



# Brisbane City Council

## Advertising Devices Local Law 2021

This local law was made by Council on 18 May 2021  
Commencement date – 21 May 2021



*Dedicated to a better Brisbane*

Brisbane City Council

Advertising Devices Local Law 2021

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## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as the *Advertising Devices Local Law 2021*.

### **2 Purpose and how it is to be achieved**

- (1) The purpose of this local law is to ensure advertising devices are located, designed and operated to complement or at the very least avoid, where practicable, or minimise adverse impacts—
  - (a) to the established or planned characteristics of the site, streetscapes and neighbourhood; and
  - (b) on the natural environment; and
  - (c) to the amenity of the site, surrounding areas and the region; and
  - (d) on the cultural heritage significance of a heritage place, including any Aboriginal cultural values; and
  - (e) on essential standards of public safety including the safety and efficient operation of the transport network, including the movement of pedestrians, cyclists, vehicles and aircraft.
- (2) The purpose is to be achieved by—
  - (a) applying standards of urban design, amenity, sustainability, conservation, health and safety that are cost-effective and in the public interest; and
  - (b) providing for the assessment of applications for approval of particular advertising devices; and
  - (c) providing for the confiscation of advertising devices; and
  - (d) providing for the monitoring and enforcement of compliance with this local law; and
  - (e) recognising the value of advertising devices to business and government to provide information to the public; and
  - (f) recognising the wider community benefit of advertising devices to provide information to the public.

### **3 Definitions**

The dictionary in Schedule 2 defines particular words used in this local law.

### **4 Relationship with other laws**

- (1) This local law does not derogate from—
  - (a) any other laws regulating—
    - (i) the use or development of land; and
    - (ii) public health risks; and

- (iii) the environment; and
- (b) any other local law or subordinate local law made by Council.
- (2) If there is an inconsistency between this local law and a law made by the State or Commonwealth, the law made by the State or Commonwealth prevails to the extent of the inconsistency.
- (3) This local law is made under the *City of Brisbane Act 2010* and section 66 of the *Transport Operations (Road Use Management) Act 1995*.
- (4) This local law does not apply to an advertising device on a State-controlled road unless the chief executive has provided written agreement for the local law to apply to a declared road pursuant to section 66(5)(b) of the *Transport Operations (Road Use Management) Act 1995*.
- (5) This local law does not derogate from—
  - (a) Council's obligations under section 43 and 309 of the *Transport Infrastructure Act 1994*; and
  - (b) the powers of the State under section 303AB and 355A of the *Transport Infrastructure Act 1994*.

## **5 Relationship with the Planning Act 2016 and the Brisbane City Plan 2014**

This local law—

- (a) does not derogate from the need to obtain a development approval for any aspect of development for an advertising device that is assessable development under the *Planning Act 2016*; and
- (b) makes references to terms used and defined within the City Plan including zone, overlay, use and administrative terms.

## **Part 2 Displaying advertising devices**

### **Division 1 Prohibited advertising devices**

#### **6 Prohibited advertising devices**

- (1) A person must not make an application for an advertising device that is a prohibited advertising device.
- (2) The following advertising devices are prohibited—
  - (a) subject to any rules or procedures made under section 57, an advertising device that is—
    - (i) bunting and streamers;
    - (ii) a fly poster sign;
    - (iii) an inflatable sign; or
    - (iv) a vehicle sign (standing); or
  - (b) an advertising device that is a high impact electronic display component sign if it is—

- (i) proposed to be located outside the City frame in any 1 or more of the following locations—
- (A) on land improved by a building that is a heritage place;
  - (B) within 50m of a building that is a heritage place, where the proposed advertising device is located on the same road or roads as the building;

*Examples—*

- Where a building has an external appearance on 1 or more roads, an advertisement will be prohibited if it is located on any 1 or more of the roads within 50m of the building.
- Where the building is located at a junction of 2 roads, an advertisement will be prohibited if it is located on either of the roads within 50m of the building.

- (C) on land that is identified in the Commercial character building overlay or the Pre-1911 building overlay;
- (D) within 50m of a building that is identified in the Commercial character building overlay or the Pre-1911 building overlay where the proposed advertisement is located on the same road or roads as the building;

*Examples—*

- Where a building has an external appearance on 2 or more roads (for example, a corner block), an advertisement will be prohibited if it is located on either of the roads within 50m of the building.
- Where the building is located at a junction of 2 roads, an advertisement will be prohibited if it is located on either of the roads within 50m of the building.

- (ii) proposed to be located inside the City frame in any 1 or more of the following locations—
- (A) on land improved by a building that is a heritage place;
  - (B) on land that is identified in the Commercial character building overlay or the Pre-1911 building overlay.

- (3) For the purposes of section 6(2)(b), a reference to road or roads includes a declared road or declared roads.

## **Division 2 Advertising devices for which approval is required**

### **7 Requirement for approval**

A person must obtain an approval to install, erect or display an advertising device unless the advertising device is—

- (a) a prohibited advertising device; or
- (b) a permitted advertising device; or
- (c) an advertising device that falls within section 40(2).

## Division 3 Self-assessment

### 8 Self-assessment may be permitted

Council may allow an approval for certain advertising devices to be granted by a self-assessment system established under section 9.

### 9 Self-assessment system

- (1) Council may establish a self-assessment system for activities that ordinarily require approval by Council under this local law.
- (2) If a person undertakes a self-assessment process through a system established under subsection (1), this local law applies to any self-assessment as if it were an approval granted by Council under this local law.
- (3) Sections 12, 14 and 42 apply to this section.

## Division 4 Permitted advertising devices

### 10 Designation of permitted advertising devices

- (1) Subject to subsection (2), Council may, by resolution, designate an advertising device to be a **permitted advertising device** based on 1 or more of the following—
  - (a) the type or class of the advertising device;
  - (b) the proposed location of the advertising device;
  - (c) such other circumstances about or relating to the advertising device as reasonably determined by Council.
- (2) Before Council makes a resolution under subsection (1), Council must undertake public consultation for a period of 15 business days about the type or class of advertising device which may be designated as a permitted advertising device.
- (3) Within 7 days after Council resolves to designate an advertising device as a permitted advertising device, Council must give the public notice of its decision.
- (4) A notice under subsection (3) must—
  - (a) be published on Council's website; and
  - (b) state the date on which the designation takes effect.
- (5) Council may vary or revoke a designation made under subsection (1).

## Division 5 Obtaining and administering approvals

### 11 Form of application

- (1) An application for an approval under section 7 and section 8 must be in an approved form.

- (2) An application under subsection (1) must be accompanied by—
  - (a) the prescribed fee, where required; and
  - (b) any other approval required by law; and
  - (c) if the applicant is not the owner of the land the subject of the application—written consent of the landowner on which the advertising device is proposed to be located; and
  - (d) all other supporting information required by—
    - (i) the approved form; and
    - (ii) any rules or procedures made under this local law.
- (3) Council may give the applicant an information notice under section 52 requesting that the applicant provide such reasonable further information or clarify information, documents or materials or matters in relation to the matters listed in subsection (2).
- (4) An application that complies with this section 11 is a ***properly made application***.

## **12 Properly made applications**

Council—

- (a) must accept an application that Council is satisfied is a properly made application; and
- (b) may accept an application as a properly made application even if the application does not comply with section 11; and
- (c) must not accept an application for a prohibited advertising device.

## **13 Changing or withdrawing an application**

- (1) An applicant may change or withdraw an application, before the application is decided, by—
  - (a) providing a notice to Council; and
  - (b) for a change application—paying the prescribed fee.
- (2) A change must not include a prohibited advertising device.

## **14 Assessing applications**

- (1) In considering an application, Council must have regard to the following—
  - (a) any relevant advice obtained from suitably qualified experts; and
  - (b) the public interest; and
  - (b) conditions imposed on any relevant development approval; and
  - (c) the intended outcomes; and
  - (d) any rules or procedures made under section 57; and
  - (e) technical standards made under section 58.

- (2) In considering an application, Council may have regard to the following—
- (a) any existing advertising devices, any approved but not yet constructed advertising devices or any current application for an advertising device (irrespective of the order the applications are received); and
  - (b) any relevant Commonwealth, State or Brisbane City Council advice, plans, proposals or agreements affecting the location of the proposed advertising device; and
  - (c) any appropriate mitigation measures which may be conditioned on the approval holder to appropriately address any adverse impacts of the proposed advertising device; and
  - (d) the impact of the approval on the overall number of advertising devices in the immediate locality; and
  - (e) any potential public safety or community benefit which may be realised through the use of the proposed advertising device; and
- Examples of a public safety or community benefit include—*
- whether the advertising device can be used to display targeted emergency messages or missing persons' alerts
  - whether revenue from the advertising device will contribute to the provision of public infrastructure
- (f) any potential improvements to the amenity of the location of the proposed advertising device; and
  - (g) the proposed content to be displayed on the advertising device; and
  - (h) any other factor or matter considered appropriate by Council.
- (3) In considering an application under this section, Council may, at its discretion, consult with and have regard to submissions made by the Commonwealth, the State or any public sector entity.
- (4) A decision made by Council under section 15 is not invalidated if Council did not have regard to the matters described in subsections (2) or (3).
- (5) Council may give the applicant an information notice under section 52 at any time during the assessment of the application, requesting that the applicant provide such reasonable further information or clarify information, documents or materials or matters about the application.

## 15 Deciding applications

- (1) This section applies to a properly made application.
- (2) Council must assess and decide a properly made application.
- (3) Council must decide to—
  - (a) approve all or part of the application; or
  - (b) approve all or part of the application, subject to conditions; or
  - (c) refuse the application.

- (4) If Council approves only part of an application, the rest is taken to be refused.

## **16 Notice of decision**

Within 5 business days of Council making a decision under section 15(3), Council must give a decision notice.

## **17 Conditions of approval**

- (1) Subject to subsection (2), Council may grant an approval on any conditions Council considers appropriate.
- (2) An approval must be subject to the following conditions—
- (a) that any building work required for the advertising device must be completed within the time specified in section 18; and
  - (b) that anything forming part of an advertising device must be maintained in good order or repair and must not be left in an unsightly condition.
- (3) Without limiting the conditions imposed under subsection (2), a condition imposed on an approval may—
- (a) restrict or limit the amount of third party advertising content; and
  - (b) regulate the hours of operation for the advertising device; and
  - (c) regulate the positioning of the advertising device in relation to the boundaries of the land, or a building or structure on which the advertising device is situated; and
  - (d) regulate the positioning of the advertising device in relation to any road or public place; and
  - (e) require the approval holder to give Council written notice containing specified information before, or within a specified period after, the advertising device is installed, erected or displayed; and
  - (f) require the approval number to be affixed to the advertising device in a conspicuous location for as long as the advertising device is installed, erected or displayed; and
  - (g) require the removal of any existing advertising device on the land; and
  - (h) regulate how long the advertising device may remain on the land; and
  - (i) require the advertising device to be securely fixed so as not to endanger public safety; and
  - (j) prescribe the maximum illumination or luminance output for the advertising device; and
  - (k) regulate or prescribe any other matter relating to or about the advertising device as reasonably determined by Council; and

- (l) require the approval holder to take any other action as reasonably determined by Council.

## 18 Building work to be completed within 1 year

- (1) This section applies if building work is required for any advertising device where—
  - (a) Council has given an approval under section 15(3)(a) or 15(3)(b); and
  - (b) the term of the approval is for 1 year or more.
- (2) The building work must substantially start within 6 months after the date of the approval.
- (3) Within 1 year after the date of the approval the building work must be completed.
- (4) However, an approval holder may apply to Council to approve 1 extension of the period mentioned in subsection (3) for a period of up to 6 months (an **extension application**).
- (5) The extension application must be—
  - (a) made at least 15 business days before the end of the period mentioned in subsection (3); and
  - (b) in writing; and
  - (c) supported by enough information to enable Council to decide the application; and
  - (d) accompanied by the prescribed fee, where required.
- (6) Council may consult with any other entity Council considers appropriate in deciding the extension application.
- (7) Council must decide the extension application within 10 business days after the extension application is made.
- (8) In making a decision about the extension application, Council may consider all relevant matters, including, for example—
  - (a) how much building work has been undertaken at the time of the making of the extension application; and
  - (b) whether the building work that has been undertaken is structurally sound; and
  - (c) whether the building work that has been undertaken—
    - (i) is in accordance with the approval for the advertising device; and
    - (ii) is generally in accordance with the relevant development approval for the advertising device; and
  - (d) the conditions applying to applications for an approval at the time the extension application is made.

- 
- (9) Council must, within 5 business days after deciding an extension application, give the approval holder a decision notice.
- (10) If the decision is to refuse to extend the period mentioned in subsection (3)—
- (a) the approval automatically lapses 1 year after the date of the approval; and
  - (b) the approval holder will be required to make a new application under part 2, division 2.
- (11) Subsection (10) applies notwithstanding section 20.
- (12) If Council approves the extension application—
- (a) the approval is taken to have been extended for the period granted by Council; and
  - (b) the approval holder is not required to pay the prescribed fee under section 20(2).
- (13) If Council has given an approval and the approval holder has not—
- (a) carried out building work in accordance with subsection (2) and (3); and
  - (b) applied to Council for an extension under subsection (4), then Council may cancel the approval.
- (14) Subsection (15) applies if—
- (a) an extension application is made in accordance with subsection (5); and
  - (b) Council has not given a decision notice about the extension application before the end of the period mentioned in subsection (3).
- (15) The approval is taken to have been extended until the earlier of the following—
- (a) Council giving the approval holder a decision notice under subsection (9); or
  - (b) the end of 6 months after the end of the period mentioned in subsection (3).
- (16) In this section—
- building work** means—
- (a) the erection or construction of any advertising device; or
  - (b) the renovation, alteration, extension, improvement or repair of a building upon which an advertising device is to be exhibited; or
  - (c) any site work (including the construction of retaining structures) related to the advertising device; or
  - (d) the provision of lighting, electricity and any other services in connection with the advertising device; or
  - (e) any other works associated with the advertising device.

## **19 Term of approval**

Unless cancelled, an approval remains in force for—

- (a) the term specified in the approval; or
- (b) if no term is specified in the approval—1 year from the date the approval is granted.

## **20 Automatic renewal of approval**

- (1) Subject to subsection (3), unless the approval states otherwise, an approval is renewed automatically annually.
- (2) An approval will be automatically renewed under subsection (1) provided that the approval holder has paid the prescribed fee, where required.
- (3) An approval will automatically lapse if the approval holder has not paid the prescribed fee, where required, on or before the last date of the term of the approval.
- (4) This section does not apply to a temporary approval.

## **21 Application for restoration of an approval**

- (1) This section applies if the approval automatically lapsed under section 20(3).
- (2) If an approval holder pays the prescribed fee under section 20(2) within 15 business days of the last date of the term of the approval, the approval will be—
  - (a) automatically restored; and
  - (b) taken to have been restored effective from the date the approval was to be automatically renewed under section 20.
- (3) Subsection (4) applies if the approval holder has not paid the prescribed fee under section 20(2) within the time specified in subsection (2).
- (4) Subject to subsection (5), an approval holder may apply to Council to restore the approval.
- (5) An application under subsection (4) must be—
  - (a) made within 60 business days of the end of the term of the approval; and
  - (b) made in the approved form; and
  - (c) accompanied by the prescribed fee, where required; and
  - (d) accompanied by all other supporting information required by—
    - (i) the approved form; and
    - (ii) any rules or procedures made under this local law.
- (6) Council may accept an application that does not comply with subsection (5) where, in Council's discretion, there are extenuating circumstances.

- (7) Council may give the approval holder an information notice under section 52 requesting that the approval holder provide further information or clarify information, documents or materials included in the application made under subsection (4).
- (8) Council may grant the application only if it is satisfied that—
  - (a) the installation, erection or display of the advertising device is consistent with the purpose of this local law; and
  - (b) all other conditions of the approval have been, and are continuing to be, complied with by the approval holder.
- (9) In deciding an application, Council may have regard to—
  - (a) the matters which Council may have regard to in deciding whether to approve an application under section 14; and
  - (b) any other matter as reasonably determined by Council.
- (10) After having regard to the matters in subsection (9), Council must decide to—
  - (a) restore the approval; or
  - (b) restore the approval and, in its discretion, amend the conditions of the approval; or
  - (c) refuse to restore the approval.
- (11) Council must, within 5 business days after deciding an application, give the approval holder a decision notice.
- (12) Council may amend the conditions of the approval under subsection (10)(b) without following the procedure set out in section 24.
- (13) If Council decides to restore the approval under subsection (10)(a) or (b), the approval, and any amended conditions, will be taken to have been restored, effective from the date the approval was to be automatically renewed under section 20.

## **22 Council may amend or cancel an approval**

Subject to section 23 and 24, Council may amend or cancel an approval.

## **23 Grounds for amending or cancelling an approval**

- (1) Each of the following is a ground for amending or cancelling an approval—
  - (a) amendment or cancellation is necessary—
    - (i) for the protection of public health or safety; or
    - (ii) to prevent environmental harm; or
    - (iii) to prevent property damage or loss of amenity;
  - (b) the approval holder has failed to comply with this local law;
  - (c) the approval holder has failed to, or repeatedly fails to, comply with the approval;

- (d) the approval holder has failed to comply with an oral compliance direction or compliance notice in relation to the advertising device that is the subject of the approval;
  - (e) a document or representation relied upon by Council in granting the approval—
    - (i) contained false or misleading information; or
    - (ii) was obtained or made in another improper way;
  - (f) amendment or cancellation is necessary if in Council's reasonable opinion—
    - (i) the character of the location of the advertising device changes such that the advertising device is no longer consistent with the character of the location of the advertising device; or
    - (ii) the advertising device significantly detracts from the character of the location of the advertising device;
  - (g) if the approval was issued for an advertising device which is prohibited under this local law—after the approval for the advertising device has been renewed 9 times from the date that this local law commences.
- (2) Without limiting subsection (1), Council may amend an approval if Council considers it necessary or appropriate to ensure an approved advertising device continues to comply with the purpose of this local law.

## **24 Procedure for amending or cancelling an approval**

- (1) This section applies if Council reasonably suspects that there may exist a ground under section 23 to amend or cancel an approval.
- (2) Before amending or cancelling an approval, Council must give the approval holder a show cause notice in accordance with section 36.
- (3) If, after considering all submissions made by the approval holder within the show cause period, Council decides that a ground does not exist to take the proposed action, Council must—
  - (a) give a decision notice to the approval holder about Council's decision; and
  - (b) take no further action in relation to the show cause notice.
- (4) A decision of Council under subsection (3) takes effect on the date the decision notice is given to the approval holder.
- (5) If, after considering all submissions made by the approval holder within the show cause period, Council believes that there is a ground to take the proposed action, Council must give the approval holder a decision notice stating—
  - (a) if the proposed action was to amend the approval—Council's decision to amend the approval and the details of the amendments; or

- (b) if the proposed action was to cancel the approval—Council’s decision to cancel the approval.
- (6) Council may have regard to any of the matters set out in section 14 when making a decision under subsection (5).
- (7) A decision of Council under subsection (5) takes effect on—
  - (a) the date stated in the decision notice; or
  - (b) if no date is stated in the decision notice—the date the decision notice is given to the approval holder.
- (8) If Council decides to cancel the approval under subsection (5)(b), the approval holder must remove the advertising device by the date of removal stated in the decision notice.  
Maximum penalty for subsection (8)—500 penalty units.
- (9) This section does not limit any power that Council may otherwise have to amend or cancel an approval under this local law.

## **25 Amending an approval at the request of an approval holder**

- (1) Subject to subsection (2) and (3), an approval holder may apply to Council to amend an approval.
- (2) An approval holder may not apply to Council to amend an approval if the amendment involves—
  - (a) a change, other than a minor change, to the built form of the advertising device; or
  - (b) a change which results in any electronic display component of the advertising device exceeding 4 m<sup>2</sup>.
- (3) An application under subsection (1) must—
  - (a) be in writing and state—
    - (i) the proposed amendment; and
    - (ii) the reasons why the amendment is sought; and
    - (iii) if the applicant is not the owner of the land the subject of the application—written consent of the landowner on which the advertising device is located; and
  - (b) be accompanied by the prescribed fee, where required.
- (4) Council may, by decision notice to the approval holder—
  - (a) grant the application, with the decision notice to be accompanied by a copy of the amended approval; or
  - (b) refuse the application, with the decision notice to include reasons for Council’s decision.
- (5) Council is not required to follow the procedure in section 24 for amending an approval where it has decided to grant the application under subsection (4)(a).

## **26 Cancellation of approval by approval holder or landowner**

- (1) An approval holder may apply to Council to cancel an approval.
- (2) Subject to subsection (3), a person who is the owner of land or premises on which an advertising device has been installed, erected or displayed may apply to Council to cancel an approval for that advertising device.
- (3) A person making an application under subsection (2) must demonstrate to Council that—
  - (a) the advertising device has been installed, erected or displayed without the person's consent; or
  - (b) the person's consent for the installation, erection or display of the advertising device has been withdrawn or revoked; or
  - (c) the person granted an approval for the advertising device is no longer permitted to occupy or use the land or premises on which the advertising device has been installed, erected or displayed.
- (4) The application must—
  - (a) be in writing and state—
    - (i) the proposed date for the approval to be cancelled; and
    - (ii) the reasons why the amendment is sought; and
    - (iii) if the applicant is not the owner of the land the subject of the application—written consent of the landowner on which the advertising device is located; and
  - (b) be accompanied by—
    - (i) the prescribed fee, where required; and
    - (ii) all other supporting information required by any rules or procedures made under this local law.
- (5) Council may, by decision notice to the applicant—
  - (a) approve the application; or
  - (b) refuse the application.
- (6) A decision by Council to cancel the approval takes effect from the earlier of—
  - (a) the proposed date for the approval to be cancelled as requested by the approval holder; or
  - (b) 10 business days from the date Council provides a decision notice under subsection (5).

## **27 Transfer of approval**

- (1) Subject to subsection (2) and (3)—
  - (a) an approval holder; or
  - (b) a person who is—

- (i) the owner of land or premises on which an advertising device has been installed, erected or displayed; or
  - (ii) the manager or controller of land or premises on which an advertising device has been installed, erected or displayedmay transfer an approval to another person (the **transferee**).
- (2) Before an approval is transferred under subsection (1), the approval holder or person must apply to Council for consent to transfer the approval.
- (3) Where the applicant is a person under subsection (1)(b), the person must demonstrate to Council that—
  - (a) the advertising device has been installed, erected or displayed without the consent of the person; or
  - (b) the person's consent for the installation, erection or display of the advertising device has been withdrawn or revoked; or
  - (c) the person granted an approval is no longer permitted to occupy or use the land or premises on which the advertising device has been installed, erected or displayed.
- (4) An application under subsection (2) must be accompanied by—
  - (a) the prescribed fee, where required; and
  - (b) sufficient details about the transferee; and
  - (c) if the approval holder or the transferee are not the owner of the land—the written consent of the owner of the land on which the advertising device is located; and
  - (d) all other supporting information required by—
    - (i) the approved form; and
    - (ii) any rules or procedures made under this local law.
- (5) Council may give the applicant an information notice under section 52 requesting the applicant provide such reasonable further information or clarify information, documents or materials or matters included in the application.
- (6) If the applicant does not comply with the information notice, the application made under subsection (2) will be deemed to have been withdrawn by the applicant.
- (7) After carrying out the assessment, Council must decide—
  - (a) to approve the application; or
  - (b) to approve the application subject to conditions; or
  - (c) to refuse the application.
- (8) Council must give a decision notice about Council's decision to—
  - (a) the applicant; and
  - (b) if approved—the transferee.

- (9) On and from the date the approval is taken to be transferred to the transferee—
  - (a) the transferee is taken to be the approval holder; and
  - (b) the transferee must comply with—
    - (i) the approval; and
    - (ii) any conditions of the approval; and
    - (iii) this local law; and
  - (c) subject to the decision notice, the approval continues.
- (10) Nothing in this section 27 limits the liability of the approval holder for any acts or omissions of the approval holder, or any person acting under the authority of the approval holder, before the transfer of the approval to the transferee.

## **Part 3                      Seizing, removal, storage, sale or disposal of advertising devices by Council**

### **28    Removal of advertising devices**

- (1) This section applies if an authorised person believes on reasonable grounds that an advertising device has been—
  - (a) abandoned; or
  - (b) left in circumstances where its presence—
    - (i) is hazardous; or
    - (ii) is a nuisance; or
    - (iii) creates a risk to life or property; or
  - (c) installed, erected or displayed without approval; or
  - (d) installed, erected or displayed in contravention of any approval.
- (2) The authorised person may—
  - (a) give the approval holder or advertiser—
    - (i) an oral compliance direction to immediately remove the advertising device; or
    - (ii) a notice to remove; or
  - (b) seize and remove the advertising device, or cause it to be removed, into the possession of Council (the **removed advertising device**).
- (3) For the purposes of seizing and removing an advertising device, an authorised person, and any person who assists the authorised person, may take any action which is reasonable in the circumstances to remove the advertising device.
- (4) An authorised person must give a notice of the removal of the removed advertising device.

- (5) A notice given under subsection (4) must—
  - (a) be given to the approval holder or an advertiser; and
  - (b) be in writing; and
  - (c) state—
    - (i) the date and time the advertising device was removed by Council; and
    - (ii) where the advertising device will be stored by Council; and
    - (iii) the time by which the approval holder or advertiser must collect the removed advertising device; and
    - (iv) contact details for the authorised person responsible for releasing the removed advertising device to the approval holder or advertiser.
- (6) Subsection (4) does not apply to the removal of a low-value advertising device.

## **29 Release of removed advertising devices**

- (1) Subject to subsections (3) and (4), within 28 days after the seizure and removal of the advertising device, the approval holder or advertiser must—
  - (a) contact the authorised person to arrange for collection of the removed advertising device; and
  - (b) pay the prescribed fee, where required; and
  - (c) arrange for the collection of the removed advertising device.
- (2) On collection of the removed advertising device, the approval holder or advertiser must sign a receipt confirming that the approval holder or advertiser has collected the removed advertising device.
- (3) If Council proposes to commence legal proceedings or prosecution in relation to the approval holder or the advertiser within 12 months of the removal of the advertising device, then Council is not obligated to release the removed advertising device until—
  - (a) the end of the legal proceeding or prosecution and any appeal from the legal proceeding or prosecution; or
  - (b) if Council decides that its retention as evidence is not necessary—within 28 days of that decision.
- (4) If for any reason it is not possible to return the removed advertising device to the approval holder or the advertiser, then Council may dispose of the removed advertising device under section 30.

## **30 Disposal by Council**

- (1) If the approval holder or advertiser fails to collect the removed advertising device within the time stated in the notice given under section 28(4), Council

may offer the removed advertising device for sale by private treaty, tender, expression of interest or auction.

- (2) If there is no purchaser of the removed advertising device at the time of sale, Council may dispose of the removed advertising device in any manner it considers appropriate.
- (3) Section 42A of the *City of Brisbane Act 2010* applies to the proceeds of sale or disposal of the removed advertising device under subsection (1).
- (4) If upon disposal of the removed advertising device, the costs and expenses incurred by Council in connection with its removal, retention, storage and sale or disposal are not fully recovered, Council may recover the outstanding balance in accordance with section 37.

### **31 Immediate removal and disposal by Council**

- (1) This section applies if an authorised person—
  - (a) believes that an advertising device is a low-value advertising device; or
  - (b) has, after all reasonable attempts, been unable to identify or contact the approval holder or advertiser.
- (2) Subject to subsection (1) and without limiting this section, an authorised person may give an oral compliance direction to the owner or occupier of the land on which the advertising device has been installed, erected or displayed, to immediately remove the advertising device.
- (3) The authorised person may immediately remove and dispose of a low-value advertising device without giving a notice under section 28(2) from—
  - (a) any road; or
  - (b) any public infrastructure; or
  - (c) any Council owned or controlled land.
- (4) The authorised person may immediately remove and dispose of an advertising device without giving notice under section 28(2) if—
  - (a) the owner or occupier of the land on which the advertising device has been installed, erected or displayed, fails to remove the advertising device; or
  - (b) the authorised person has been unable to identify or contact the approval holder or advertiser.
- (5) This section applies subject to the powers of an authorised person to enter the land under the *City of Brisbane Act 2010*.

## **Part 4 Enforcement**

### **32 Oral compliance direction**

- (1) If, in the reasonable opinion of an authorised person, a person engages in conduct that is, or is preparatory to, a contravention of this local law or any

approval, and is capable of being immediately stopped or remedied, an authorised person may, in addition to taking any other action that an authorised person may take under this local law, give that person an oral compliance direction to do either or both of the following—

- (a) immediately stop the conduct; or
  - (b) take specified action to remedy the contravention.
- (2) A person must comply with an oral compliance direction unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—

- (a) 50 penalty units if the contravention, or conduct that is preparatory to a contravention, poses a risk—
  - (i) to public health or safety; or
  - (ii) of damage to property; or
  - (iii) of loss of amenity; or
  - (iv) of environmental harm; or
- (b) otherwise—20 penalty units.

### **33 Compliance notice**

- (1) An authorised person may give a compliance notice to a person if an authorised person believes on reasonable grounds that—
- (a) the person—
    - (i) is contravening this local law; or
    - (ii) has contravened this local law in circumstances that make it likely that the contravention will continue or be repeated; or
  - (b) the person is able to remedy a matter relating to the contravention; and
  - (c) it is, in the authorised person's reasonable discretion, appropriate to give the person an opportunity to remedy the matter.
- (2) A compliance notice—
- (a) must be in writing; and
  - (b) must state—
    - (i) the particular provision of this local law or condition of any approval under this local law that an authorised person reasonably believes is being, or has been, contravened; and
    - (ii) briefly, how it is believed that the provision of this local law or condition of an approval under this local law is being, or has been, contravened; and
    - (iii) that the person to whom the compliance notice is given is required to—
      - (A) stop contravening or not contravene the local law or a

- condition of an approval; or
- (B) to take stated action to remedy the contravention; and
- (iv) the time by which the recipient of the compliance notice must comply with the compliance notice; and
- (v) that it is an offence to fail to comply with the compliance notice; and
- (vi) the maximum penalty for failing to comply with the compliance notice.
- (3) The time stated under subsection (2)(b)(iv) must be reasonable having regard to—
- (a) the action required to remedy the contravention; and
- (b) any risk posed by the contravention—
- (i) to public health and safety; or
- (ii) of damage to property; or
- (iii) of loss of amenity; or
- (iv) of environmental harm.
- (4) A compliance notice given under this section may—
- (a) require a person to take 1 or more actions to remedy a matter relating to the contravention; and
- (b) specify different times by which the person is required to comply with each action.
- (5) A person who is given a compliance notice must comply with the compliance notice.
- Maximum penalty—200 penalty units.
- (6) A compliance notice may be given under this section regardless of whether any person is prosecuted or convicted, or otherwise the subject of enforcement action, for a contravention of, or offence against, this local law or any other law, including of the State or the Commonwealth.

### 34 Notice to remove

- (1) In addition to taking any other action that an authorised person may take under this local law, an authorised person may give a notice requiring a person to remove an advertising device (a **notice to remove**) if—
- (a) the person fails to comply with a compliance notice; or
- (b) the contravention of, or offence against, this local law is not capable of being remedied by a compliance notice; or
- (c) subject to section 66(2), the advertising device is a prohibited advertising device.
- (2) A notice to remove must—
- (a) be in writing; and

- (b) state the time by which the advertising device is to be removed.
- (3) A person who is given a notice to remove must comply with the notice.  
Maximum penalty for subsection (3)—500 penalty units.

### 35 Notice to maintain

- (1) In addition to taking any other action that an authorised person may take under this local law, if an authorised person is of the opinion that an advertising device is not in good order and repair, or is unsightly, the authorised person may give a notice to the approval holder or advertiser of the advertising device requiring the approval holder or advertiser to take specific action to put the advertising device into good order or repair, or to remedy the unsightly condition of the advertising device (a **notice to maintain**).
- (2) A notice to maintain must—
  - (a) be in writing; and
  - (b) state the time by which the specific action in subsection (1) must be completed.
- (3) A person who is given a notice to maintain must comply with the notice.  
Maximum penalty for subsection (3)—500 penalty units.

### 36 Show cause notices

- (1) A show cause notice must state—
  - (a) the action Council proposes to take (the **proposed action**); and
  - (b) the grounds for the proposed action; and
  - (c) an outline of the facts and circumstances forming the basis for the grounds for the proposed action; and
  - (d) that the person may, within a stated period (the **show cause period**), make written submissions to show why the proposed action should not be taken.
- (2) The show cause period must end not less than 21 days after the show cause notice is given.

### 37 Cost of work

- (1) Subject to subsection (2), Council may recover its reasonable costs if action necessary to remedy a contravention of this local law requires Council to—
  - (a) undertake works on a Council asset; or
  - (b) remove an advertising device; or
  - (c) offer a removed advertising device for sale; or
  - (d) dispose of a removed advertising device.
- (2) Council may recover—

- (a) any cost or expense incurred by Council in undertaking the remediation, or other works, including any necessary approvals or inspections; and
  - (b) any other expense incurred by Council through the failure of the approval holder, the advertiser, or any person acting with the consent of the approval holder or the advertiser, to comply with this local law; and
  - (c) any loss or damage suffered by Council through the failure of the approval holder, the advertiser, or any person acting with the consent of the approval holder or the advertiser, to comply with this local law; and
  - (d) all other amounts, required to be paid by an approval holder or the advertiser under this local law, including costs and expenses associated with removal, storage and disposal of a removed advertising device; and
  - (e) if reinstatement, restoration or repair of any damaged Council asset is not practicable—
    - (i) the reasonable cost of replacement of the asset; or
    - (ii) if Council elects—the original cost of the asset if it is a lesser amount than the reasonable cost of replacement.
- (3) Council must give the person liable an account for the amount.
  - (4) An account for an amount given by Council under subsection (3) must state the date when the account must be paid.

### **38 Civil remedy**

- (1) If an account under section 37(3) is not paid on or before a date for payment stated in the account, Council may recover the amount from the person liable, as a debt, with interest.
- (2) The right to recover costs and expenses under this section is in addition to and does not limit any right to costs or compensation available under any other law.
- (3) A Council certificate purporting to be signed by the chief executive officer or a delegate of the chief executive officer stating any of the following matters is evidence of the matter, unless the contrary is proved—
  - (a) the carrying out of work under this local law; and
  - (b) the delivery of an account required by section 37; and
  - (c) the amount payable to Council under this local law which is unpaid at the date of the certificate.
- (4) This section applies whether proceedings for an offence have been instituted or not, but if Council recovers the amounts under this section, those amounts must be taken into account by a Court making an order.

## **Part 5                      Offences**

### **39    Installing, erecting or displaying a prohibited advertising device**

A person must not install, erect or display a prohibited advertising device.

Maximum penalty—50 penalty units.

### **40    Requirement for approval**

(1) A person must not, without approval from Council, install, erect or display an advertising device, other than an advertising device that is a permitted advertising device.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to an advertising device installed, erected or displayed—

(a) by Brisbane City Council including an advertising device installed, erected or displayed on premises owned or occupied by Brisbane City Council; or

(b) by a wholly owned subsidiary of Brisbane City Council; or

(c) within or on any building, structure or land if the advertising device is not visible from a road or any public place.

### **41    Obstructing an authorised person**

A person must not obstruct an authorised person, or any person assisting an authorised person, in the exercise of powers under this local law, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

### **42    False or misleading information**

A person must not provide information in, or in connection with, any application or matter under this local law that the person knows, or ought reasonably to know, is false or misleading.

Maximum penalty—20 penalty units.

### **43    Compliance with an approval**

An approval holder or any person acting under an approval must not contravene the approval.

Maximum penalty—50 penalty units.

### **44    Interference with Council advertising devices**

A person must not remove, alter, deface or otherwise interfere with an advertising device owned or controlled by Council.

Maximum penalty—50 penalty units.

#### **45 General defence to offence of failing to obtain an approval**

- (1) If a person is alleged to have failed to obtain an approval under section 40 of this local law, it is a defence for the defendant to prove that the advertising device was installed, erected or displayed without the defendant's knowledge or consent.
- (2) If a person is alleged to have failed to obtain an approval under section 40 of this local law and the defendant is an event organiser who has authorised the installation, erection or display of an advertising device for an event, the event organiser must prove that the event organiser took all reasonable steps to ensure that the advertising device was installed, erected or displayed lawfully.

## **Part 6 Review of decisions and legal proceedings**

### **Division 1 Review of decisions**

#### **46 Application for review of decisions**

- (1) A person who is given, or is entitled to be given, a notice in relation to an original decision may make a review application to Council under this section.
- (2) A review application must be made within 20 business days of—
  - (a) if the person was given a notice for the original decision—the date the person is given the notice; or
  - (b) if the person was not given a notice for the original decision—the date the person otherwise becomes aware of the original decision.
- (3) Council may, at any time, extend the time for making a review application.
- (4) The review application must be—
  - (a) in writing; and
  - (b) accompanied by a statement of the grounds on which the person seeks a review of the original decision; and
  - (c) supported by enough information to enable Council to decide the review application.

#### **47 Review decision by Council**

- (1) Subject to subsection (2), Council must, within 15 business days after receiving a review application, make a review decision to—
  - (a) confirm the original decision; or
  - (b) amend the original decision; or
  - (c) substitute another decision for the original decision.
- (2) If Council requires more time to consider a review application, Council must, within 10 business days after receiving the review application, provide a notice to the applicant stating the date, which must not be more than 60

days after the date Council received the review application, by which Council will make the review decision.

- (3) The review application must not be dealt with by—
  - (a) the person who made the original decision, whether or not the person was exercising a delegated power in making the original decision; or
  - (b) a person holding a less senior office than the person who made the original decision, unless the original decision was made by the chief executive officer.
- (4) Council must, within 10 business days after making a review decision, give the applicant—
  - (a) written notice of the review decision; and
  - (b) if the review decision is not the decision outcome sought by the applicant—a written statement of reasons for the review decision.
- (5) If Council does not comply with subsections (1) or (4), Council is deemed to have made a review decision confirming the original decision.

#### **48 Stay of operation of original decision**

- (1) A review application does not stay the original decision that is the subject of the review application, unless Council provides written notice to the contrary.
- (2) However, a person who is given, or is entitled to be given, a decision notice for an original decision may, at any time after the original decision is made, apply to the Magistrates Court for a stay of the original decision.

### **Division 2 Evidence in legal proceedings**

#### **49 Evidence**

In any proceedings under or in relation to this local law, a certificate purporting to be signed by the chief executive officer or a delegate of the chief executive officer, stating any 1 or more of the following matters is taken to be conclusive evidence of that matter—

- (a) the state of, or a fact appearing from, a Council record;
- (b) that on a stated day, or during a stated period, a stated person was or was not the holder of an approval under this local law;
- (c) that a stated document is a true copy of a notice, declaration or order given under this local law;
- (d) that on a stated day, a stated person was given a stated notice, declaration or order under this local law.

#### **50 No liability for acts undertaken honestly and in good faith**

The *City of Brisbane Act 2010*, including, without limitation, section 216 applies to the undertaking by a Council administrator of acts in accordance with this local

law.

## 51 Serving or giving of notices

Except as expressly stated, sections 39 and 39A of the *Acts Interpretation Act 1954* apply to the extent Council serves or gives a notice to a person under this local law, for the calculation of relevant time periods in this local law.

## Part 7 Miscellaneous

### 52 Information notice

- (1) An information notice must state—
  - (a) the grounds on which the request is made; and
  - (b) a detailed description of the information requested; and
  - (c) the date, not less than 7 days after the applicant or approval holder is given or taken to have received the notice, by which the applicant or approval holder must either—
    - (i) provide the information; or
    - (ii) give a written notice to Council requesting an extension of time, to a specified date, to provide the information.
  - (d) that the application will be deemed to have been withdrawn if the applicant or approval holder fails to—
    - (i) provide the information; or
    - (ii) request an extension of time.
- (2) If the applicant or approval holder does not provide the information, or give a written notice requesting an extension of time under subsection (1)(c)(ii), by the date stated in the information notice—
  - (a) the application is deemed to have been withdrawn; and
  - (b) Council must give the applicant or approval holder a written notice stating that—
    - (i) under this subsection (2), the application has been withdrawn; and
    - (ii) the applicant or approval holder may make a new application.
- (3) If the applicant or approval holder requests an extension of time under subsection (1)(c)(ii), Council must, within 7 days of receiving the request—
  - (a) consider the request; and
  - (b) provide a notice to the applicant or approval holder stating that Council has—
    - (i) granted the extension of time and the new date by which the information must be provided; or
    - (ii) refused to grant an extension of time and the reasons why.

### **53 Decision notice**

A decision notice must state—

- (a) whether the application is approved, approved in part, or refused; and
- (b) if the application is approved in part—the extent to which the application is approved; and
- (c) if conditions are imposed—the conditions; and
- (d) if the application is refused—the reasons for the refusal; and
- (e) the date the decision was made; and
- (f) the date the decision takes effect.

### **54 No right to compensation**

The exercise by Council in good faith of any authority conferred upon it by this local law does not give rise to a claim for compensation by any person.

### **55 Obligations joint and several**

- (1) If this local law imposes an obligation on—
  - (a) an approval holder or an advertiser, the obligation is imposed jointly and severally on each person who is the approval holder or the advertiser and any person acting under—
    - (i) the approval; or
    - (ii) any designation made by Council about a permitted advertising device; and
  - (b) a person and 2 or more persons jointly engage in an activity to which the obligation relates, the obligation is imposed jointly and severally on each of those persons.
- (2) If a direction or notice is given to an approval holder or a person acting under the approval, the direction or notice may be given to all or any 1 or more of those persons, and the obligation to comply with the direction or notice is imposed, jointly and severally, on each person who receives the direction or notice.
- (3) If a direction or notice is given to an advertiser or a person acting on behalf of the advertiser, the direction or notice may be given to all or any 1 or more of those persons, and the obligation to comply with the direction or notice is imposed, jointly and severally, on each person who receives the direction or notice.
- (4) Proceedings for an offence may be taken against any 1 or more of the persons who fail to comply with an obligation, direction or notice referred to in subsections (1), (2) or (3).
- (5) It is no defence to proceedings for a breach of sections 32, 33, 34 or 35 that the person was an employee or agent of another person when the direction was given or the compliance notice was issued.

- (6) If an approval under this local law is held by more than 1 person, each person may be separately convicted of the same offence.
- (7) A person who is not the approval holder and the approval holder may be separately convicted of the same offence.
- (8) A person who is not the advertiser and the advertiser may be separately convicted of the same offence.
- (9) Council may, by a single action or successive actions, recover amounts payable under this local law from any 1 or more of the persons who fail to comply with this local law or an approval.
- (10) Council may, by a single action or successive actions, recover costs under this local law from any 1 or more of the persons referred to in subsection (4), but the total amount recovered must not exceed the amount of Council's costs and the interest to which it is entitled.

## **56 Power to make subordinate local law**

- (1) Council may make subordinate local laws under this local law to provide for the detailed implementation of the broader principles contained in this local law.
- (2) Without limiting subsection (1), Council may make a subordinate local law about any 1 or more of the following—
  - (a) the classification of advertising devices;
  - (b) conditions on which an advertising device may be classified;
  - (c) criteria for granting approvals for advertising devices;
  - (d) the term of approval for classes of advertising devices;
  - (e) public notification requirements for the installation, erection or display of certain classes of advertising devices.

## **57 Power to make rules and procedures**

- (1) Subject to subsection (2), Council may, by resolution, make rules and procedures under this local law to provide for the detailed implementation of the broader principles contained in this local law.
- (2) Before Council makes a rule or procedure under subsection (1), Council must undertake public consultation for a period of 15 business days about the proposed rule or procedure.
- (3) Without limiting subsection (1), Council may make rules or procedures about—
  - (a) matters to be considered by Council when deciding an application for approval; and
  - (b) how the intended outcomes may be achieved; and
  - (c) information requests and the content of information to be provided to Council.

## **58 Power to make technical standards**

- (1) Council may make technical standards relating to advertising devices.
- (2) Without limiting subsection (1), Council may make technical standards about—
  - (a) luminance; and
  - (b) illumination; and
  - (c) phototropism; and
  - (d) traffic safety.

## **59 Electronic communication**

- (1) This section applies if an application or submission has been made in an approved form.
- (2) If the person making the application or submission lodges it with Council electronically, the person is deemed to have given consent for Council to give the person any information or notice about their application or submission by electronic means.
- (3) Council may elect to give the person any information or notice electronically or in paper copy.

## **60 Giving of notice**

Whenever this local law requires written notice to be given—

- (a) the requirement for writing is satisfied whether the notice is given by paper copy or electronically; and
- (b) if the notice is given by post, sections 39 and 39A of the *Acts Interpretation Act 1954* will apply to the giving of the notice; and
- (c) if the notice is given electronically, the provisions of the *Electronic Transactions (Queensland) Act 2001* will apply to the time and place of dispatch and receipt; and
- (d) the notice may be served personally.

# **Part 8 Amendment, repeal and transitional provisions**

## **Division 1 Amendments to *Chapter 19 – Queen Street Mall Local Law***

### **61 What this division is about**

This division amends *Chapter 19 – Queen Street Mall Local Law*.

### **62 Omission of s 53(b) of Chapter 19 – Queen Street Mall Local Law**

Section 53(b)—

*omit*

## **63 Omission of s 63 of Chapter 19 – Queen Street Mall Local Law**

Section 63—

*omit*

## **Division 2 Repeal**

### **64 Repeal**

The *Advertisements Local Law 2013* and *Advertisements Subordinate Local Law 2005* are repealed.

## **Division 3 Transitional provisions**

### **65 Definitions for this division**

In this division—

***existing approval*** includes any current and valid approval, permit, licence and authority.

***existing notice*** means a notice issued by Council under section 14, 15 or 16 of the repealed *Advertisements Local Law 2013*.

***repealed provisions*** means—

- (a) the repealed *Advertisements Local Law 2013*; or
- (b) the repealed *Advertisements Subordinate Local Law 2005*; or
- (c) the provisions repealed under sections 62 and 63.

### **66 Existing approval**

- (1) Subject to section 66(2), an existing approval in force immediately before the commencement of this local law that was issued under the repealed provisions continues in force as an approval under this local law until the earlier of—
  - (a) the term stated in the approval or under the law according to which the approval was issued; or
  - (b) if no term is specified in the approval—1 year from the date the approval was granted; or
  - (c) the date that the approval is cancelled under this local law; or
- (2) An existing approval in force immediately before the commencement of this local law for an advertising device which is prohibited under this local law, continues in force and may be renewed 9 times from the date that this local law commences.
- (3) Any conditions attached to the existing approval continue to apply during the term of the existing approval.

**67 Existing notices**

An existing notice issued under the repealed provisions continues in force as a notice under this local law until the time stated in the notice for the approval holder to comply with the notice.

**68 Retrospective application of section 6(2)(b)**

The provisions of section 6(2)(b) apply, and are taken to have applied, in relation to any application for approval of a high impact electronic display component sign which has not been decided by Council on or before the commencement of this local law.

## Schedule 1 Intended Outcomes

section 14

Intended Outcome
1. The advertising device is sited and of a height, scale and form consistent with, and as not to dominate, the established or planned characteristics of the site and streetscape.
2. The advertising device considers the cumulative effect of existing advertising devices on the site and within the streetscape so as not to result in visual clutter and excessive advertising.
3. The advertising device is of a nature that is reflective of or compatible with the established or planned land use of a site and surrounding area.
4. The advertising device is compatible with the architectural style, design elements, materials and detailing of existing buildings and structures on the site.
5. The advertising device does not diminish the streetscape contribution, or impact upon the character of a commercial character building or any other building constructed prior to 1947, when viewed from the street or public realm.
6. The advertising device avoids detrimental impact on the cultural heritage significance of a heritage place and does not impair views and vistas of or from a heritage place.
7. The advertising device does not detract from and is sensitive to the cultural heritage significance of surrounding heritage places, including any Aboriginal cultural values.
8. The advertising device protects, maintains and enhances key civic spaces.
9. The advertising device protects, maintains and enhances access to key vistas and view corridors, including to areas of high and very high scenic amenity.
10. The advertising device is compatible with conserving and maintaining the city's wildlife, habitats and other significant ecological assets and processes.
11. The advertising device incorporates environmentally sustainable practices and solutions where practical.
12. The advertising device is designed and sited to protect, and accommodate the growth of, established or planned significant landscape trees.

13. The advertising device is designed, sited and controlled to minimise the amenity impacts to occupants of the site, surrounding properties, and public open space in terms of radiant heat, glare and access to sunlight, daylight and breezes.

14. The advertising device reflects and supports the level of amenity, including impacts of light, glare, noise, and hours of operation, reasonably expected within the surrounding area.

15. The advertising device is designed, located and controlled to maintain road safety and traffic efficiency.

16. The advertising device is designed, sited and controlled to protect the safety and functioning of operational airspace of the Brisbane, Archerfield and Amberley airports.

17. The advertising device is designed, sited and controlled to protect the safety of pedestrians and cyclists.

18. The advertising device is compatible with and does not unreasonably interfere with the effectiveness of existing advertising devices within the surrounding area.

## Schedule 2 Dictionary

### section 3

**advertiser** means a person who has installed, erected or displayed an advertising device under this local law and includes a person who manages and controls, or has powers to manage or control, the place on which the advertising device has been installed, erected or displayed or whose business or place of business is advertised by the advertisement.

**advertising device** means a temporary or permanent sign, structure or other device used for advertising including a structure, or part of a building, the primary purpose of which is to support the sign, structure or device but does not include—

- (a) an umbrella, marquee or portable shade structure that displays advertising where the umbrella, marquee or portable shade structure is used for the purpose it was designed and manufactured for; or
- (b) advertising displayed on a vehicle or vessel where the advertising is not the primary use of the transportation; or
- (c) skywriting or sign-writing by an aircraft; or
- (d) official traffic signs installed in accordance with the *Transport Operations (Road Use Management) Act 1995*.

**approval** includes a consent, permission, licence, permit (whether issued or granted under this local law or otherwise), authorisation or a decision notice together with any approved plans, drawings or other documents and the conditions of an approval.

**approval holder** means a person who has been granted an approval under this local law.

**approved form** means a form approved by Council for use under this local law.

**authorised person** means an appropriately qualified person appointed by Council to exercise the powers and functions of an authorised person under this local law.

**bunting** means a series of small flags or pennants suspended from a rope or cable.

**Brisbane City Council** means the local government established pursuant to the *City of Brisbane Act 2010*.

**chief executive** has the meaning given by the *Acts Interpretation Act 1954*.

**chief executive officer** has the meaning given by the *City of Brisbane Act 2010*.

**City frame** means the area identified as the City frame in “Figure a—City core and City frame” in the Transport, access, parking and servicing code in the City Plan.

**City Plan** means the *Brisbane City Plan 2014*, as amended from time to time, and any replacement of that planning scheme and associated planning scheme policies for the city of Brisbane.

**Commercial character building overlay** means the Commercial character building overlay map in the City Plan.

**compliance notice** means a notice given under section 33.

**Council** means, for the purposes of this local law, Brisbane City Council in its capacity as the regulator and enforcer of this local law.

**decision notice** means a notice given under section 53.

**declared road** has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

**development approval** means a development approval issued under the *Planning Act 2016*, as amended from time to time.

**electronic display component** means part or the whole of an advertising device which utilises an image projector, bulbs, LEDs, LCD or similar devices which are used to present content on the advertising device.

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

**event organiser** means—

- (a) the person who is primarily responsible for the staging of any event; or
- (b) the person who authorises the distribution of advertisements for that event.

**fly poster sign** means a non-rigid advertising device, typically a printed paper advertising device, comprising of multiple copies of which are glued or otherwise attached to walls and other fixtures in a public place.

**high impact electronic display component sign** means an advertising device in which the electronic display component is greater than 4 m<sup>2</sup>.

**heritage place** means a local heritage place or a Queensland heritage place as defined in the *Queensland Heritage Act 1992*.

Note—

Local heritage places and Queensland heritage places are also identified in the Heritage overlay map in the City Plan.

**inflatable sign** includes any fixed or captive envelope, balloon, blimp or kite, whether a cold air inflatable or lighter than air aerial device.

**information notice** means a notice given under section 52.

**intended outcomes** means those outcomes described in Schedule 1.

**local categorising instrument** has the meaning given by the *Planning Act 2016*.

**low-value advertising device** means an advertising device that has been manufactured or constructed using low-value materials.

**low-value materials** includes cardboard, paper, corflute sheet or similar low-value materials.

**mall** means the Queen Street Mall, Brunswick Street Mall, Chinatown Mall and any other mall established in accordance with section 88 of the *City of Brisbane Act 2010*.

**minor change** has the meaning given to it by any rules or procedures made in accordance with section 57.

**notice to maintain** has the meaning given to it under section 35.

**notice to remove** has the meaning given to it under section 34.

**original decision** means a decision for which Council is required by this local law to make.

**permitted advertising device** has the meaning given to it under section 10.

**Pre-1911 building overlay** means the Pre-1911 building overlay map in the City Plan.

**prescribed fee** includes any fees and charges set by Council resolution.

**public infrastructure** means infrastructure that is constructed or operated for the general public.

*Example of public infrastructure—*

- power poles
- lighting columns
- directional signs

**public place** has the meaning given by the *City of Brisbane Act 2010*.

**remove** includes towing of a vehicle.

**review** means a review of a decision under part 6, division 1.

**review application** means an application made in accordance with section 46 for review of an original decision.

**review decision** means a decision by Council in accordance with section 47 in relation to a review application.

**road** has the meaning given by the *City of Brisbane Act 2010*.

**show cause notice** means a notice given under section 24(2) in accordance with section 36.

**show cause period** has the meaning given to it in section 36(1)(d).

**significant landscape tree** has the meaning given by the *Natural Assets Local Law 2003*.

**State-controlled road** has the meaning given by the *Transport Infrastructure Act 1994*.

**streamers** means long suspended ribbons of cloth or similar non-rigid material.

**temporary approval** means an approval for a term that does not exceed 24 months.

**Transport, access, parking and servicing code** means the Transport, access, parking and servicing code in the City Plan.

**vehicle** includes any type of transport that moves on wheels and a hovercraft.

**vehicle sign (standing)** means an advertising device displayed on a vehicle, where the primary use of the vehicle is advertising and the vehicle is parked for more than 5 minutes or is left unattended in a public place.

**writing** includes electronic transmission of information.