tourist vehicle; and
 - (iv) the proposed hours of operation of the prescribed activity; and
 - (v) the name, address and telephone number of each person who will be driving the tourist vehicle, including details of their experience in operating such tourist vehicles; and
- (b) a statement by the owner of the tourist vehicle that the tourist vehicle complies with the *Transport Operations (Road Use Management Act) 1995*.

4. Additional criteria for the granting of an approval

The local government may only grant a community service organisation parking permit to a community service organisation if it is satisfied that off-street parking that is, or could reasonably be, made available for use by persons undertaking activities for or on behalf of the community service organisation at the premises of the community service organisation is not adequate.

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 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 so that it is clearly visible to a person outside 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.
- (2) Also, the conditions of 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.
- (3) Also, the conditions of 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.
- (4) The conditions of 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.

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- (5) The conditions of a tourist vehicle parking permit may—
- (a) require that the tourist vehicle used in the undertaking of the prescribed activity must be kept in a condition which is clean, safe and fit for the conveyance of passengers; and
 - (b) require that the person driving the tourist vehicle must be in a clean and presentable condition; and
 - (c) limit the operation of the prescribed activity by reference to specified hours and specified days; and
 - (d) require that the name, address and telephone number of the holder of the permit is prominently and permanently displayed on both sides of the tourist vehicle; and
 - (e) if the tourist vehicle is a horse drawn vehicle—
 - (i) require that the driver of the horse drawn vehicle undertaking the prescribed activity must, at all times, be close enough to the vehicle to be able to maintain adequate control over the vehicle and the horse; and
 - (ii) require that the driver of the horse drawn vehicle ensure that appropriate measures are taken to—
 - (A) prevent manure dropping onto a road; and
 - (B) remove any manure that drops onto a road; and
 - (C) ensure that no overloading of the vehicle occurs; and
 - (f) require the holder of the permit to give specified indemnities and take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the permit.

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.

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

List of State-controlled roads—

- (a) Lawrie Street, Gracemere;
- (b) Campbell Street, Wandal;
- (c) Wandal Road, Wandal.

Schedule 4 Dictionary

Section 4

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

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

tourist vehicle see *Subordinate Local Law No. 5 (Parking) 2011, schedule 4.*

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

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.*