

FLINDERS SHIRE COUNCIL

LOCAL LAW NO. 7 (EXTRACTIVE INDUSTRIES)

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PART 1^{3/4} PRELIMINARY

Citation

1. This local law may be cited as Local Law No. 7 (Extractive Industries).

Objects

2. The objects of this local law are to—
 - (a) require compliance with essential standards of public safety in the conduct of extractive industries; and
 - (b) reduce the impact of extractive industries on public infrastructure to a reasonable level; and
 - (c) require reasonable contributions to offset the effect of extractive industries on public infrastructure; and
 - (d) protect the natural and built environment from the impact of extractive industries by visual and acoustic screening and other practicable measures; and
 - (e) provide for the rehabilitation of land that has been used for extractive industry.

Definitions

3. In this local law—

"authorised person" means a person authorised by the local government to exercise the powers of an authorised person under this local law.

"compliance notice" see section 12.

"extractive industry" means an industry for the recovery or processing of extractive materials.

"extractive materials" means soil, sand, gravel, rock, stone or other materials extracted from the earth but does not include regulated substances.

"operator" means a person who carries on (or proposes to carry on) an extractive industry (and includes a person whose permit to carry on the industry is under suspension or has been cancelled).

"regulated substance" means—

- (a) coal as defined in the *Coal Mining Act 1925*; or
- (b) a mineral as defined in the *Mineral Resources Act 1989*; or
- (c) petroleum as defined in the *Petroleum Act 1923*.

Application of this local law

4. This local law does not apply to operations that are regulated by—

- (a) the *Coal Mining Act 1925*; or
- (b) the *Mineral Resources Act 1989*; or
- (c) the *Petroleum Act 1923*.

PART 2^{3/4} APPROVAL OF EXTRACTIVE INDUSTRIES

Requirement to hold permit

5. A person must not carry on an extractive industry unless authorised by a permit under this Part.

Maximum Penalty—850 penalty units

Application for permit

6. An application for a permit must include or be accompanied by—

- (a) details of—
 - (i) the nature and location of the proposed operations; and
 - (ii) the extent and duration of the proposed operations and, if the operations are to be carried out in stages, the extent and duration of each stage of the operations; and
 - (iii) the number and the height of stockpiles to be produced in the course of the operations; and
 - (iv) the vehicles that are to be used to transport the extractive materials, and the proposed haulage routes; and
- (b) if the applicant for the permit is not the owner of the land on which operations under the permit are to be carried out—the written consent of the owner of the land; and
- (c) if approval of the operations is required under another law—a certified copy, or other appropriate evidence, of the approval; and
- (d) other information and materials required by local law policy.

Grant of permit

7. (1) The local government may grant an operator a permit authorising an extractive industry if satisfied that the conduct of the industry, on the proposed conditions of the permit, would be consistent with the objects of this local law and criteria laid down by local law policy.

(2) A local law policy may specify criteria with which an extractive industry must comply.

Term of permit

8. (1) A permit is granted for a term specified in the permit.

(2) The local government may, from time to time, on application by the operator, renew the permit.

(3) The term for which a permit is granted or renewed must be fixed as required by a relevant local law policy, or as decided by the local government when it grants the permit or the renewal.

Conditions of permit

9. (1) A permit may be granted on conditions the local government considers appropriate.

(2) The conditions of a permit may, for example—

- (a) require the operator to take specified measures to protect the safety of persons working on the site and others;
- (b) regulate access to the site;
- (c) require the fencing of the site and stockpiles of extractive materials;
- (d) regulate the accumulation of water on the site;
- (e) regulate the time when operations or specific aspects of the operations (such as blasting) may be carried out;
- (f) require the operator to take specified action to prevent or minimise pollution (including pollution of land, water or air and noise pollution);
- (g) require the operator to plant and maintain vegetation to screen the site and prevent or minimise visual pollution;
- (h) require the operator to take action to rehabilitate land affected by the operations carried out under the permit;
- (i) require the operator to give security for compliance with the conditions of the permit;

- (j) require the operator to make specified contributions to the local government towards the maintenance or improvement of roads or other public infrastructure used in connection with an extractive industry;
- (k) require the operator to keep specified records containing information of a specified kind.

(3) The local government may, by local law policy, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

Compliance with conditions of permit

10. An operator must ensure that the conditions of the permit are complied with.

Maximum penalty—500 penalty units.

PART 3^{3/4} ENFORCEMENT

Power to inspect etc

11. (1) An authorised person may enter¹ land on which an extractive industry is carried on—

- (a) to observe and record operations carried out on the land; and
- (b) to find out whether the requirements of this local law are being complied with.

(2) A person who is apparently in charge of operations on the land must, if asked by the authorised person, produce for inspection records the operator is required to keep under the conditions of the permit.

Maximum penalty—20 penalty units.

Notice to remedy contravention

12. (1) If the operator contravenes a provision of this local law or a condition of the permit, an authorised person may give the operator a written notice (a "**compliance notice**") under this section.

(2) A compliance notice may—

- (a) if the contravention is of a continuing or recurrent nature—require the operator to stop the contravention; and
- (b) whether or not the contravention is of a continuing or recurrent nature—require the operator to take specified action, within a time specified in the notice, to remedy the contravention.

(3) The operator must comply with a notice under this section.

Maximum penalty—500 penalty units.

Local government's power to have work carried out

13. If an operator fails to have work required by a compliance notice carried out, the local government may itself have the work carried out².

Recovery of costs

14. (1) The operator is liable to the local government for the cost of work carried out under this Part.

(2) The local government must give the operator an account for the amount for which the operator is liable under subsection (1).

(3) If the amount is not paid on or before the date for payment fixed in the account, the local government may recover the amount as a debt.

Suspension or cancellation of permit

15. (1) If—

- (a) an operator fails to remedy contravention of a permit within the time allowed in a compliance notice; or

- (b) the conduct of an extractive industry creates, in the opinion of the local government, a serious risk to life or property, or a public nuisance;

the local government may, by written notice to the operator, suspend or cancel the permit.

(2) However, before the local government suspends or cancels a permit under this section, the local government must—

- (a) give written notice to the operator of the proposed suspension or cancellation; and
- (b) allow the operator a period stated in the notice (which must be at least 14 days from when the notice is given) to make written representations to the local government about the proposed suspension or cancellation; and
- (c) consider representations made in response to the notice;

(but the local government is not required to comply with this subsection in the case of imminent risk to the safety of life or property).

PART 4^{3/4} LOCAL LAW POLICIES

Local law policies

16. The local government may make local law policies for the purposes of this local law.

¹. See Chapter 11, Part 5 of the Local Government Act 1993.

². See section 661 of the Local Government Act 1993.