

TORRES SHIRE COUNCIL LOCAL LAW NO. 11 (PUBLIC AERODROMES)

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PART 1 - PRELIMINARY

1. Citation

This local law may be cited as Local Law No. 11 (Public Aerodromes).

2. Objects

The objects of this local law are:

- (a) to protect the public against risk of injury and the community against damage; and
- (b) to ensure that activities are undertaken in an orderly and safe manner and do not create a hazard to public health or a threat to property; and
- (c) to control noise nuisance resulting from the use of aircraft and aerodrome activities; and
- (d) to control the public use of an aerodrome to the extent that such use is consistent with the rights, expectations and safety of the local community; and
- (e) to protect the Obstacle Limited Surfaces (OLS) and minimise hazards to aircraft,

in relation to the use and operation of an aerodrome.

3. Definitions

In this local law:

"aerodrome" means an area of land under the control of the local government and used and licensed as an aerodrome under the civil aviation laws for use as an aerodrome;

"airside area" means the movement area of an aerodrome, including buildings and other structures, being the whole of that part of an aerodrome inside its perimeter fence, but excluding buildings on leased areas and any area signposted by the local government for use by the general public in connection with a lawful aerodrome activity (for example, a waiting area or public carpark);

"aircraft stand" means an area at an aerodrome designated by the local government for the parking of aircraft including, but not limited to, the parking of aircraft for the purpose of loading and unloading of freight, mail and cargo, and for the embarkation or disembarkation of passengers;

"civil aviation laws" means a law made by or under an Act enacted by the Commonwealth Parliament in relation to aircraft safety, at, or in the vicinity of, an aerodrome;

"disorderly person" refer to section 9(1);

"lease" includes a sub-lease;

"movement area" means any part of an aerodrome that is used for the surface movement of aircraft, including manoeuvring areas and aprons;

"Obstacle Limitation Surface" or OLS, means the series of surfaces established by the local government in the air space around an aerodrome which limit the height above ground level of objects surrounding the aerodrome and an object which projects through the OLS for an aerodrome becomes an obstacle to the operation of aircraft at the aerodrome;

"non-airside area" means an area of an aerodrome other than an airside area;

"operator" means a person, organization or enterprise engaged in, or offering to engage in, the operation of an aircraft, including all general movements of the aircraft;

"parking area" means a non-airside area indicated by a sign or notice displayed to be an area in which a person is permitted to park a vehicle;

"premises" means a non-airside area specified in a lease, licence or authorisation granted by the local government;

"relevant person" means:

- (a) in relation to an aircraft:
 - i) the owner, operator, hirer or pilot in command of the aircraft; or
 - ii) the person apparently in charge of the aircraft at the time a direction is given to the person under this local law; or
- (b) in relation to an activity, the person apparently in charge of organising the activity at the time a direction is given to the person under this local law;

"road" means a road, street, thoroughfare or place that is open to, or used by, the public for the passage of vehicles and that is not within an airside area;

"the owner" in relation to a vehicle:

- (a) in the case of a vehicle registered under a law of a State or Territory relating to the registration of vehicles - means the person in whose name the vehicle is registered; or
- (b) in the case of any other vehicle - includes every joint or part owner of the vehicle and any person who has lawful possession and use of the vehicle under or subject to a hire-purchase agreement or a bill of sale,

at the material time; and

"vehicle" means a vehicle within the meaning of the *Traffic Act 1949*.

4. Application of local law

This local law is in addition to, and does not derogate from:

- (a) laws regulating the use or development of land in the area in which the local government has jurisdiction;

- (b) civil aviation laws; or
- (c) civil aviation safety laws.

PART 2 - USE AND OPERATION OF AN AERODROME

5. Use of vehicle

- (1) The local government may determine and include or notify, by means of permanently displayed signs or notices, with or without reference to lanes or marked areas and positions within an aerodrome, areas in which a person is, or is not, permitted to park a vehicle or cause a vehicle to stand.
- (2) Where a sign or notice of a kind referred to in sub-section (1) is displayed on an aerodrome, the sign or notice is, unless the contrary is proved, deemed to be in accordance with a determination under this local law and to be duly displayed in accordance with this local law.
- (3) A person must not park a vehicle, or cause a vehicle to stand, in contravention of the terms of a sign or notice displayed under sub-section (1).

Maximum penalty - 20 penalty units

- (4) The local government may, by local law policy, prescribe conditions for use of a vehicle on an airside area, including the requirement to obtain a permit for such use.
- (5) A person must not operate or use a vehicle on an airside area in contravention of a local law policy.

Maximum penalty - 50 penalty units

- (6) A person must not permit a vehicle owned or controlled by the person to be operated or used on an airside in contravention of a local law policy.

Maximum penalty - 50 penalty units

6. Safety requirements

- (1) An operator must adopt such practices of a reasonable nature as an authorised person directs for the purpose of:
 - (a) protecting members of the public;
 - (b) protecting infrastructure; or
 - (c) ensuring aircraft are operated in compliance with civil aviation laws and civil aviation safety laws,

at an aerodrome.

Maximum penalty - 100 penalty units

- (2) The local government may, by local law policy, prescribe procedures to be complied with to preserve and enhance safety at an aerodrome.

Examples of safety procedures:

- *fuelling of aircraft;*
- *movement of passengers to and from aircraft;*
- *aircraft servicing and movement of aircraft on an aircraft stand.*

- (3) A person must comply with a safety procedure prescribed by a local law policy.

Maximum penalty - 100 penalty units.

7. Conduct of persons on the airside of an aerodrome

- (1) A person must not, without lawful authority or excuse:

- (a) enter or remain on an airside area; or
- (b) bring or leave any property or dangerous goods or materials on an airside area.

Maximum penalty - 50 penalty units.

- (2) Where:

- (a) a person contravenes sub-section (1); or
- (b) any property, goods or materials are found in contravention of sub-section (1)(b),

an authorised person may, with such assistance and reasonable force as is necessary, remove the person, property, goods or materials from the aerodrome.

- (3) A person must not smoke or do any act to procure a naked flame within fifteen (15) metres of a stationary aircraft or in any non-smoking part of an aerodrome.

Maximum penalty - 100 penalty units.

- (4) For the purpose of sub-section (3), a non-smoking part of an aerodrome is a part declared by the local government and upon which is posted a notice:

- (a) that identifies the part;
- (b) that indicates that smoking in the part is prohibited; and
- (c) that purports to have been posted with the authority of the local government.

- (5) A passenger or intending passenger of an aircraft must, whilst on an airside area, obey the directions of an authorised person as to the passenger's conduct and movements.

Maximum penalty - 10 penalty units.

- (6) A person lawfully entering or being on an airside area must:
- (a) behave in a proper and becoming manner and so as not to cause annoyance or inconvenience to any person lawfully on the airside area; and
 - (b) obey any direction reasonably given to the person by an authorised person for the purpose of preserving order or promoting or facilitating the property use and enjoyment of an aerodrome.

Maximum penalty - 10 penalty units.

8. Use of buildings and facilities

- (1) A person must not:
- (a) use any building or other structure, convenience or amenity provided on an aerodrome for any purpose other than that for which it is provided or intended; or
 - (b) destroy, remove, obliterate, deface, alter or otherwise interfere with any barrier, notice, sign or marking designed or intended for direction, guidance, warning or information of persons using an aerodrome;
 - (c) use any buildings, facilities and amenities at an aerodrome in contravention of subsection (2).

Maximum penalty - 50 penalty units.

- (2) The local government may, by local law policy, prescribe conditions for the use of buildings, facilities and amenities at an aerodrome.

9. Conduct of person on any part of an aerodrome

- (1) For the purpose of this section a "*disorderly person*" means a person, whether or not a passenger or intending passenger of an aircraft, who is:
- (a) considered by an authorised person on reasonable grounds to be intoxicated or so under the influence of intoxicants or drugs as to make the person's presence on an aerodrome dangerous to themselves or to other persons; or
 - (b) indulging in unruly, obscene, offensive or threatening behaviour towards another person.
- (2) An authorised person may direct a disorderly person:
- (a) not to enter an aerodrome; or
 - (b) if already upon an aerodrome - to leave the aerodrome.
- (3) The person to whom a direction is given under sub-section (2) must comply with the direction.

Maximum penalty - 20 penalty units.

- (4) An authorised person may use reasonable force to prevent a disorderly person from entering an aerodrome or to remove a disorderly person from the aerodrome, as the case may be.
- (5) A person must not, without the authority of an authorised person, discharge a firearm:
 - (a) on or over any part of an aerodrome; or
 - (b) adjacent to an aerodrome in such a manner that the projectile discharged from the firearm travels over, or is likely to travel over, any part of an aerodrome.

Maximum penalty - 50 penalty units.

- (6) A person must not bring, or permit to stray onto an aerodrome, an animal without the prior approval of an authorised person.¹

Maximum penalty - 20 penalty units.

- (7) An animal unlawfully on an aerodrome may be removed from the aerodrome by an authorised person, or by any person under the direction of an authorised person.
- (8) Subject to compliance with section 7(3), a person must not light a fire on an aerodrome without the prior approval of an authorised person.²

Maximum penalty - 100 penalty units.

10. Aircraft parking

- (1) The local government may designate by means of signs, notices or markers placed on an aerodrome, a part of an aerodrome to be an area for the parking of aircraft:
 - (a) that identify the part;
 - (b) if that part is not to be used for all aircraft - that specify that kind of aircraft only that may be parked in the part; and
 - (c) that specify the conditions (if any), including conditions relating to the times and periods during which aircraft may be parked in the part.
- (2) A person must not park an aircraft on an aerodrome:
 - (a) except in a part of an aerodrome designated under sub-section (1) to be an area in which an aircraft, or a particular kind of aircraft only, may be parked; and
 - (b) except in accordance with any specified conditions.

Maximum penalty - 50 penalty units.

¹ This sub-section is subject to the provisions of the *Guide Dogs Act 1972*

² A person may smoke on an aerodrome other than those areas mentioned in section 7(3).

- (3) Where an aircraft is parked in contravention of sub-section (2) an authorised person may, by notice in writing served on a person who is a relevant person in relation to the aircraft, direct that person on the terms prescribed in the notice to:
- (a) remove the aircraft from the aerodrome; or
 - (b) remove the aircraft to an area specified by the authorised person in the notice.
- (4) A notice referred to in sub-section (3) may be served:
- (a) on a natural person:
 - i) by delivering it to the person personally; or
 - ii) by leaving it at, or sending by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the notice; or
 - (b) on a body corporate - by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate,
- but, if the person or body corporate cannot be found or the address of the person or body corporate is unknown to the authorised persons, by affixing it to the aircraft to which the notice relates.
- (5) A relevant person to whom a direction is given under sub-section (3) must not, without reasonable excuse, refuse or fail to comply with the direction.
- Maximum penalty - 50 penalty units.
- (6) Where a person fails to comply with a direction given under sub-section (3) without the reasonable excuse, an authorised person may, with such assistance and reasonable force as is necessary, remove the aircraft as required by the direction.
- (7) An action does not lie against the local government or against an authorised person or any other officer, employee or agent of the local government acting in the course of his or her employment, for or in respect of:
- (a) loss of, or damage to, an aircraft during its removal under sub-section (6); or
 - (b) loss of, or damage to, an aircraft so removed while it is in the custody, possession or control of the local government or of an authorised person or any other officer, employee or agent of the local government other than loss or damage willfully or negligently caused by an authorised person or other officer, employee or agent.

11. Special events

- (1) The local government may, on any special occasion, special event or other event of public interest, make particular arrangements for the control of an aerodrome and may charge fees for participation and admission to any such occasion or event.

- (2) The local government may, by local law policy, prescribe conditions for the use of an aerodrome for an occasion or event mentioned in sub-section (1).
- (3) A person must not use an aerodrome in contravention of this section.

Maximum Penalty - 20 penalty units.

12. Special requirements

- (1) Subject to civil aviation laws the local government may regulate the use of an aerodrome in such manner as it sees fit and, without limiting the generality of such power to make a local law policy in respect of the following matters, the local government may:
 - (a) exclude from an aerodrome, any particular aircraft or type or class of aircraft or activity where the local government is of the reasonable opinion that the operation of such aircraft or type or class of aircraft or activity is unduly noisy, dangerous or not in the public interest;
 - (b) subject any activity on or based on an aerodrome to such conditions as the local government considers necessary and desirable including, but not restricted to conditions as to noise attenuation and hours and duration of operation of the activity;
 - (c) designate a part of an aerodrome where a particular activity may or may not be carried on;
 - (d) restrict use by aircraft of an aerodrome for:
 - i) departures; or
 - ii) landings; or
 - iii) servicing; or
 - iv) embracement of passengers; or
 - v) disembarkment of passengers; or
 - vi) transport of freight; or
 - vii) any combination of (i) to (vi),on any night or on every night during the hours prescribed by the local government by resolution;
 - (e) restrict use by aircraft of an aerodrome for training operations on any night or on every night during the hours prescribed by the local government by resolution; and
 - (f) fix and collect:
 - i) fees for use of an aerodrome by an aircraft; and

- ii) charges for leasehold areas within the aerodrome.
- (2) Where an aircraft is used, or an activity carried on, in contravention of sub-section (1) or a local law policy made under this local law, an authorised person may, by notice in writing to a person who is a relevant person in relation to that aircraft or activity, direct that person within the time prescribed in the notice:
 - (a) to cease the use of such aircraft or activity; or
 - (b) to remove the aircraft from the aerodrome; or
 - (c) to remove the aircraft or activity to an area specified by the authorised person in the notice; or
 - (d) to pay prescribed fees or charges; or
 - (e) to attend to any combination of (a) to (d) above.
- (3) A notice referred to in sub-section (2) may be served:
 - (a) on a natural person:
 - i) by delivering it to the person personally; or
 - ii) by leaving it at, or by sending it by pre-paid post to, the address of the place or residence or business of the person last known to the person serving the notice; or
 - (b) on a body corporate - by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate,

but, if the person or body corporate cannot be found or the address of the person or body corporate is unknown to the authorised person, by affixing it to the aircraft to which the notice relates.
- (4) A relevant person to whom a direction is given under sub-section (2) must not, without reasonable excuse, refuse or fail to comply with the direction.

Maximum penalty - 50 penalty units.

PART 3 - PREVENTION OF HAZARDS TO AIRCRAFT

13. Application of part

This part applies to the removal of obstacles and hazards affecting, or likely to affect, the safe operation of aircraft in the vicinity of an aerodrome.

14. Notice to remove hazards

Where, on any land adjoining, or in the vicinity of, an aerodrome there is:

- (a) a tree penetrating, or through further growth in a short period likely to penetrate, the OLS; or

- (b) a structure or part of a vehicle penetrating the OLS; or
- (c) a light exhibited which by reason of glare or by causing confusion or by interfering with the operation of aircraft, is likely to endanger the safety of aircraft; or
- (d) a presence of waste foodstuffs which constitutes, or is likely to constitute, such an attraction to birds as to create a hazard, or a potential hazard, to aircraft using or operating in the vicinity of the aerodrome,

the local government may, by written notice given to a person, being the owner or occupier of the relevant land or the person apparently in charge of a vehicle to which paragraph (b) refers, require the person, within the time stated in the notice, to:

- i) in the case of paragraph (a) - remove or lop that part of the tree penetrating, or likely to penetrate, the OLS;
- ii) in the case of paragraph (b) - remove, or dismantle to the extent necessary, the structure or part of a vehicle so that the structure or part does not penetrate the OLS;
- iii) in the case of paragraph (c) - extinguish the light or shield it to the extent necessary to remove any likely danger to the safety of aircraft operation and refrain from exhibiting the light, or any other light having similar effect, in the future;
- iv) in the case of paragraph (d) - remove or effectively cover the waste foodstuffs to eliminate any attraction to birds.

Example of paragraph (b)

- *a structure includes a pole, or television or radio mast;*
- *a part of a vehicle includes a crane, jib, or height extension apparatus.*

15. Compliance with notice

- (1) A notice given under section 14 may be served personally or by post.
- (2) A person must not, without reasonable excuse, fail to comply with a notice given under section 14.

Maximum penalty - 50 penalty units.

16. Local government's power to carry out work

If a person to whom a notice is given under section 14 fails to comply with the notice the local government may, in addition to any penalty imposed under section 15, enter the relevant land under section 1066 of the Act (Performing work for owner or occupier) and perform the work specified in the notice and, in the case of a vehicle, remove the vehicle or carry out work on the vehicle to the extent necessary so that no part of the vehicle penetrates the OLS.

17. Recovery of local government's costs

If the person who failed to comply with a notice under section 14:

- (a) 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) by the local government under sections 1067 and 1068 of the Act³; or
- (b) is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable by the local government as a debt from the person in default together with interest on the basis as applied to an owner of land under section 1067 of the Act.

18. No compensation payable

The local government is not liable to pay compensation to a person:

- (a) who is required to comply with a notice given under section 14 and who complies with the notice; or
- (b) who suffers loss or damage reasonably caused by the local government in performing work under section 16 because of the person's failure to comply with a notice given under section 14.

19. Approval of temporary structures, etc.

- (1) A local government may permit a temporary structure or part of a vehicle to penetrate the OLS for a limited period of time provided proper regard to the safe operation of aircraft in the vicinity of an aerodrome during the period for which the permit applies;
- (2) A permit may be granted subject to conditions the local government considers to be reasonably necessary as not to endanger aircraft safety.
- (3) A person to whom a permit is granted must not:
 - (a) exceed the time limit for which the permit is granted; or
 - (b) fail to comply with a condition of the permit.

Maximum penalty - 50 penalty units.

PART 4 - MISCELLANEOUS

20. Aerodrome damage

Where a person offends against this local law the person is, in addition to any penalty prescribed for the offence, liable for any damage to an aerodrome arising from the offence

³ Section 1067 (Cost of work recoverable as a rate) and section 1068 (Cost of work or charge over land).

and the cost of repairing the damage may be recovered by the local government from the person in a court of competent jurisdiction.

21. Local law policies

The local government may make local law policies in relation to those matters about which this local law specifically allows for the making of local law policies.