

# TOWNSVILLE CITY COUNCIL

## LOCAL LAW NO. 16

### HELIPORTS

#### Interpretation

1. (1) In this Chapter unless the context otherwise indicates or requires and throughout the By-laws of the Council unless elsewhere specifically defined and unless the context otherwise indicates or requires, the terms undermentioned shall have the meaning set against each of them respectively, that is to say:-

“Authorised Person (Heliport)” – means:-

- (a) an Officer of the Department of Transport;
- (b) an officer, servant, agent or contractor of the Council who has been assigned duties or who is undertaking work relative to the control, supervision, management or maintenance of a heliport;
- (c) a person specifically authorised in writing by the Council as an Authorised Person (Heliport) for the purposes of this Chapter;

“Carrier” – means any person authorised by the pilot of the helicopter in question to carry baggage or goods or freight to or from a helicopter or otherwise to assist a passenger in his embarking upon or disembarking from a helicopter;

“Council” – means the Council of the City of Townsville;

“Department of Transport” – means the Department of the Australian Government or other authority for the time being charged with the administration of the Air Navigation Act;

“Helipad” – means an area for use as an aerodrome by helicopters during take off and landing operations and which has been authorised as such pursuant to the provisions of the Air Navigation Act. The term includes the aerial approaches to the helipad used during take off and landing operations;

“Heliport” – means a helipad together with all associated building, structures, helicopter maintenance and refuelling facilities, motor vehicle parking areas and the like;

“Heliport Attendant” – means a person appointed by the Council to control and supervise the use generally of a heliport or for the time being acting in the discharge of such duties;

“Heliport Superintendent” – means an officer of the Council appointed by it to manage and direct the use of a helipad by helicopters or by persons having business with helicopters on a helipad;

“Official Sign” – means any sign, signal, marking light or device not inconsistent with the Air Navigation Act or this Chapter placed, erected or put up by the Council or by the authority of the Council on or near to a heliport for the purposes of regulating, prohibiting warning or guiding persons using the heliport;

“Owner” – when used in respect of a helicopter includes the licensee, charterer, and person other than the pilot for the time being in the control of the helicopter. The term also includes the person or persons in whose name the helicopter is registered pursuant to the provisions of the Air Navigation Act or under any corresponding legislation, regulation, ordinance or By-law of any State or Territory or of the Commonwealth of Australia.

“Passenger” – means a traveller in a helicopter. The term includes such a traveller whilst in or upon a heliport for the purposes of embarking upon a helicopter or on disembarking from a helicopter following a flight in that helicopter;

“Pilot” – means the persons responsible for the operation and safety of a helicopter during the flight of the helicopter;

“the Air Navigation Act” – means the “*Air Navigation Act 1920 – 1977*” of the Australian Parliament. The term includes the “Air Navigation Regulations” made under the Act for the time being in force by virtue of that Act and the “*Air Navigation Act 1938 – 1947*” of the Parliament of Queensland.

(2) Otherwise than as hereinbefore defined the terms used in this Chapter shall have the meanings assigned to each of them respectively by the Air Navigation Act.

### **Use of a Helipad**

2. Save in the case of an emergency, a pilot shall not use a helipad without the prior consent of the Council.
3. (1) The Council hereby delegates to the Heliport Superintendent for the Helipad in question the power to consent on behalf of the Council to the use of a helipad.
  - (2) Any pilot wishing to obtain the consent of the Council to the use of a helipad shall either by himself or his agent make application therefore (which application may be made by word of mouth to the Heliport Superintendent for the helipad in question a reasonable time before the estimated time of arrival, or as the case may be, the estimated time of departure.

- (3) The Heliport Superintendent may grant or refuse consent and if he grants consent he may subject the same to such conditions as he thinks fit.
4. Subject to the Air Navigation Act, a pilot shall use a helipad only at the time specified in the consent and then only in accordance with any conditions to which the consent was subjected.
5.
  - (1) In the case of an emergency, all landing and takeoff operations shall be made at the risk of the owner of the helicopter.
  - (2) The owner of a helicopter using a helipad in an emergency shall inform the Heliport Superintendent of the nature of the operations, the reason therefore and all other relevant particulars thereof as soon as practicable after the conclusion of the flight.
  - (3) Where any special expenses are incurred by the Council in consequence of the use of a helipad in emergent circumstances all such expenses shall be payable by the owner to the Council in addition to the ordinary fees and charges that may be payable.
6. The pilot of a helicopter shall not cause, suffer or permit the helicopter of which he is the pilot to stand on a helipad for a period exceeding the period that is reasonably required for the purposes following, that is to say:-
  - (a) the embarkation of passengers upon a helicopter;
  - (b) the disembarkation of passengers from a helicopter;
  - (c) the loading or unloading of baggage, goods or freight onto or from a helicopter;

and in any event, for a period exceeding fifteen (15) minutes.

7.
  - (1) The pilot of a helicopter shall not park the helicopter nor shall he cause or permit the helicopter of which he is the pilot to be parked –
    - (a) elsewhere within a helipad than in a designated helicopter parking area; or
    - (b) if there is no designated helicopter parking area –
      - (i) elsewhere than as directed by the Heliport Attendant; or
      - (ii) if there is no Heliport Attendant available to give such directions as aforesaid, in a position that will interfere with or is likely to interfere with normal helicopter landing, take-off or hovering operations at the helipad.
  - (2) If a helicopter remains in or upon a heliport for more than a day, then for each such day or part thereof after the first day whilst the helicopter remains in or

on the heliport a fee shall be payable as for one landing of the helicopter with a full complement of passengers.

### **Buildings, Structures, Notices etc**

8. Subject to the Air Navigation Act, the Council may –
- (a) on any part of a heliport not being the helipad erect, make, place or put up any building, structure, barrier fence, convenience amenity, official sign or other thing for the more complete, effective, convenient and safe use and enjoyment of such heliport;
  - (b) grant to any person permission upon such terms and conditions as the Council shall think fit to erect, place or put up a helicopter maintenance and/or refuelling facility on any part of a heliport not being the helipad;
  - (c) lease the land required for the purposes of those things referred to in paragraphs (a) and (b) of this By-law or any of them to any person or persons upon such terms and conditions and at such rental and for such term as the Council shall think fit.

### **Entry onto Heliports**

9. (1) No person other than an Authorised Person (Heliport) whose presence is necessary for the purposes of directing the pilot of the helicopter in question or who may carry out his duties within the helipad with safety and without interfering with the landing, take-off or hovering operations of the helicopter in question and the occupants of the helicopter in question, shall be in or upon a helipad during landing or take-off operations of a helicopter or whilst a helicopter is hovering in the vicinity of the helipad.
- (2) Subject to clause (1) of this By-law no person other than –
- (a) an Authorised Person (Heliport);
  - (b) the pilot of a helicopter that is in or upon or parked within a helipad;
  - (c) the passengers of a helicopter that is in or upon or is parked within a helipad; or
  - (d) a carrier;
- shall be in or upon a helipad.
10. (1) No person shall be in or upon a heliport except in pursuance of or by virtue of this Chapter.
- (2) Subject to By-law 9 of this Chapter the Council may from time to time set apart a specified part or parts of a heliport –

- (a) to which the general public or limited classes of the general public may be admitted at all times or at specified times or for limited periods and generally upon such terms and conditions as the Council shall think fit;
- (b) to which vehicles may not be permitted;
- (c) to which vehicles may be admitted upon such terms and conditions as the Council shall think fit.

11. Notwithstanding the By-laws contained in this Chapter, the Council may in the circumstances of a special case or on a special occasion make such arrangements for the control of a heliport and charge such fees in relation to the use thereof and for admission thereto as the Council may by resolution determine.

### **Official Signs**

12. (1) The Council may construct, make, mark, place, erect, affix or paint in, into or on or near to a heliport such official signs as it considers necessary or desirable for the purposes of regulating, prohibiting, warning or guiding persons using the heliport.

(2) When appearing on an official sign –

- (a) the words, figures or symbols indicating two specified hours, times or days shall mean that the direction or indication given by such sign applies at any time during the period between the hours, times or days indicated by such works, figures or symbols;
- (b) words, figures or symbols indicating a specified day or part thereof shall mean that the direction or indication given by such sign applies during the whole of such day or part thereof as the case may be;
- (c) any matter forming part of a direction or indication given by an official sign may be stated thereon in any approved form.

13. A person shall not –

- (a) use a heliport or any part thereof;
- (b) drive, stand or park a motor vehicle in a heliport or any part thereof; or
- (c) be in or upon a heliport or any part thereof

contrary to the direction or indication given by an official sign in or upon or near to the heliport in question.

### **Animals**

14. The owner of any animal that is found in or upon a heliport whether or not the animal is under the control of the owner of the animal or of some other person shall be guilty of an offence.
15. For the purposes of Chapter X Part III of the By-laws of the Council a heliport shall be and be deemed to be a public place.

### **Conduct of Heliports**

16. (1) A person whilst using or whilst in or upon a heliport shall not –
  - (a) behave in a manner which causes or which is likely to cause annoyance or inconvenience to any other person lawfully using or lawfully in or upon a heliport;
  - (b) disobey any direction given to him by an Authorised Person (Heliport) the Heliport Superintendent, the Heliport Attendant or any person acting under the direction of either the Heliport Superintendent or the Heliport Attendant;
  - (c) use a building, structure, convenience, amenity or facility provided in or upon a heliport for a purpose other than that for which it was provided;
  - (d) destroy, remove, obliterate, deface, alter or otherwise interfere with any barrier fence or official sign in or upon a heliport.
- (2) (a) no person shall enter or otherwise be in or upon a heliport whilst under the influence of liquor or a drug;
- (b) a Heliport Superintendent or a Heliport Attendant may refuse admission to a heliport to any person whom he suspects on reasonable grounds to be under the influence of liquor or a drug;
- (c) a Heliport Superintendent or a Heliport Attendant may require any person found in or upon a heliport and whom he suspects on reasonable grounds to be under the influence of liquor or a drug to forthwith leave the heliport;
- (d) the provisions of paragraphs (ii) and (iii) of this clause shall not operate as a bar to proceedings as for an offence against the provisions of paragraph (i) of this clause.

### **Landing Fees and Charges**

17. (1) The Council may by resolution fix such landing fees and other charges for the use of a heliport and the facilities therein as it shall think fit.
- (2) Where the fee or charge fixed by the Council is to be calculated with reference to the number of passengers carried in the helicopter in question and the owner

of the helicopter fails or neglects to furnish the Council with particulars of the number of passengers carried in the helicopter on a particular flight, then for the purposes of calculating the fee or charge payable, the helicopter shall be deemed to have carried a full complement of passengers on that particular flight.

18. (1) The owner of a helicopter using a heliport shall pay to the Council all such landing fees and other charges as are payable in the circumstances of the case.
- (2) The fees and charges payable under clause (1) of this By-law shall be payable at or before the time of using the heliport provided that the Council may in a particular case make such other arrangements for payment as it shall think fit.
- (3) For the purposes of this By-law a pilot of a helicopter shall be deemed to be the agent of the owner of the helicopter.
- (4) Any fee or charge payable under the provisions of this Chapter shall if not paid constitute a debt due and owing by the owner of the helicopter to the Council and may be recovered by the Council from him in any Court of competent jurisdiction.

### **Offences**

19. Any person who in any respect contravenes or fails to comply with any of the provisions of this Chapter shall be guilty of an offence.
20. Any member of the Police Force who –
  - (a) finds a person in a heliport committing an offence against the provisions of this Chapter; or
  - (b) finds in a heliport a person whom he suspects on reasonable grounds to have committed an offence against the provisions of this Chaptermay arrest that person or may remove (using such force as is necessary for such purpose) such person from the heliport.
21. A heliport is and is hereby deemed to be a public place within the meaning and for the purposes of any Act conferring or imposing upon members of the Police Force powers or duties with respect to public places or providing for the punishment of offences committed in public places.
22. (1) In proceedings as for an offence against the provisions of this Chapter or for the recovery of any fee, charge or expense payable under the provisions of this Chapter, a certificate under the hand of the Secretary, Department of Transport or under the hand of some person on his behalf or under the hand of some person on behalf of the authority for the time being charged with the registration of helicopters under any legislation, regulation, ordinance or By-law of any State or Territory or of the Commonwealth of Australia corresponding to the Air Navigation Act which states that on any date or

during any period the helicopter specified in the certificate was registered in the name of the person or persons specified therein shall be received in evidence and shall be evidence that the person or persons specified in the certificate was or were the owner or owners of the helicopter specified therein at the time or during the period specified therein and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such ownership.

- (2) A certificate referred to in clause (1) of this By-law shall be presumed to have been duly issued or given until the contrary is proved.
  - (3) Judicial notice shall be taken of the signature of the Secretary, Department of Transport and of the person signing a certificate on his behalf and of the person signing a certificate on behalf of the authority charged with the registration of helicopters as hereinbefore provided.
23. (1) In any proceedings as for an offence against the provisions of this Chapter or in any proceedings for the recovery of any fee, charge or expense payable under the provisions of this Chapter every allegation or averment contained in the complaint or other proceedings shall be *prima facie* evidence of the matter so alleged or averred.
- (2) Without limiting the generality of the provisions of Clause (1) of this By-law any allegation or averment contained in any complaint as for an offence against the provisions of this Chapter or in any proceedings for the recovery of any fee, charge or expense payable under the provisions of this Chapter that at the time or date mentioned in the complaint or, as the case may be, the proceedings –
    - (a) a place was or was not a heliport;
    - (b) a place was or was not a helipad;
    - (c) a place was or was not a helicopter parking area;
    - (d) anything was done with or without the consent of the Council;
    - (e) anything was done contrary to a condition to which a consent granted by the Council was subject;
    - (f) any person was or was not any of the following:-
      - (i) an authorised person;
      - (ii) a carrier;
      - (iii) a Heliport Attendant;
      - (iv) a Heliport Superintendent;
      - (v) a passenger;
      - (vi) a pilot;
    - (g) any sign, signal, marking light or device –

- (i) was or was not an official sign;
  - (ii) contained or gave or did not contain or give any direction or indication;
- (h) a fee or charge was or was not fixed by the Council by resolution;
- (i) that a helicopter was capable of carrying a specified number of passengers;

shall be evidence of the matters so alleged or averred and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters notwithstanding –

- (A) that evidence in support of such matter or in respect of any other matter is given; or
  - (B) that any matter so alleged or averred is a mixed question of law and fact, but in that case the allegation or averment shall be evidence of the fact only.
- (3) Any evidence given in support of rebuttal of allegations or averments to which this By-law applies shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this By-law. This By-law shall not in any way affect the onus of proof otherwise falling on any party to proceedings to which this By-law applies.