

THURINGOWA CITY COUNCIL

LOCAL LAW NO. 5M (TEMPORARY HOMES)

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PART 1 - PRELIMINARY

Citation

1. This local law may be cited as Local Law No. 5M (Temporary Homes).

Objects

2. The objects of this local law are to:-
 - (a) impose appropriate conditions and safeguards under which temporary structures may be occupied as places of residence; and
 - (b) protect the amenity of the area from adverse effects caused by the occupation of temporary structures as places of residence.

Definitions

3. In this local law:-

“**authorised person**” means a person authorised by the local government to exercise the powers of an authorised person under this local law.

“**camping ground**” means a place approved by the local government for use as a camping ground.

“**compliance notice**” see section 13(1).

“**development permit**” means a development permit under the *Integrated Planning Act 1997*.

“**establish**” a temporary home includes to erect, construct, install, position or place.

“**owner**” of a temporary home includes:-

(a) an occupier of the temporary home; and

(b) if a permit has been granted under this local law for the establishment and occupation of the temporary home-the holder of the permit.

“**residence**” means human habitation on a short-term or long-term basis.

“**temporary home**” means a structure used, or intended for use, as a place of residence but does not include a residential structure for the erection of which a development permit has been given, or is required.

Examples:-

- *a caravan;*
- *a car, bus, van or other vehicle used, or intended for use, as a place of residence;*
- *a tent;*
- *a prefabricated structure used, or intended for use, as a place of residence;*
- *a structure designed to be readily assembled and disassembled and used, or intended for use, as a place of residence.*

“**the Act**” means the *Local Government Act 1993*.

Application

4. This local law does not apply to the establishment, or the occupation, of a temporary home:-

(a) on a camping ground; or

- (b) in a part of the area excluded by local law policy from the operation of this local law.

PART 2 - CONTROL OF TEMPORARY HOMES

Requirement to hold permit

5. (1) A person must not establish a temporary home intending it to be used as a place of residence unless a permit authorising the establishment and occupation of the temporary home in the relevant location is in force under this local law.

Maximum penalty-50 penalty units.

- (2) A person must not occupy a temporary home as a place of residence unless the occupation of the temporary home in the relevant location is authorised by a permit in force under this local law.

Maximum penalty-50 penalty units.

Application for permit

6. An application for a permit under this local law must include or be accompanied by:-
- (a) a drawing showing the design and dimensions of the proposed temporary home; and
 - (b) details of the materials out of which the temporary home is (or is to be) constructed and other structural details of the temporary home; and
 - (c) details of the location of the temporary home; and
 - (d) if the applicant is not the owner of the land on which the temporary home is located-the written consent of the owner; and
 - (e) other information and materials required under local law policies.

Grant of permit

7. (1) The local government may grant a permit under this local law if satisfied that:-
- (a) the temporary home is not to be occupied as a place of residence permanently or for an indefinite period; and
 - (b) the applicant proposes, within the period for which the permit is granted:-
 - (i) to erect, or convert an existing structure into, a permanent residence; or
 - (ii) to carry out building work on a permanent residence that will make the residence temporarily unfit for occupation as a place of residence; and
 - (c) an adequate source of water will be available to the proposed temporary home; and

- (d) adequate means of waste disposal and sanitation will exist to ensure that reasonable standards of health and hygiene can be maintained; and
- (e) the temporary home will comply with criteria specified by local law policy.

(2) A local law policy may specify criteria with which a temporary home must comply.

(3) Without limiting the grounds on which the local government may refuse an application for a permit, the local government may refuse an application on the ground that:-

- (a) the applicant has not made a genuine application for a development permit 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 permit has been granted but is likely to expire before building work to be carried out under the permit has been completed.

Term of permit

8. (1) A permit is granted for a term of up to 18 months specified in the permit.

(2) A permit cannot be renewed but the local government may extend the term to coincide with the expected completion date of 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 likely to be completed within a reasonable time.

(3) A permit comes to an end when:-

- (a) the term of the permit ends; or
 - (b) the permanent residence or proposed permanent residence becomes fit for occupation as a place of residence;
- (whichever happens first).

Conditions of permit

9. (1) A permit may be granted on conditions the local government considers appropriate.

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

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

- (b) require the provision of specified facilities for personal hygiene and sanitation, and for washing and drying clothes;
- (c) require the holder of the permit to provide specified equipment, or take specified action, to ensure that the temporary home is adequately supplied with water;
- (d) regulate the disposal of waste water and refuse from the temporary home;
- (e) require the holder of the permit to dismantle and remove the temporary home by a specified date.

(3) The local government may, by local law policy, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

Obligation to comply with conditions

10. The holder of a permit must ensure that the conditions of the permit are complied with.

Maximum penalty-50 penalty units.

PART 3 - MAINTENANCE OF TEMPORARY HOMES

Duty to keep temporary home in good order and repair

11.(1) The owner of a temporary home must keep the temporary home in good order and repair.

Maximum penalty-20 penalty units.

(2) The owner of a temporary home must ensure that the home is not unsightly or unhygienic.

Maximum penalty-20 penalty units.

PART 4 - ENFORCEMENT

Inspection

12. An authorised person may enter¹ and inspect the temporary home to find out whether the requirements of this local law and the conditions of the permit are being complied with.

Compliance notices

13.(1) If the owner of a temporary home contravenes a provision of this local law, or a condition of a permit, an authorised person may give the owner a written notice (a “**compliance notice**”) under this section.

(2) A compliance notice may:-

- (a) if the contravention is of a continuing or recurrent nature-require the owner to stop the contravention; and
- (b) whether or not the contravention is of a continuing or recurrent nature-require the owner to take specified action, within a time specified in the notice, to remedy the contravention.

(3) The owner of a temporary home to whom a compliance notice is given must comply with the notice.

Maximum penalty-50 penalty units.

(4) However, the owner need not comply with the notice if the temporary home is dismantled and removed within the time allowed for compliance with the notice.

Notice to remove

14.(1) If:-

- (a) a compliance notice is not complied with within the time allowed for compliance in the notice; or
- (b) there is no permit in force for the occupation of a temporary home;

an authorised person may, by written notice given to the owner of the temporary home (a “removal notice”), require the owner to remove the temporary home within the time allowed in the notice.

(2) The owner of a temporary home to whom a removal notice is given must comply with the notice.

Maximum penalty-50 penalty units.

(3) However, if within the time allowed for compliance with a removal notice the owner of the temporary home obtains a permit for the temporary home, or takes other action required to remedy a contravention of this local law, the owner need not comply with the removal notice.

Local government’s power to have work carried out

15. If an owner fails to have work required by a compliance notice carried out, the local government may itself have the work carried out.

Powers of entry and cost recovery

16.(1) The local government may enter land to perform work under section 1066 of the Act.

(2) If the owner of the temporary home is the owner of the relevant land, the amount properly and reasonably incurred by the local government in performing the work is recoverable (together with interest) under sections 1066, 1067 and 1068 of the Act.

- (3) If the owner of the temporary home is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the owner (together with interest) on the same basis as applies to an owner of land under section 1067 of the Act.²

PART 5 - LOCAL LAW POLICIES

Local law policies

17. The local government may make local law policies about:-
- (a) the exclusion of part of the area from the operation of the local law;³ or
 - (b) the information and materials to accompany an application for a permit;⁴ or
 - (c) the criteria with which a temporary home must comply;⁵ or
 - (d) conditions that must, or will ordinarily, be imposed in a permit;⁶ or
 - (e) other matters about which this local law specifically allows for the making of local law policies.

Footnotes

- 1 For power to enter premises, see Chapter 15, Parts 4 and 5 of the Act.
- 2 Section 1067(2) of the Act provides for the payment of interest on the same basis as for an overdue rate.
- 3 See section 4(b).
- 4 See section 6(e).
- 5 See section 7(2).
- 6 See section 9(3).

This and the preceding 6 pages bearing my initials is a certified copy of Local Law No. 5M (Temporary Homes) made in accordance with the provisions of the Local Government Act 1993, by the Thuringowa City Council by resolution dated nineteenth day of May, 1999.

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Chief Executive Officer