



Redland
CITY COUNCIL

Redland City Council

Local Law No. 1 (Administration) 2003



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PART 1 - PRELIMINARY

1. Short title

This local law may be cited as *Local Law No. 1 (Administration) 2003*.

2. Object

The object of this local law is to provide a legal framework for the administration, implementation and enforcement of the local government's local laws and subordinate local laws.

3. Repeal

This local law repeals *Local Law No. 1 (Administration)*.

4. Definitions - the dictionary

The dictionary in the schedule defines particular words used in this local law.

PART 2 - LOCAL GOVERNMENT APPROVALS

5. Form of application

- (1) An application for the local government's approval of a proposal must be made in a form approved by the local government or the chief executive officer.
- (2) The application must be accompanied by documents and materials required under the relevant Act, local law or subordinate local law.
- (3) The application must, if the local government or the chief executive officer reasonably requires, provide further information, documents or materials in support of the application.
- (4) An application must be accompanied by the prescribed fee.
- (5) A person must not provide information in or in connection with an application that is, to the person's knowledge, false or misleading in a material particular.

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

6. Local government's discretion in approving proposals

- (1) If a local government has power under a local law to approve a proposal, the local government may –
 - (a) approve the proposal unconditionally; or
 - (b) approve the proposal subject to conditions; or
 - (c) refuse to approve the proposal.

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Example -

If a proposal for which the local government's approval is required may result in damage to property, the local government may, as a condition of giving its approval, require the applicant to give reasonable security (which may include a deposit of money; a guarantee or an insurance bond) to ensure that the damage is made good.

- (2) However, the local government's powers are subject to the provisions of the relevant local law or any relevant subordinate local law, and the local government must, in deciding how to exercise its power, have regard to criteria stated in the relevant local law or subordinate local law.

7. Projects requiring multiple approvals

If -

- (a) an application is made to the local government for approval of a particular proposal; and
- (b) the local government's approval of the proposal is required under 2 or more local laws, or 2 or more provisions of the same local law;

the local government must, if practicable, deal with the subjects on which its approval is required together.

- (2) If the local government decides that an approval should be refused on a particular aspect of a proposal for which multiple approvals are required, it may refuse other approvals required for the proposal even though other aspects of the proposal for which approval is required may be unexceptionable.

8. General powers of revocation or variation

- (1) The local government may revoke an approval at any time if it appears the approval was given on the basis of false or misleading information provided by or on behalf of the holder of the approval.
- (2) The local government may vary or revoke a condition on which its approval has been given under a local law if the variation or revocation is necessary for the protection of public health or safety.
- (3) This section does not limit the power a local government may have apart from this section to vary or revoke an approval or a condition of approval.

9. Summary of local government approvals

- (1) The local government must prepare and keep up to date a summary of the approvals required under the local laws.
- (2) The local government must, on request, provide an interested person with a copy of the summary.

PART 3 - LEGAL PROCEEDINGS

10. Defence of reasonable excuse

If a person is charged with an offence involving a contravention of a provision of this local law, it is a defence to prove that the person had a reasonable and lawful excuse for the contravention.

11. General defence for owners of land or vehicle

If a local law makes the owner of land guilty of an offence if a particular act or omission happens with respect to the land it is a defence for the owner to prove that -

- (a) the act or omission happened without the owner's knowledge or consent; and
- (b) the owner could not, by reasonable diligence, have prevented the act or omission.

12. Joint and several liability

- (1) If a local law imposes a liability on an owner of property, or a person engaged in a particular activity, and 2 or more persons are the owners of the relevant property, or are jointly engaged in the relevant activity, the liability is joint and several.
- (2) This section applies both to civil liabilities and liabilities enforced by summary proceedings under the *Justices Act 1886*.

13. Rewards

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of a person for -
 - (a) an offence involving damage to, or theft of, property of the local government or under the local government's control; or
 - (b) an offence against a local law.
- (2) The amount of the reward, and the conditions on which it is payable, must be decided by resolution of the local government.

PART 4 - AUTHORISED PERSONS

14. Appointment

- (1) A local government may appoint any of the following persons as authorised persons for a local law -
 - (a) employees of the local government;

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- (b) other persons who are eligible for appointment as authorised persons under Chapter 15, part 5 of the Act¹.
- (2) An appointment of a person as an authorised person under this part must state the local laws, or the provisions of local laws, for which the person is appointed as an authorised person.
- (3) A local government may appoint a person as an authorised person under this part only if -
 - (a) the local government considers the person has the necessary expertise or experience for the appointment; or
 - (b) the person has satisfactorily finished training approved by the local government for the appointment.

15. Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment.

16. Authorised person's appointment conditions

- (1) An authorised person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised person -
 - (a) if the instrument provides for a term of appointment - ceases holding office at the end of the term; and
 - (b) may resign by signed notice of resignation given to the local government; and
 - (c) if the conditions of appointment provide - ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the "**main office**").
- (3) However, an authorised person may not resign from the office of authorised person (the "**secondary office**") under subsection (2)(b) if a term of the authorised person's employment to the main office requires the authorised person to hold the secondary office.

17. Authorised person's identity card

- (1) A local government must give each authorised person an identity card.
- (2) The identity card must -
 - (a) contain a recent photograph of the authorised person; and

¹ Chapter 15, part 5 (Enforcement of Local Government Acts).

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- (b) be signed by the authorised person; and
 - (c) identify the person as an authorised person for the local government; and
 - (d) include an expiry date.
- (3) A person who ceases to be an authorised person must return the person's identity card to the local government within 21 days after the person ceases to be an authorised person.

Maximum penalty - 10 penalty units.

- (4) This section does not prevent the giving of a single identity card to a person for this part and for other purposes.

18. Production of identity card

- (1) An authorised person may exercise a power in relation to someone else (the "**other person**") only if the authorised person -
- (a) first produces his or her identity card for the other person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

19. Offence

A person must not pretend to be an authorised person.

Maximum penalty - 50 penalty units.

20. Protection from liability

- (1) This section applies to -
- (a) an authorised person; and
 - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act done or omission made honestly and without negligence under the local government's local laws.
- (3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

PART 5 – REVIEW OF DECISIONS

21. Review of decisions

- (1) This part applies to a decision of the local government or an authorised person made under a local law.
- (2) The local government must carry out a review of a decision in accordance with the general complaints process established by the local government in accordance with the provisions of chapter 6, part 5 of the Act.

PART 6 - MISCELLANEOUS

25. Notices

If a local law empowers a local government to issue a notice to a person requiring the person to do, or to refrain from doing, a particular act, the notice must set out -

- (a) the provisions of the local law under which the requirement is made; and
- (b) the time within which compliance is required; and
- (c) the consequences of contravention of the notice.

26. Fees

- (1) If a local law provides for payment of a fee, and does not itself fix the amount of the fee, the fee is to be fixed by resolution under section 1071A of the Act.
- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.

Example -

Suppose that a person pays a licence fee appropriate to a licence of 1 year's duration but, because of unforeseen circumstances, surrenders the licence within 3 months after it is granted. A resolution might provide that, in such a case, the former licensee is to receive a partial reimbursement of the licence fee.

- (3) Unless specific provision to the contrary is made in the local law or resolution fixing a fee, the local government may, in an appropriate case, waive or partially remit a fee.

27. Unclaimed goods

- (1) If goods are left in a building, or on land, under the local government's control, the local government may dispose of the goods under this section.
- (2) If the goods are perishable, they may be disposed of, without delay, as the chief executive officer directs.
- (3) If the goods are not perishable, they must be retained for at least 3 months before being sold or otherwise disposed of.

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- (4) After the end of the 3 month period, the local government may dispose of the goods as follows -
 - (a) if the goods have no commercial value, or the value is so slight that it would not cover the cost of sale, the goods may be disposed of as the chief executive officer directs;
 - (b) in other cases the goods must be advertised for sale by public notice published at least 14 days before the date of the proposed sale and may then be sold by public auction.
- (5) A person to whom goods are sold under this section acquires a good title to the goods freed and discharged from the interests of others.
- (6) The local government must apply the proceeds of sale first towards the costs of the storage and sale of the goods and then into a fund established for the purpose.
- (7) If, within 1 year after the date of the sale, the former owner of the goods claims the proceeds of the sale of the goods, the net proceeds of the sale must be paid to the former owner but if no valid claim is made to the proceeds within that period, the local government may pay the proceeds of the sale into its general funds.
- (8) This section does not apply to goods if there is a statutory provision dealing specifically with abandoned goods of the relevant class.

28. Confiscated goods

- (1) If the local government, or an authorised person, exercises a power under a local law to confiscate or impound goods, the property in the goods vests in the local government.
- (2) If the local government or an authorised person confiscates or impounds goods under powers conferred by a local law, the local government may dispose of the goods as follows -
 - (a) if the goods are perishable or have no commercial value, or the value is so slight that it would not cover the cost of sale, the goods may be disposed of as the chief executive officer directs;
 - (b) in other cases the goods must be advertised for sale by public notice published at least 14 days before the date of the proposed sale and may then be sold by public auction.

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SCHEDULE

DICTIONARY

section 4

"application" includes a request.

"approval" means a consent, permission, licence, authorisation or approval under an Act or a local law.

"authorised person" means a person who is authorised by the local government to exercise the powers of an authorised person under the provision in which the expression appears.

"goods" includes an animal.

"prescribed fee" means a fee fixed by the local government, by local law or by resolution, under section 1071A of the Act.

"proposal" means an act, matter or thing for which the local government's approval is sought.

"public notice" means a notice published in a newspaper circulating in the local government's area.

"the Act" means the *Local Government Act 1993*.

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CERTIFICATION

This and the preceding 11 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 1 (Administration) 2003* made, in accordance with the provisions of the *Local Government Act 1993*, by Redland City Council by resolution dated 29 April 2009.

Chief Executive Officer