LOCAL GOVERNMENT ACT 1995

City of Cockburn (Local Government Act) Amendment Local Law 2017

Under the powers conferred by the Local Government Act 1995 and all other powers enabling it, the City of Cockburn resolved on 12 October 2017 to adopt the following local law.

1. Citation
This local law may be cited as the City of Cockburn (Local Government Act) Amendment Local Law 2017.

2. Commencement
This local law comes into operation 14 days after the day of its publication in the Government Gazette.

3. Principal local law Amended

4. Part III amended
After clause 3.2 (3) insert the following—

(4) The local government or an authorised officer may set aside specific areas where fishing is prohibited and specified areas for a particular period or until further notice, by causing notices to that effect to be placed in the vicinity of the specified area.

5. Part VI amended
After clause 6.33 insert the following—

6.34 Interpretation
In this Division—

Facility means an outdoor dining or eating area or establishment on any part of a public place, but does not include such a facility or establishment on private land;

permit holder means the person to whom a permit has been issued for the purpose of clause 6.35 (1); and

public place has the same meaning as in clause 1.6.

6.35 Permit required to conduct a Facility
(1) The local government may issue a permit under this Division for the purposes of establishing or conducting a Facility.
(2) A person shall not establish or conduct a Facility without holding a current permit.

6.36 Application to obtain permit to conduct a Facility
(1) An application to obtain a permit to conduct a Facility is required to be submitted to the local government.
(2) The application shall be submitted together with relevant information and fees determined by the local government, including but not limited to—

(a) processing fee and any associated costs;
(b) plans, specifications and other relevant details of the Facility; and
(c) evidence of public liability insurance of not less than $10,000,000 for the Facility.

6.37 Public liability insurance required to conduct a Facility
The public liability insurance is to be valid for the entire period of operation of the Facility.

6.38 Renewal of permit to conduct a Facility
“Upon expiry of a permit, the local government will renew the permit subject to—

(a) payment of a permit renewal fee, as determined by the local government;
(b) all conditions of the permit having been complied with; and
6.39 Matters to be considered in determining application
(1) In determining an application for a permit for the purpose of clause 6.36, the local government or an authorised person may consider in addition to any other matter it considers relevant, whether or not—
   (a) The Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
   (b) Any abutting food businesses are registered in accordance with the Food Act 2008 and whether the use of the premises is permitted under the town planning scheme;
   (c) Users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
   (d) The Facility would—
       (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person;
       (ii) impede pedestrian access; and
       (iii) cause any public hazard or safety risk;
   (e) The tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.40 Obligations of permit holder
(1) The permit holder for a Facility shall—
   (a) maintain the chairs, tables and other structures in the eating area in a serviceable condition at all times;
   (b) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility;
   (c) be solely responsible for all rates and taxes levied upon the land occupied by the Facility; and
   (d) comply with all conditions of the permit.
(2) Whenever, in the opinion of an authorised person, any work is required to be carried out to a Facility, an authorised person may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.
(3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

6.41 Removal of Facility unlawfully conducted
Where a Facility is conducted without a permit or in contravention of a condition of a permit or failure to pay the relevant fees, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

6.42 Temporary removal of Facility
(1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.
(2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed the removal allows it to be replaced.

The Common Seal of the City of Cockburn was affixed under the authority of a resolution of Council in the presence of—

LOGAN K. HOWLETT, Mayor.
STEPHEN CAIN, Chief Executive Officer.