

# Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2022

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2022*.

### 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) 2018* 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) 2018* (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 5 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 5 are roads to which the authorising local law applies unless otherwise provided in the local law.

## **Part 4                      Miscellaneous**

### **8      Repeal**

This subordinate local law repeals *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2018*.

## **Schedule 1      Installation of advertising devices**

### Section 5

#### **1.      Prescribed activity**

Installation of advertising devices.

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

(1)      An approval is not required under the authorising local law for the prescribed activity if—

(a)      the activity is the installation, erection or display of a permitted advertisement that is visible from a road or other public place; or

(b)      under the planning scheme of the local government, the prescribed activity is identified as—

(i)      development which is accepted development or prohibited development; or

(ii)     assessable development which is subject to code assessment or impact assessment; or

(c)      the activity is the installation, erection or display of a traffic control device.

(2)      A permitted advertisement is an advertising device that is visible from a road or other public place which is installed, erected and displayed in accordance with the criteria specified in schedule 3.

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

(1)      Full details of the proposed advertising device including—

(a)      the name and address of the premises at which the proposed advertising device will be installed; and

(b)      the name and address of the person responsible for the installation of the advertising device; and

(c)      the name and address of any business which will be advertised on the advertising device.

(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 location of the proposed advertising device; and
  - (b) each item of equipment to be used in the installation, erection or display of the proposed advertising device; and
  - (c) the type and location of any utility, service or infrastructure to be used in the installation, erection or display of the proposed advertising device; and
  - (d) particulars of the content, design, dimensions and construction of the proposed advertising device; and
  - (e) a site plan, to scale, of the proposed advertising device; and
  - (f) if the applicant is not the owner of the premises on which the proposed advertising device is to be installed, erected or displayed, the consent of the owner of the premises to the installation, erection and display of the advertising device; and
  - (g) a copy of each development approval required for the installation, erection and display of the proposed advertising device; and
  - (h) a pictorial representation of the proposed advertising device.

**4. Additional criteria for the granting of an approval**

The conduct of the prescribed activity 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) obstruction of pedestrian or vehicular traffic; or
  - (v) environmental harm; or
  - (vi) environmental nuisance; or
  - (vii) a potential road safety risk; or
- (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken; or
- (c) significantly obstruct the view of any premises.

**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 prescribed activity must be carried out; and
  - (c) specify standards with which the undertaking of the prescribed activity must comply; and
  - (d) require the approval holder to—
    - (i) carry out specified additional work such as earthwork and landscaping; 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 prescribed activity; and
    - (iii) give the local government specified indemnities; and
    - (iv) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; 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) construct the advertising device from specified materials; and
    - (viii) maintain the advertising device in good order and repair; and
    - (ix) install the advertising device at a specified location, or in a specified manner; and
    - (x) take specified measures to illuminate, or control the illumination of, the advertising device; and
    - (xi) restrict the dimensions of the advertising device.
- (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 pedestrian or vehicular traffic.

#### **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**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
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      Criteria for installation, erection and display of advertising devices**

Schedule 1, section 2(2)

1. This schedule specifies criteria for the installation, erection and display of advertising devices.
2. The advertising device must—
  - (a) not cause a nuisance; and
  - (b) be kept and maintained at all times in good order and repair, and free of graffiti.
3. The activity being advertised on the advertising device must be able to be lawfully conducted on the relevant premises.
4. The advertising device must be structurally sound.
5. The display of the advertising device must not cause obstruction of, or distraction to, pedestrian or vehicular traffic.
6. The advertising device must be of high design quality.
7. The face area of the advertising device must be appropriate for the location.
8. The height of the advertising device must be appropriate for the location.
9. The advertising device must not cause damage to public infrastructure.
10. The advertising device must be consistent with applicable environmental standards.
11. An illuminated advertising device must not be positioned so as to create glare or a nuisance to pedestrian or vehicular traffic.
12. The size and scale of the advertising device, whether attached to a building or free-standing, must be appropriate to the size and scale of the building (if any) and of the premises where it is erected or to be erected and the advertising device must not be oversized so as to detract from or dominate the building, premises or adjacent uses of the land on which it is to be displayed.
13. Where numerous small advertising devices are located adjacent to one another, the number, size, position and height of each advertising device must be limited to avoid visual clutter.
14. To avoid visual clutter, where more than 1 tenant or business occupies a building or attached premises, advertising devices located on the building, or free-standing signs, must be harmonious and co-ordinated in size and height.
15. The face area and size of an advertising device must be compatible with predominant land uses, the built environment and the orientation of the premises with respect to adjacent roads and buildings.
16. An advertising device mounted over a road or other place where vehicles are able to pass, must provide a clearance of not less than 5.7m from ground level directly adjacent to the advertising device.
17. The advertising device must be harmonious with the architectural style and character of the location
18. The advertising device must blend with landscaping and street features of the location.

19. Sections 20 and 21 apply if an advertising device is—
  - (a) affixed underneath, or suspended from, an awning or veranda; or
  - (b) painted or otherwise affixed to a solid or flexible material suspended from an awning, veranda or wall.
20. The advertising device must have a minimum clearance of 2.2m between the lowest point of the advertising device and ground level directly adjacent to the advertising device.
21. From the day of commencement of *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2022*, the criteria specified in section 20 does not apply to the installation, erection or display of an advertising device on premises if—
  - (a) the advertising device was installed, erected or displayed on the premises before the commencement of *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2022*; and
  - (b) the advertising device was lawfully construction or effected on the premises before the commencement of *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2022*; and
  - (c) the advertising device is not altered, after the commencement of *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2022*, in a manner which results in non-compliance with the criteria specified in section 20.
22. The maximum face area for a free-standing sign is 45m<sup>2</sup>.
23. The maximum allowable height for a free-standing sign is 15m.

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## **Schedule 4      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 5 Dictionary

### Section 4

**accepted development** see *Planning Act 2016*, schedule 2.

**advertising device** means a structure or device which is visible from a road or other public place and which conveys information or directions of any kind (other than a structure or device displayed pursuant to the authority or requirements of an Act) and the term includes any structure forming part of the advertising device or to which the advertising device is attached or on which it is displayed.

**assessable development** see *Planning Act 2016*, schedule 2.

**awning** means a permanent, roof like structure, attached to and projecting from the wall of a building which is generally designed or constructed to provide pedestrians with protection against the weather.

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

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

**code assessment** see *Planning Act 2016*, schedule 2.

**canopy** —

- (a) means a frame consisting of 1 or more columns supporting a roof which has no walls which may be free-standing or attached to a building; and
- (b) includes a covered walkway, the roof like structure over the driveway of a service station, as well as a tensioned tent like roof designed to provide protection from the weather.

**development**, for schedule 1, section 2, see *Planning Act 2016*, schedule 2.

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

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

**face area**, of an advertising device, means, generally, the area bounded by the framework of a manufactured panel, hoarding or illuminated sign case and is calculated by multiplying the sign face area height and width parameters .

**free-standing sign** —

- (a) means a sign which does not form part of a building or other structure which is erected on—
  - (i) a pole or poles, or a pylon structure; or
  - (ii) a solid, free-standing structure; and
- (b) includes—
  - (i) a billboard/hoarding sign; and
  - (ii) a pole sign; and
  - (iii) a pylon sign.

**height** means the distance measured between the top of an advertising device and ground level directly adjacent to the advertising device.

**illuminated**, for an advertising device, means that the advertising device has specifically designed internal, or external or both internal and external, means of illumination of the whole or a portion of the advertising device.

**impact assessment** see *Planning Act 2016*, schedule 2.

**land** has the meaning given in the *Planning Act 2016*.

**owner**, of premises, means the person for the time being entitled to receive the rent for the premises or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

**permitted advertisement** see schedule 1, section 2(2).

**premises** means any land, building or structure and includes any part thereof.

**public place** has the meaning given in the Act.

**road** has the meaning given in the Act.

**sign** see advertising device.

**structure** has the meaning given in the Act.

**traffic control device** has the meaning given in the *Transport Operations (Road Use Management — Road Rules) Regulation 2009*.

**vehicle** has the meaning given in the authorising local law.

This and the preceding 13 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2022* made in accordance with the provisions of the *Local Government Act 2009* by Balonne Shire Council by resolution dated the 17<sup>th</sup> day of November 2022.



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Chief Executive Officer