

# **FLINDERS SHIRE COUNCIL**

## **LOCAL LAW NO. 8 (ENTERTAINMENT VENUES)**

### **SUMMARY OF PROVISIONS**

#### **PART 1<sup>3/4</sup> PRELIMINARY**

1. Citation
2. Objects
3. Definitions

#### **PART 2<sup>3/4</sup> CONTROL OF ENTERTAINMENT VENUES**

4. Requirement to hold permit
5. Application for permit
6. Grant of permit
7. Term of permit
8. Conditions of permit
9. Compliance with conditions of permit
10. Power to change conditions of permit

#### **PART 3<sup>3/4</sup> ENFORCEMENT**

11. Inspection
12. Compliance notices
13. Local government's power to have work carried out
14. Recovery of costs
15. Closure orders
16. Obligation to comply with closure order

#### **PART 4<sup>3/4</sup> LOCAL LAW POLICIES**

17. Local law policies

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## PART 1<sup>3</sup>/<sub>4</sub> PRELIMINARY

### Citation

1. This local law may be cited as Local Law No. 8 (Entertainment Venues).

### Objects

2. The objects of this local law are to—
  - (a) ensure that entertainment venues comply with appropriate standards of health and safety; and
  - (b) protect the amenity of areas in which entertainment venues are situated.

### 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.

**"closure order"** see section 15(1).

**"compliance notice"** see section 12(1).

**"entertainment"** includes recreation and amusement.

**"entertainment venue"** means a place that is open to the public for entertainment but does not include a shop or licensed premises.

*Explanatory note—*

A place is taken to be open to the public—

- (a) whether or not a charge for admission is made; and
- (b) whether or not the person who controls admission to the place reserves a right to refuse admission.

*Examples—*

- a cinema;
- a theatre;
- a concert hall;
- a billiard saloon;
- an electronic games centre;
- an indoor sports centre (including a bowling alley);
- an art gallery;
- a museum;
- a bazaar or flea market (of a non-permanent nature);
- a fair ground.

**"licensed premises"** means premises for which a licence is in force under the *Liquor Act 1992*.

**"operate"** an entertainment venue means to open the entertainment venue to the public for entertainment.

**"operator"** of an entertainment venue means the person who operates the entertainment venue and includes the owner or someone else who has the management and control of the entertainment venue.

**"shop"** means premises for the wholesale or retail sale of goods and includes a warehouse.

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## PART 2<sup>3</sup>/<sub>4</sub> CONTROL OF ENTERTAINMENT VENUES

### Requirement to hold permit

4. A person must not establish or operate an entertainment venue unless a permit for the entertainment venue is in force.

Maximum penalty—200 penalty units.

### Application for permit

5. (1) An application for a permit authorising the establishment or operation of an entertainment venue must include or be accompanied by—

- (a) a plan of the entertainment venue; and
- (b) details and drawings of buildings and other structural elements of the entertainment venue; and
- (c) a detailed statement of the nature of the entertainment to be provided at the entertainment venue and when the entertainment venue is to be open to the public; and
- (d) if the applicant is not the owner of the entertainment venue—the written consent of the owner; and
- (e) if approval of anything to be done under the permit is required under another law—a certified copy or other appropriate evidence of the approval; and
- (f) other information and materials required under local law policies.

(2) However, if the application is only for a permit to operate an entertainment venue that has already been established, the local government may waive requirements of this section to an extent it considers appropriate.

**Grant of permit**

**6. (1)** The local government may grant a permit authorising the operation, or the establishment and operation, of an entertainment venue if satisfied that—

- (a) the design and construction of the entertainment venue is safe and appropriate to the nature of entertainment proposed and the number of people expected to attend the venue; and
- (b) the entertainment venue, or its operation, would not unreasonably detract from the amenity of the area in which the entertainment is, or is to be, established; and
- (c) entertainments provided at the entertainment venue will not generate significant noise, dust or light pollution or other significantly adverse effects on the surrounding neighbourhood; and
- (d) there will be enough toilets and sanitary conveniences, complying with standards and requirements imposed by the local government, for the use of the public; and
- (e) adequate provision will exist for the disposal of refuse generated by the use of the entertainment venue; and
- (f) adequate provision will exist for people and (if relevant) vehicles to enter and leave the entertainment venue; and
- (g) the entertainment venue and the entertainments to be provided at the entertainment venue will comply with criteria specified under local law policies.

**(2)** A local law policy may specify criteria<sup>1</sup> with which an entertainment venue, or the entertainments to be provided at an entertainment venue, must comply.

**Term of permit**

**7. (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

8. (1) A permit may be granted on conditions<sup>1</sup> the local government considers appropriate.

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

- (a) impose requirements about the layout, design, construction, and external appearance of the entertainment venue (including requirements to make changes to existing buildings and structures);
- (b) require specified action to maintain or improve the entertainment venue;
- (c) require the operator to provide specified equipment, and to take specified measures, for the safety of the public;
- (d) require the operator to provide specified facilities and amenities;
- (e) regulate the hours of operation of the entertainment venue;
- (f) regulate illumination of the entertainment venue and light spillage from the entertainment venue;
- (g) regulate noise emission from the entertainment venue;
- (h) require the operator to provide specified equipment, or take specified measures, to reduce adverse effects of activities in the entertainment venue on the surrounding neighbourhood to acceptable levels.

(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**

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

Maximum penalty—200 penalty units.

### **Power to change conditions of permit**

10. (1) The local government may, by written notice given to an operator, change<sup>2</sup> the conditions of the operator's permit.

(2) However, the local government may only change conditions of a permit if—

- (a) the operator agrees to the proposed change; or
- (b) the local government—
  - (i) has given the operator reasonable written notice of the proposed change inviting the operator to make written representations about the proposed change within a reasonable period fixed in the notice; and
  - (ii) if the operator makes written representations within the time allowed in the notice—has taken the representations into account.

## **PART 3<sup>3/4</sup> ENFORCEMENT**

### **Inspection**

11. An authorised person may enter<sup>3</sup> and inspect an entertainment venue and activities in the entertainment venue to find out whether the requirements of this local law and the conditions of the permit are being complied with.

### **Compliance notices**

**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—100 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 out.<sup>4</sup>

### **Recovery of costs**

**14. (1)** The operator is liable to the local government for the cost of work carried out by the local government 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 a date for payment fixed in the account, the local government may recover the amount from the operator as a debt.

### **Closure orders**



**15. (1)** If an operator contravenes a compliance notice, or if the operation of an entertainment venue causes a serious public nuisance, the local government may, by written notice given to the operator (a "closure order")—

- (a) order the closure of the entertainment venue to the public; and
- (b) suspend or cancel the permit.

**(2)** Before issuing a closure order, the local government must—

- (a) give written notice to the operator of the proposed closure order; and
- (b) allow the operator a period stated in the notice (which must be at least 2 months from when the notice is given) to make written representations to the local government about the proposed closure of the entertainment venue; and
- (c) consider representations made in response to the notice.

**(3)** However, notice of a proposed closure order is not necessary if the closure of the entertainment venue is urgently necessary in the interests of public health or safety, or to abate a public nuisance.

### **Obligation to comply with closure order**

**16.** A person must not open an entertainment venue to the public, or permit it to be opened to the public, in contravention of a closure order.

Maximum penalty—200 penalty units.

## **PART 4<sup>3/4</sup> LOCAL LAW POLICIES**

### **Local law policies**

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

- <sup>1</sup>. Criteria and conditions must not duplicate or conflict with State Legislation (e.g. Building Act 1975).
- <sup>2</sup>. A "change" to the conditions of a permit includes a change by omission, substitution or addition (See *Acts Interpretation Act 1954*, s. 36).
- <sup>3</sup>. For power to enter premises, see Chapter 11, Part 5 of the Local Government Act 1993.
- <sup>4</sup>. See section 661 of the Local Government Act 1993.