Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011

Contents

Part 1 Preliminary 1

1 Short title 1

2 Purpose and how it is to be achieved 1

3 Authorising local law 1

4 Definitions 1

Part 2 Approval for prescribed activity 1

5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a) 1

6 Approvals that are non-transferable—Authorising local law, s 15(2) 2

Schedule 1 Establishment or occupation of a temporary home 3

Schedule 2 Categories of approval that are non-transferable 7

Schedule 3 Dictionary 8

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011*.

2 Purpose and how it is to be achieved

(1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.

(2) The purpose is to be achieved by providing for—

(a) various matters regarding the granting of approvals for prescribed activities; and

(b) further specification of the definitions relevant to various prescribed activities.

(3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011 (*the ***authorising local law***).

4 Definitions

(1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.

(2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

(1) Schedule 1—

(a) names a prescribed activity in section 1; and

(b) prescribes the matters specified in this section for the prescribed activity.

(2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

(3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.

(4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.

(5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.

(6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.

(7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.

(8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.

(9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.

(10) For section 12 of the authorising local law, in Table 1 of schedule 1—

(a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and

(b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and

(c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

6 Approvals that are non-transferable—Authorising local law, s 15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

Schedule 1 Establishment or occupation of a temporary home

Section 5

1. Prescribed activity

Establishment or occupation of a temporary home

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

The establishment of a temporary home on land upon which exists a permanent residence, if the owner of the temporary home or, when the owner of the temporary home cannot be located, the owner of the land upon which the temporary home is established, proves to the satisfaction of an authorised person that the temporary home—

(a) is merely being stored on the land; and

(b) is not being used as a place of residence.

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

(1) A drawing showing the design and dimensions of the proposed temporary home.

(2) Details of the materials out of which the temporary home is (or is to be) constructed and other structural details of the temporary home.

(3) Details of the location of the temporary home.

(4) If the applicant is not the owner of the land on which the temporary home is (or is to be) located—the written consent of the owner.

(5) Details of the name of each person who is to occupy the temporary home.

(6) Details of the operation of the proposed temporary home including toilet, bathing, laundry, water storage and refuse facilities.

(7) If a permanent residence or permanent structure is proposed to be constructed on the land the subject of the application—a copy of the development approval for the permanent residence or permanent structure.

(8) If the applicant or another person is to live on site during construction of a permanent residence or permanent structure on the land—an independent itemised valuation of the construction cost (of both the proposed temporary home and the permanent residence or permanent structure) including an itemised valuation based on recognised current building industry rates covering all areas that are applicable to the construction of the temporary home and the permanent residence or permanent structure including, without limitation, the outstanding cost of purchase of the land, the cost of construction of the proposed temporary home and the cost of construction of the proposed

permanent residence or permanent structure.

(9) Proof that the financial resources of the applicant are such that the applicant is capable of funding the construction of the temporary home and the permanent residence or permanent structure.

(10) If the applicant is an owner/builder—verification that the cash flow of the applicant will be sufficient to fund the construction of each of the temporary home and the permanent residence or permanent structure.

(11) If the applicant is an owner/builder—evidence that the applicant is registered as an owner/builder with the Queensland Building Services Authority.

(12) A progress chart or similar timetable showing significant milestones during the process of construction of each of the temporary home and the permanent residence or permanent structure so as to enable the term of the proposed approval to be fixed by the local government.

4. Additional criteria for the granting of an approval

(1) The temporary home will not be occupied as a place of residence permanently or for an indefinite period.

(2) The applicant proposes, within the period for which the approval is granted—

(a) to erect, or convert an existing structure into, a permanent residence; or

(b) to carry out building work on a permanent residence that will make the residence temporarily unfit for occupation as a place of residence.

(3) An adequate source of water will be available to the proposed temporary home.

(4) Adequate means of waste disposal and sanitation will exist to ensure that reasonable standards of health and hygiene can be maintained.

(5) The temporary home must be located on the land in such a way as to not impact adversely on the amenity of the owner or occupier of any adjoining land.

(6) The local government may refuse an application for an approval on the ground that—

(a) the applicant has not made a genuine application for a development approval for—

(i) the proposed erection of, or conversion of an existing structure into, a permanent residence; or

(ii) the proposed building work on a permanent residence that will make the residence temporarily unfit for occupation as a place of residence; or

(b) a development approval has been granted but is likely to expire before

building work to be carried out under the approval has been completed; or

(c) the land on which the temporary home is, or is to be, located is not within a rural zone in the planning scheme of the local government.

5. Conditions that must be imposed on an approval

No conditions prescribed.

6. Conditions that will ordinarily be imposed on an approval

(1) The conditions of an approval may—

(a) regulate the design, dimensions, construction, and external appearance of the temporary home; and

(b) require the provision of specified facilities for personal hygiene and sanitation, and for washing and drying clothes; and

(c) require the approval holder to provide specified equipment, or take specified action, to ensure that the temporary home is adequately supplied with water; and

(d) regulate the disposal of waste water and refuse from the temporary home; and

(e) require the approval holder to dismantle and remove the temporary home by a specified date;

(f) require the approval holder to keep the temporary home in good order and repair;

(g) require the approval holder to ensure that the temporary home is not unsightly or unhygienic; and

(h) restrict the number of persons who may occupy the temporary home; and

(i) require the approval holder to advise the local government of any change of the name of the persons who are occupying the temporary home.

(2) All water supplied for domestic purposes to the temporary home must be potable water.

(3) All sewerage and waste water from the temporary home must be discharged safely.

7. Term of an approval

(1) An approval may be granted for a term of up to 18 months.

(2) The term of an approval may be assessed by an authorised person having regard to the information submitted by the applicant.

(3) The term of an approval must not exceed the lawful period of the development approval for the permanent residence or permanent structure.

(4) The term of the approval must be specified in the approval.

(5) In any event, the term of an approval comes to an end on the earlier of—

(a) the date on which the term of the approval ends; and

(b) the date on which the permanent residence or proposed permanent residence becomes fit for occupation as a place of residence.

8. Term of renewal of an approval

(1) An approval cannot be renewed.

(2) However, the local government may extend the term of an approval to coincide with the expected completion date of the building work for the erection or alteration of, or conversion of an existing structure into, a permanent residence that is, when the application for extension is made, and likely to be completed within a reasonable time.

Table 1 – Third party certification

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
Consistency of the proposed operation and management of the activity with the criteria in section 4(3) and (4) of this schedule.		A builder's licence (of the class BLR, BMR, BO or BPMS) issued by the Building Services authority OR A plumber's license issued by the Plumbers and Drainers Board

Schedule 2 Categories of approval that are non-transferable

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

Schedule 3 Dictionary

Section 4

development approval see the *Sustainable Planning Act 2009*, schedule 3.