



# **Cherbourg Aboriginal Shire Council**

## **Review of Anti-Competitive Provisions Proposed Local Laws 2021**

# Contents

Preliminary Assessment .....	4
Step 1 – Identification of Anti-Competitive Provisions .....	5
Step 2 – Determination of Exclusions.....	5
Application of Steps 1 and 2 .....	5
Local Law No. 1 (Administration) 2021 .....	5
Purpose.....	5
Identification of anti-competitive provisions .....	6
Subordinate Local Law No. 1 (Administration) 2021.....	7
Purpose.....	7
Local Law No. 2 (Animal Management) 2021.....	11
Purpose.....	11
Exclusions .....	12
Subordinate Local Law No. 2 (Animal Management) 2021.....	12
Local Law No. 3 (Community and Environmental Management) 2021 .....	12
Purpose.....	12
Exclusions .....	13
Subordinate Local Law No. 3 (Community and Environmental Management) 2021.....	13
Local Law No. 4 (Indigenous Community Land Management) 2021.....	13
Purpose.....	13
Subordinate Local Law No. 4 (Indigenous Community Land Management) 2021 .....	14
Purpose.....	14
Step 3 – Preliminary Review of Anti-Competitive Provisions for Local Laws .....	14
Step 4 – Outcome of the Preliminary Assessment .....	15
Local Law No. 1 (Administration) 2021 – Section 6.....	15
Context .....	15
The factors that must considered .....	15
Conclusion .....	16
Subordinate Local Law No. 1 (Administration) 2021 — Schedule 7 — Alteration or Improvement to local government controlled areas and roads.....	16
Context .....	16
The factors that must considered .....	16
Conclusion .....	17
Subordinate Local Law No. 1 (Administration) 2021 — Schedule 8 – Commercial use of local government-controlled areas and roads.....	17
Context .....	17
The factors that must considered .....	17
Conclusion .....	18
Subordinate Local Law No. 1 (Administration) 2021 — Schedule 10 – Installation of Advertising devices.....	18
Context .....	18
The factors that must considered .....	18
Conclusion .....	19
Subordinate Local Law No. 1 (Administration) 2021 — Schedule 17 – Operation of Shared Facility Accommodation .....	19
Context .....	19
The factors that must considered .....	19
Conclusion .....	19
Subordinate Local Law No. 1 (Administration) 2021 — Schedule 18 – Operation of temporary entertainment events .....	19
Context .....	19
The factors that must considered .....	20
Conclusion .....	20

Subordinate Local Law No. 1 (Administration) 2021 — Schedule 23 – Undertaking regulated activities on Local Government Controlled Areas and Roads – holding of a public place activity prescribed by Subordinate Local Law.....20

    Context .....20

    Factors that must be considered .....20

    Conclusion .....21

Concluding Remarks .....21

# Cherbourg Aboriginal Shire Council Review of Anti-Competitive Provisions July 2021

## Preliminary Assessment

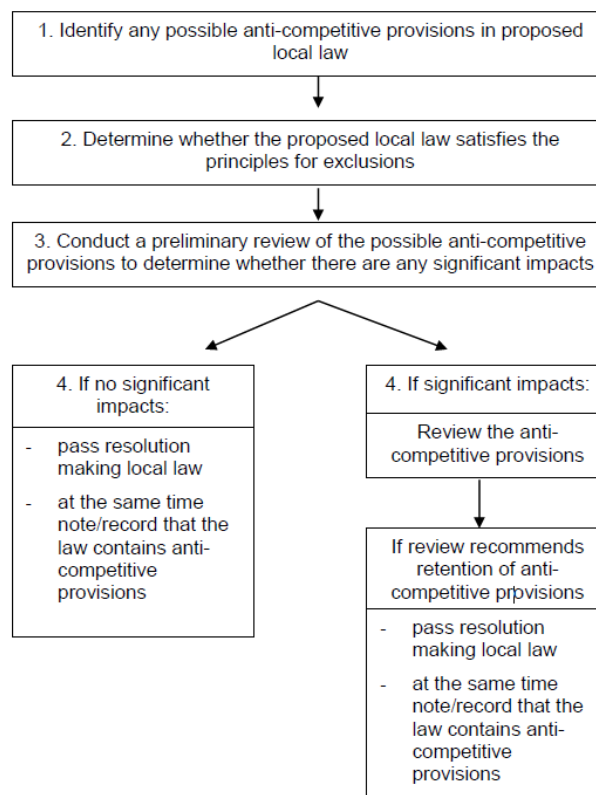
At its July 2021 meeting, Cherbourg Aboriginal Shire Council (“**Council**”) resolved to propose to adopt a new suite of Local Laws and Subordinate Local Laws.

Section 15 of the *Local Government Regulation 2012* (“**Regulation**”) requires Council to undertake a review of its local laws (including subordinate local laws) regarding anti-competitive provisions in accordance with the “National Competition Policy – Guidelines for Conducting Reviews on Anti-Competitive Provisions in Local Laws – Version 1” (“**Guidelines**”).

An anti-competitive provision in local laws (“**anti-competitive provision**”) means provision that a regulation identifies as creating barriers to:

- (a) entry to a market; or
- (b) competition within a market.<sup>1</sup>

The process for undertaking a review of anti-competitive provisions in a local law is set out in the Guidelines and shown below.



<sup>1</sup> *Local Government Act 2009* (Qld), Schedule 4 – Dictionary

## **Step 1 – Identification of Anti-Competitive Provisions**

### **Barriers to Entering the Market**

This type of anti-competitive provision in a local law involves either prohibiting particular business activities or placing obligations on the operators of business activities.

### **Restricting Competition in the Market**

This type of anti-competitive provision in a local law involves giving some benefit or imposing some hindrance on particular business operators.

## **Step 2 – Determination of Exclusions**

In some cases, a local law that is considered necessary may have some unintended impact on businesses that inadvertently create barriers from entering the market or restricts competition. Depending on the nature of the local law, in some cases, the local government may not be required to conduct a review of any anti-competitive provisions.

The Guidelines confirm that the following types of local laws are excluded from a review of anti-competitive provisions:

1. local laws regulating the behaviour of individuals;
2. local laws dealing solely with internal administrative procedures of a local government;
3. local laws intended as a legitimate measure to combat the spread of pest and disease;
4. local laws to ensure accepted public health and safety standards are met; and
5. repealing local laws.

## **Application of Steps 1 and 2**

This part of the Review identifies anti-competitive provisions in the suite of Local Laws and Subordinate Local Laws proposed to be adopted by Council, and determines whether any exclusion applies.

If any identified anti-competitive provisions are not excluded by Step 2, this Review will go on to conduct a preliminary assessment of each provision.

### **Local Law No. 1 (Administration) 2021**

#### Purpose

The purpose of the Local Law is to provide a legal and procedural framework for the administration, implementation and enforcement of government's local laws, subordinate local laws and specific regulatory powers under legislation, and to provide for miscellaneous administrative matters.

The purposes are to be achieved by providing for:

- (a) consistent and comprehensive processes for local government to grant and regulate approvals to undertake the prescribed activities; and
- (b) authorised persons from enforcing local laws; and
- (c) review of certain decisions made under local laws; and
- (d) enforcement of local laws; and
- (e) matters relating to legal proceedings; and
- (f) miscellaneous administrative matters relating to meetings, fees, abandoned goods and seizure and impounded items.

Identification of anti-competitive provisions

Possible Anti-Competitive Provision	Explanatory Comments	Determination of Exclusions
Section 5 – Offence to Undertake local law prescribed activity without approval	Imposes a requirement to obtain an approval in respect of the undertaking of a prescribed activity and may create barriers to entering the market. This section is of general application and could be considered anti-competitive.	This provision has general application, and each prescribed activity has been reviewed under Subordinate Local Law No. 1 (Administration).  However, section 5 in isolation is a possible anti-competitive provision.
Section 7 – Deciding an application for an approval	Regulates the process for granting an approval by constraining the Council’s discretion. The granting of approvals is likely to be anti-competitive.	The provision has general application but cannot be reviewed for anti-competitive provisions without considering each prescribed activity. Each prescribed activity has been reviewed under Subordinate Local Law No. 1.
Section 8 – Conditions of approval	Placing conditions on approval may create barriers to entering a market or restrict competition in the market. The provision could be considered anti-competitive.	This provision has general application but cannot be reviewed for anti-competitive provisions without considering each prescribed activity. Each prescribed activity has been reviewed under Subordinate Local Law No. 1.

The balance of the Local Law does not create barriers to entering the market or restrict competition in the market.

However, notwithstanding that conclusion, the balance of the Local Law deals solely with the internal administrative procedures of a local government, and on that basis would be excluded from further review in the event anti-competitive provisions were identified.

## Subordinate Local Law No. 1 (Administration) 2021

### Purpose

The purpose of this Subordinate Local Law is to supplement *Local Law No. 1 (Administration) 2021*, which provides for the legal and procedural framework for the administration, implementation and enforcement of Council's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.

The purpose is to be achieved by providing for:

- (a) various matters regarding the granting of approvals for prescribed activities; and
- (b) further specifications of the definitions relevant to various prescribed activities.

### Identification of anti-competitive provisions

Possible Anti-Competitive Provision	Explanatory Comments	Determination of Exclusions
Schedule 2 - Alteration or improvement to local government-controlled areas and roads	Businesses undertaking alteration or improvements of local government-controlled areas and roads will require an approval which creates a barrier to entering the market. The provision could be considered anti-competitive.	No exclusions apply. Possible anti-competitive provision.
Schedule 3 – Bringing or driving motor vehicles onto parks and reserves	Although it is unlikely that this activity will be considered anti-competitive, the schedule could conceivably restrict activities of businesses wishing to participate in the activity for business purposes.	This prescribed activity solely regulates individuals and does not apply to businesses. The criteria for granting approvals and conditions that will ordinarily be imposed on approvals deals directly with measures to combat the spread of pests and disease and ensure accepted public health and safety standards are met.  On that basis, the Schedule is excluded from further review under Step 2.
Schedule 4 – Bringing or driving prohibited vehicles onto motor vehicle access areas	Although it is unlikely that this activity will be considered anti-competitive, the schedule could conceivably restrict activities of businesses wishing to participate in the activity for business purposes.	This prescribed activity solely regulates individuals and does not apply to businesses. The criteria for granting approvals and conditions that will ordinarily be imposed on approvals deals directly with measures to combat the spread of pests and disease and ensure accepted public health and safety standards are met.  On that basis, the Schedule is excluded from further review under Step 2.

Schedule 5 – Camping within a camping site in the trust area	Although it is unlikely that this activity will be considered anti-competitive, the schedule could conceivably restrict activities of businesses wishing to participate in the activity for business purposes.	This prescribed activity solely regulates individuals and does not apply to businesses. The criteria for granting approvals and conditions that will ordinarily be imposed on approvals deals directly with measures to combat the spread of pests and disease and ensure accepted public health and safety standards are met.  On that basis, the Schedule is excluded from further review under Step 2.
Schedule 6 – Carrying out works on a road	Businesses conducting these activities are required to obtain an approval which would create barriers to entering the market.  The schedule could be considered anti-competitive.	The purpose of the Schedule is to ensure acceptable public health and safety standards are met.  On that basis, the Schedule is excluded from further review under Step 2.
Schedule 7 - Commercial use of local government- controlled areas and roads	Businesses wishing to use local government-controlled areas and roads for commercial use will require an approval which will create a barrier to entering the market and could potentially restrict competition in the market. The provision could be considered anti-competitive.	No exclusions apply. Possible anti-competitive provision.
Schedule 9 - Establishment or occupancy of a temporary home	This prescribed activity could arguably affect businesses that offer temporary accommodation and therefore could be considered anti-competitive.	This prescribed activity solely regulates individuals and does not apply to businesses. The criteria for granting approvals and conditions that will ordinarily be imposed on approvals deals directly with measures to combat the spread of pests and disease and ensure accepted public health and safety standards are met.  On that basis, the Schedule is excluded from further review under Step 2.
Schedule 10 - Installation of advertising devices	This subordinate local law may restrict a business’s ability to advertise, that alone would not create barriers to entering the market. However, it could be argued that placing restrictions on advertising could provide an unfair advantage to a competing business and be anti-competitive.  The law creates barriers for advertising companies entering the market and	No exclusions apply. Possible anti-competitive provision.



	therefore could be considered anti-competitive.	
Schedule 11 – Keeping of animals	<p>Restricting the type and number of animals that are able to be kept on land within Council’s local government area only applies to individuals keeping animals on private land.</p> <p>Businesses that do not require approval under the Planning Act to operate a business will be required to obtain a permit. The provision could be considered anti-competitive.</p>	<p>The criteria and conditions proposed in approvals deals directly with measures to combat the spread of pest and disease and ensure acceptable public health and safety standards are met.</p> <p>The Local Law is intended to regulate the behaviour of individuals.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>
Schedule 12 – Operation of camping grounds	Requiring an approval for the operation of camping grounds creates barriers to entering the market. The schedule could be considered anti-competitive.	<p>The criteria and conditions proposed in approvals deals directly with measures to combat the spread of pest and disease, the behaviour of people and ensure acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>
Schedule 13 – Operation of caravan parks	Requiring an approval for the operation of caravan parks creates barriers to entering the market. The schedule could be considered anti-competitive.	<p>The criteria and conditions proposed in approvals deals directly with measures to combat the spread of pest and disease and ensure acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>
Schedule 14 – Operation of cemeteries	<p>Requiring an approval for the operation of cemeteries creates barriers to entering the market.</p> <p>The schedule could be considered anti-competitive.</p>	<p>The criteria and conditions proposed in approvals deals directly with measures to combat the spread of pest and disease and ensure acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>
Schedule 15 – Operation of a pet shop, cattery or kennel	<p>Requiring an approval for the operation of a pet shop, cattery or kennel creates barriers to entering the market.</p> <p>The schedule could be considered anti-competitive.</p>	<p>The criteria and conditions proposed in approvals deals directly with measures to combat the spread of pest and disease and ensure acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>

<p>Schedule 16 – Operation of public swimming pools</p>	<p>Schedule 16 is a prescribed activity which regulates swimming pools operated by a business for public use. Requiring an approval for the operation of a public swimming pool creates a barrier to entering the market.</p> <p>The schedule could be considered anti-competitive.</p>	<p>The criteria and conditions proposed in approvals deals directly with measures to combat the spread of pest and disease and ensure acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>
<p>Schedule 17 - Operation of Shared Facility Accommodation</p>	<p>Requiring an approval for the operation of shared facility accommodation creates barriers to entering the market.</p> <p>The schedule could be considered anti-competitive.</p>	<p>No exclusions apply. Possible anti-competitive provision</p>
<p>Schedule 18 – Operation of Temporary Entertainment Events</p>	<p>Requiring an approval for the operation of temporary entertainment events creates barriers to entering the market.</p> <p>The schedule could be considered anti-competitive.</p>	<p>No exclusions apply. Possible anti-competitive provision.</p>
<p>Schedule 19 - 21 – Undertaking regulated activities regarding human remains</p>	<p>Requiring an approval for the disturbance of human remains is not anti-competitive. The local law does not regulate a business, it regulates the activity of disturbing human remains buried outside a cemetery or in a local government cemetery which is required under relevant legislation.</p> <p>The provision is unlikely to be considered anti-competitive.</p>	<p>If the Schedule were to be considered anti-competitive, provisions directly relate to ensuring acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>
<p>Schedule 22 – Undertaking Regulated Activities on Local Government Controlled Areas and Roads – Driving and Leading Animals to Cross a Road</p>	<p>The prescribed activity creates barriers to business entering the market requiring them to obtain an approval and placing restrictions on the conduct of the business of driving or leading animals to cross a road.</p> <p>The schedule could be considered anti-competitive.</p>	<p>The purpose of the Schedule is to ensure the acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>
<p>Schedule 23 – Undertaking Regulated Activities on Local Government Controlled Areas and Roads –</p>	<p>The prescribed activity creates barriers to business entering the market requiring them to obtain an approval and placing restrictions on the conduct of the business of depositing goods or materials in a local government-controlled area or road.</p>	<p>The purpose of the Schedule is to ensure the acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>

depositing goods or materials	The schedule could be considered anti-competitive.	
Schedule 24 – Undertaking Regulated Activities on Local Government Controlled Areas and Roads – holding of a public place activity prescribed by subordinate local law	<p>The prescribed activity creates barriers to business entering the market by requiring a business to hold a permit, and by placing restrictions on the conduct of the business.</p> <p>The schedule could be considered anti-competitive.</p>	No exclusions apply. Possible anti-competitive provision.
Schedule 25 – Undertaking scientific research in a trust area	<p>Requiring an approval to undertake scientific research in a trust area anti-competitive. The local law does not regulate a business, it regulates the activity of undertaking scientific research, as per Council’s ability to regulate pursuant to the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i>.</p> <p>The provision is unlikely to be considered anti-competitive.</p>	<p>If the Schedule were to be considered anti-competitive, provisions directly relate to ensuring acceptable public health and safety standards are met.</p> <p>On that basis, the Schedule is excluded from further review under Step 2.</p>

## Local Law No. 2 (Animal Management) 2021

### Purpose

The purpose of this Local Law is to regulate and manage the keeping and control of animals in the local government’s area in a way that:

- (a) balances community expectations with the rights of individuals; and
- (b) protects the community against risks to health and safety; and
- (c) prevents pollution and other environmental damage; and
- (d) protects the amenity of the local community and environment.

The purpose is to be achieved by providing for:

- (a) the regulation of the keeping of animals in terms of how many, what type, how, and where the animals can be kept; and
- (b) the prescription of minimum standards for keeping animals; and

- (c) the proper control of animals in public places and koala conservation areas; and
- (d) the management of dangerous and aggressive animals other than dogs; and
- (e) the seizure and destruction of animals in certain circumstances; and
- (f) the establishment and administration of animal pounds.

Section 6(2) of the Local Law relates to requirements for approvals under the Local Law. These approvals could be considered anti-competitive, to the extent that they have the effect of regulating business activities

However, restrictions are intended to be placed on individuals, not on businesses.

Businesses that do not require approval under the Planning Act to operate a business will be required to obtain a permit.

#### Exclusions

The purpose of the Local Law is to ensure acceptable public health and safety standards are met.

The Local Law is intended to regulate the behaviour of individuals, not businesses.

The Local Law is a legitimate measure to combat the spread of pests and disease, and to ensure acceptable public health and safety standards are met.

In view of the matters above, the Local Law is excluded from a review of any anti-competitive provisions.

#### **Subordinate Local Law No. 2 (Animal Management) 2021**

*Subordinate Local Law No. 2 (Animal Management) 2021* derives its authority from *Local Law No. 2 (Animal Management) 2021*.

No anti-competitive provisions have been identified in the Subordinate Local Law that are unique to the Subordinate Local Law.

Therefore, the Subordinate Local Law is excluded from a review of anti-competitive provisions under this part.

#### **Local Law No. 3 (Community and Environmental Management) 2021**

##### Purpose

The purpose of this Local Law is to protect the environment and public health, safety and amenity within the local government's area.

The purpose is to be achieved by providing for the elimination or reduction of risks and threats to the environment and public health and safety and amenity resulting from:

- (a) inadequate protection against animal and plant pests; and
- (b) vegetation overgrowth; and

- (c) visual pollution resulting from accumulation of objects and materials; and
- (d) fires and fire hazards not regulated by State law; and
- (e) community safety hazards; and
- (f) noise that exceeds noise standards.

The Local Law does not create a barrier to entering the market, nor restrict competition in the market.

On that basis, the Local Law does not contain anti-competitive provisions and so no further analysis is required.

#### Exclusions

Notwithstanding the conclusion drawn above, it is further concluded that even if the Local Law were to be considered anti-competitive, the Local Law would be excluded under Step 2.

This is because the purpose of the Local Law is to regulate the behaviour of individuals, combat the spread of pest and disease, and to ensure accepted public health and safety standards are met.

#### **Subordinate Local Law No. 3 (Community and Environmental Management) 2021**

*Subordinate Local Law No. 3 (Community and Environmental Management) 2021* derives its authority from *Local Law No. 3 (Community and Environmental Management) 2021*.

No anti-competitive provisions have been identified that are unique to the Subordinate Local Law.

Therefore, the Subordinate Local Law is excluded from a review of anti-competitive provisions under this part.

#### **Local Law No. 4 (Indigenous Community Land Management) 2021**

##### Purpose

The purpose of this local law is to enable the local government with jurisdiction over the trust area under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, to regulate the use of that area.

The purpose is to be achieved by:

- (a) regulating access to local government-controlled areas;
- (b) prohibiting or restricting particular activities in local government-controlled areas or roads.

The purpose of the local law does create barriers to entering the market and possibly restrict competition in the market.

Section 13 prohibits and restricts particular activities. To the extent that those prohibitions and restrictions affect businesses, section 13 could have an anti-competitive effect. This Report will analyse those prohibitions and restrictions in the context of the particular activities that are prohibited and restricted, under the heading, 'Subordinate Local Law No. 4 (Indigenous Community Land Management) 2021'.

## Subordinate Local Law No. 4 (Indigenous Community Land Management) 2021

### Purpose

The purpose of the Subordinate Local Law is to supplement *Local Law No. 4 (Indigenous Community Land Management) 2021* to in order to enable the local government with jurisdiction over the trust area under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* to regulate the use of that area.

The purpose is to be achieved by providing for:

- (a) the regulation of access to local government-controlled areas; and
- (b) the prohibition or restriction of particular activities in local government-controlled areas or roads.

### Identification of anti-competitive provisions

Possible Anti-Competitive Provisions	Explanatory Comments	Determination of Exclusions
Schedule 3 – Prohibited Activities for Parks and Reserves	Schedule 3 could be considered anti-competitive, to the extent that it affects activities of businesses.	The Schedule seeks to regulate the behaviour of individuals, and for public health and safety purposes.  On that basis, the schedule is excluded from further review under Step 2.
Schedule 4 – Restricted Activities for Parks and Reserves	Schedule 4 could be considered anti-competitive, to the extent that it affects activities of businesses.	The Schedule seeks to regulate the behaviour of individuals, and for public health and safety purposes.  On that basis, the schedule is excluded from further review under Step 2.

## Step 3 – Preliminary Review of Anti-Competitive Provisions for Local Laws

Under the Guidelines, if an anti-competitive provision has been identified, and that provision is not excluded from further review under Steps 1 or 2, then the local government must undertake an assessment of the anti-competitive provision to determine whether significant impacts will exist if the provisions are adopted.

In determining whether significant impacts exist, Council must consider the following factors:

1. the probability of impacts occurring;
2. the size and characteristics of the affected businesses;
3. the intensity of the potential impact on affected business;
4. whether particular businesses will incur a disproportionate impact;
5. the duration of the impact (for example ongoing or “one off”).

Examples of potentially significant impacts include:

- where a local law will impact on a relatively significant number of business;
- where a local law will impose significant restrictions on business operating in the local governments area;
- where businesses will be required to pay a substantial yearly licencing fee to operate;
- where one type of business will be regulated to a lesser degree than other businesses providing the same or similar products.

Where a local government determines there are no significant impacts from the anti-competitive provisions, the local government is not required to undertake any further review of the anti-competitive provisions but must notify the community of the existence of the anti-competitive provision when making the local law.

This Report will serve as notification to the community of the existence of the anti-competitive provision.

## Step 4 – Outcome of the Preliminary Assessment

The outcome of the preliminary assessment is set out below.

### Local Law No. 1 (Administration) 2021 – Section 5

#### Context

Section 5 makes it an offence to undertake a local law prescribed activity without an approval granted by Council.

The current suite of local laws that Council has requires approval under each local law. This Local Law creates an offence to conduct a prescribed activity without an approval.

Approvals are issued under the Local Law, and in accordance with the requirements contained in the relevant schedule of the *Subordinate Local Law No.1 (Administration)*.

The effect section 5 is likely to have on business is considered below.

#### The factors that must considered

Consideration	Impact, rating and rationale
<b>Probability of impacts occurring</b>	The local government has an existing local law regime that, while outdated, creates a level of regulation not dissimilar to what is proposed by these provisions. The Local Law represents a reasonable regulation of activities in the Cherbourg local government area. The probability of impacts occurring is considered low.
<b>The size and characteristics of the affected businesses</b>	The nature of section 5 is such that it applies to all prescribed activities. The size and characteristics of the affected businesses are potentially great. The impacts of each prescribed activity are considered later in this document.

<b>The intensity of the potential impact on affected businesses</b>	The intensity of the potential impact on affected businesses can only be considered in accordance with each prescribed activity. The impacts of each prescribed activity are considered later in this document.
<b>Where particular businesses will incur disproportionate impact</b>	The Local Law is applied to all businesses in a uniform way, and no disproportionate impacts were identified.
<b>Duration of the impact</b>	The impact on businesses will be ongoing as approval allows for the approval and management of the activity.

### Conclusion

In assessing the potentially anti-competitive provision, no significant impacts on current or potential businesses were identified.

### **Subordinate Local Law No. 1 (Administration) 2021 — Schedule 2 — Alteration or improvement to local government controlled areas and roads**

#### Context

The prescribed activity includes an alteration or improvement to local government-controlled areas and roads. This does not include an alteration or improvement that is regulated under section 75 of the *Local Government Act 2009* (Qld) (“LGA”).

#### The factors that must be considered

<b>Consideration</b>	<b>Impact, rating and rationale</b>
<b>Probability of impacts occurring</b>	The local government has an existing local law regime that, while outdated, creates a level of regulation not dissimilar to what is proposed by these provisions. Although this provision potentially imposes additional requirements on businesses that wish to make alterations or improvements to local government-controlled areas or roads, the impacts are not considered significant as they are only minor procedural requirements that reflect existing practices. The probability of impacts occurring are considered low.
<b>The size and characteristics of the affected businesses</b>	The landscape gardeners or contractors undertaking works on local government parks are not affected by this local law. Businesses wishing to place signage on local government-controlled areas and roads may be affected however the impact to these groups is considered reasonable management action and not substantial. Community Groups and Not for Profit organisations wishing to install community infrastructure may be affected by this local law however the impact to these groups is considered reasonable management practice and not substantial. No other businesses were identified as being directly affected by this local law in the local government area.
<b>The intensity of the potential impact on affected businesses</b>	The regulation constitutes reasonable management action to ensure compliance with public safety requirements and amenity issues.



<b>Where particular businesses will incur disproportionate impact</b>	The Local Law is applied to all businesses in a uniform way, and no disproportionate impacts were identified.
<b>Duration of the impact</b>	The impact on businesses will be ongoing as the Schedule allows for the approval and management of the activity

### Conclusion

In assessing the potentially anti-competitive provision, no significant impacts on current or potential businesses were identified.

All businesses will be regulated to the same extent. The requirement to obtain approval from Council prior to making alterations or improvements to local government-controlled areas and roads constitutes reasonable management approach to public areas.

### **Subordinate Local Law No. 1 (Administration) 2021 — Schedule 7 – Commercial use of local government-controlled areas and roads.**

### Context

The prescribed activity regulates the use of local government-controlled areas or roads. There are a number of excluded activities which, while conducted on local government-controlled areas or roads, are regulated by State legislation or other Local Law provisions.

Examples include the provision of a public passenger service under the *Transport Operations (Passenger Transport) Act 1994* and the operation of a temporary entertainment event.

Examples of activities that would be covered by this prescribed activity are footpath dining, roadside vending (e.g. fruit and vegetables stalls), mobile vending, market stalls and parks and busking in public places.

### The factors that must be considered

<b>Consideration</b>	<b>Impact, rating and rationale</b>
<b>Probability of impacts occurring</b>	The local government has an existing local law regime that, while outdated, creates a level of regulation not dissimilar to what is proposed by these provisions. The application of the local law constitutes reasonable management action taken by Council to ensure that commercial activities on government-controlled areas and roads are consistently regulated.
<b>The size and characteristics of the affected businesses</b>	Various businesses including market stallholders and restaurants offering kerbside dining will be affected by the local law, however there are only a relatively small number of restaurants in the local government area that may be affected by this local law.
<b>The intensity of the potential impact on affected businesses</b>	Businesses operate under a similar approval process at present. There is only a minor potential impact on businesses in applying for an approval and approval fees are not substantial.
<b>Where particular businesses will</b>	The Local Law is applied to all businesses in a uniform way, and no

<b>incur disproportionate impact</b>	disproportionate impacts were identified.
<b>Duration of the impact</b>	The impact on businesses will be ongoing.

### Conclusion

In assessing the anti-competitive provision, it is determined that no significant impacts will exist if the provisions are adopted.

Relatively few businesses will be affected. The benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the law could only be achieved by restricting competition.

No significant impacts on current or potential businesses were identified.

### **Subordinate Local Law No. 1 (Administration) 2021 — Schedule 10 – Installation of Advertising devices**

#### Context

The prescribed activity regulates the installation of advertising devices.

Approval of an advertising device is not required under this Local Law if the installation of the advertising device is regulated under the local government's planning scheme or if the installation is a permitted advertising device.

The Local Law contains approval requirements that are in the interest of safety and reasonable management of community advertising.

#### The factors that must be considered

<b>Consideration</b>	<b>Impact, rating and rationale</b>
<b>Probability of impacts occurring</b>	The local government has an existing local law regime that, while outdated, creates a level of regulation not dissimilar to what is proposed by these provisions. Businesses must obtain approval to install advertising, however the application of the Local Law constitutes reasonable management action taken by Council to ensure that advertising is consistently regulated. The probability of impacts occurring are considered low.
<b>The size and characteristics of the affected businesses</b>	Some businesses in Cherbourg have installed advertising materials on properties that are adjacent to Council roads. However, only signs that could pose a threat to health, safety and amenity are regulated. Business may continue to advertise with signs that do not require approval under the local law.
<b>The intensity of the potential impact on affected businesses</b>	There is only a minor potential impact on businesses in applying for an approval and approval fees are not substantial.
<b>Where particular businesses will incur disproportionate impact</b>	The Local Law is applied to all businesses in a uniform way, and no disproportionate impacts were identified.
<b>Duration of the impact</b>	The impact on businesses will be ongoing.

--	--

Conclusion

In assessing the potentially anti-competitive provision, no significant impacts on current or potential businesses were identified.

**Subordinate Local Law No. 1 (Administration) 2021 — Schedule 17 – Operation of Shared Facility Accommodation**

Context

The prescribed activity regulates the operation of shared facility accommodation.

The factors that must be considered

Consideration	Impact, rating and rationale
<b>Probability of impacts occurring</b>	The local government has an existing local law regime that, while outdated, creates a level of regulation not dissimilar to what is proposed by these provisions. Applicants are required to provide details of shared facilities amenities. The application of the local law constitutes reasonable management action taken by Council to ensure that the operation of shared facility accommodation is regulated and that prospective operators entering the market are doing so in a way that promotes health, safety and tourism to the region. The probability of impacts occurring are considered low.
<b>The size and characteristics of the affected businesses</b>	Operators of shared facility accommodation may be affected and may need to make improvements to the accommodation that they are offering in order to comply with the local law.
<b>The intensity of the potential impact on affected businesses</b>	There is only a minor potential impact on businesses in applying for an approval and approval fees are not substantial.
<b>Where particular businesses will incur disproportionate impact</b>	The Local Law is applied to all businesses in a uniform way, and no disproportionate impacts were identified.
<b>Duration of the impact</b>	The impact on businesses will be ongoing.

Conclusion

In assessing the potentially anti-competitive provision, no significant impacts on current or potential businesses were identified.

Relatively few businesses will be affected.

**Subordinate Local Law No. 1 (Administration) 2021 — Schedule 18 – Operation of temporary entertainment events**

Context

The prescribed activity regulates the operation of temporary entertainment events.

Examples of activities that would be covered by this prescribed activity includes events such as country fairs, music concerts, sporting events, etc.

The factors that must considered

<b>Consideration</b>	<b>Impact, rating and rationale</b>
<b>Probability of impacts occurring</b>	The local government has an existing local law regime that, while outdated, creates a level of regulation not dissimilar to what is proposed by these provisions. Applicants are required to provide thorough details about how they will manage the event. The application of the Local Law constitutes reasonable management action taken by Council to ensure that the operation of temporary entertainment events is suitable. The probability of impacts occurring are considered low.
<b>The size and characteristics of the affected businesses</b>	Cherbourg has a diverse range of community groups that, from time to time, offer a range of temporary entertainment events.
<b>The intensity of the potential impact on affected businesses</b>	Entertainment event providers operate under a similar approval process at present. There is only a minor potential impact on businesses in applying for an approval and approval fees are not substantial.
<b>Where particular businesses will incur disproportionate impact</b>	The Local Law is applied to all businesses in a uniform way, and no disproportionate impacts were identified.
<b>Duration of the impact</b>	The impact on businesses will be ongoing.

Conclusion

In assessing the potentially anti-competitive provision, no significant impacts on current or potential businesses were identified.

**Subordinate Local Law No. 1 (Administration) 2021 — Schedule 24 – Undertaking regulated activities on Local Government Controlled Areas and Roads – holding of a public place activity prescribed by Subordinate Local Law**

Context

This activity relates to the events listed in the Subordinate Local Law.

Examples of activities that would be covered by this prescribed activity include sporting events, community rally or community information event.

Factors that must be considered

<b>Consideration</b>	<b>Impact, rating and rationale</b>
<b>Probability of impacts occurring</b>	The local government has an existing local law regime that, while outdated, creates a level of regulation not dissimilar to what is

	proposed by these provisions. The application of the Local Law constitutes reasonable management action taken by Council to ensure that the operation of particular events is suitable. The probability of impacts occurring are considered low.
<b>The size and characteristics of the affected businesses</b>	Businesses operating sporting or community events on local government-controlled areas and roads are some of the businesses that may be affected by this local law. It is likely that a very small number of businesses would be affected by this local law.
<b>The intensity of the potential impact on affected businesses</b>	The conditions placed on approval can create a minor potential impact on businesses. At present, business conducting a commercial activity on local government-controlled areas and roads must obtain approval under a similar local law.
<b>Where particular businesses will incur disproportionate impact</b>	The Local Law is applied to all businesses in a uniform way, and no disproportionate impacts were identified.
<b>Duration of the impact</b>	The impact will only occur when the operation is being undertaken on local government-controlled areas and roads and therefore the impact will be intermittent and unlikely to have an impact on existing businesses in the local government area.

### Conclusion

In assessing the potentially anti-competitive provision, no significant impacts on current or potential businesses were identified.

### **Concluding Remarks**

No significant impacts on businesses have been identified in this review.