LOCAL LAW NO.16 (BLASTING OPERATIONS)

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PART 1___PRELIMINARY

Citation

1. This Local Law may be cited as *Local Law No.16 (Blasting Operations).*

Objects

2. The objects of this local law are to ensure, as far as practicable, that___

(a) the local government receives appropriate advance notice of the use of explosives in its area; and

(b) explosives are used in accordance with appropriate safety standards; and

(c) the use of explosives does not result in___

(i) personal injury or property damage; or

(ii) environmental harm.

Definitions

3. In this local law___

"authorised person" means a person (who must be the holder of a Shotfirer's Licence under the *Explosives Act 1952*) authorised by the local government to exercise the powers of an authorised person under this local law.

"Chief Inspector" means the Chief Inspector of Explosives under the *Explosives Act 1952*.

"blasting operations" means—

(a) the preparation of explosives for use; or

(b) the detonation of explosives.

"environmental harm" means material environmental harm as defined in the *Environmental Protection Act 1994*[1].

"explosive" means a substance capable of producing an explosion but does not include—

(a) ammunition or propellant powders; or

(b) fireworks or substances intended only to produce pyrotechnic effects.

Application of this local law

4. (1) This local law applies in addition to—

(a) the *Explosives Act 1952*; and

(b) the *Mines Regulation Act 1964*; and

(c) the *Coal Mining Act 1925*; and

(d) the *Petroleum Act 1923*;

and requirements imposed under this local law must be consistent with the relevant requirements of those Acts.

(2) However, this local law does not apply to blasting operations in an underground mine.

[1] **See section 16(1) of the *Environmental Protection Act 1994*.**

PART 2—PERMITS

Requirement to hold permit

5. A person must not engage in blasting operations unless the operations are authorised by a permit under this Part.

Maximum penalty—500 penalty units.

Application for permit

6. (1) An application for a permit authorising blasting operations must include or be accompanied by—

(a) details (including—if necessary—sketch plans and diagrams) of where the operations are to be carried out; and

(b) details of when the operations are to be carried out; and

(c) details of the purpose of the operations; and

(d) details of the nature and quantities of explosives to be used; and

(e) details of the knowledge and experience of the person who is to carry out the operations; and

(f) the written agreement of the owner of the land on which the operations are to be carried out, to the carrying out of the operations on the land; and

(g) the written agreement of the owner and the occupier of the land on which the blasting operations are to be carried out allowing an authorised person to—

(i) enter the land during a period (the "relevant period") beginning a reasonable time before the operations are scheduled to start and ending a

reasonable time after the completion of the operations; and

(ii) remain on the land for the whole or part of the relevant period; and[2]

(h) if approval for the blasting operations is also required under another law—a certified copy, or other appropriate evidence, of the approval; and

(i) other information and materials required under local law policies.

(2) An application for a permit must be made at least 24 hours before the blasting operations are to begin.

(3) However, the local government may waive requirements of this section in an emergency or if there are special reasons for dispensing with the requirements.

Grant of permit

7. (1) The local government may grant a permit authorising blasting operations if satisfied that—

(a) the person who is to carry out the blasting operations—

(i) has the necessary knowledge and experience for the purpose; and

(ii) if a licence or other authority is required under the *Explosives Act 1952*—has the necessary licence or authority; and

(b) the permit may be granted consistently with the objects of this local law and the criteria laid down by local law policies.

(2) A local law policy may specify criteria for the grant of a permit authorising blasting operations.

[2] **See section 665 of the *Local Government Act 1993* (and in particular subsection (2)(a)).**

(3) A permit may only be granted to the person who is to be responsible for carrying out the blasting operations.

(4) A permit does not take effect until the applicant produces to an authorised person evidence that the applicant has taken out an insurance policy insuring, on terms and conditions that are acceptable to the local government, the person who carries out the operations and the local government against liability for personal injury and property damage that may result from the operations.

Operations to which permit applies

8. A permit may only be granted for specified blasting operations or a specified series of blasting operations to be conducted over a period specified in the permit.

Conditions of permit

9. (1) A permit is subject to——

(a) a condition requiring the holder of the permit to ensure that the standards and requirements for carrying, storing and using explosives imposed under the *Explosives Act 1952* and other relevant State laws are complied with; and

(b) other conditions the local government is required to impose under the local law policies; and

(c) other conditions the local government considers appropriate.

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

(a) require the holder of the permit to comply with specified safety requirements in carrying, storing and using explosives (in addition to the requirements of other laws);

(b) limit the quantity of explosives that may be used;

(c) regulate when the blasting operations may be carried out;

(d) require the holder of the permit to give advance notice of the blasting operations to the occupiers of adjacent land;

(e) regulate the placement of explosives;

(f) require the holder of the permit to report the result of the operations to the local government (including the nature of rock or earth formations encountered in the course of the operations).

(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.

Power to change conditions of permit

10. The local government may, by written notice given to the holder of a permit, change[3] the conditions of the permit if the nature of rock or earth formations encountered in the course of blasting operations justifies the change.

Compliance with conditions of permit

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

Maximum penalty—200 penalty units.

[3] **A Achange@ to the conditions of a permit includes a change by omission, substitution or addition. (See Acts Interpretation Act 1954, s.36).**

PART 3___STORAGE AND USE OF EXPLOSIVES

Storage of explosives

12. A person must not store explosives in the area unless___

(a) the person has a permit to use the explosives in blasting operations under this local law and complies with conditions of the permit applicable to the storage of the explosives; or

(b) the storage of the explosives is authorised under another law.

Maximum penalty___200 penalty units.

Precautions against injury or property damage

13. A person who carries out blasting operations in the area must take all reasonable precautions to prevent personal injury and property damage.

Maximum penalty___200 penalty units.

Accidents

14. (1) If an accident happens in the course of blasting operations resulting in personal injury or property damage, the person in charge of the operations must take all reasonable measures to protect life, relieve suffering and minimise damage.

Maximum penalty___200 penalty units.

(2) If an accident happens in the course of blasting operations resulting in personal injury or property damage, the person who carries out the operations must___

(a) immediately notify by the quickest means of communication___

(i) an authorised person; and

(ii) the Chief Inspector; and

(iii) the officer in charge of the police station nearest the place of the accident; and

(b) confirm the notification in writing.

Maximum penalty—200 penalty units.

Laying of charge

15. (1) If explosives are laid, but for some reason are not detonated on the same day, the holder of the permit must ensure that—

(a) a responsible person remains on the site of the blasting operations to prevent interference with the explosives until the explosives are detonated; and

(b) other necessary steps to protect public safety and to prevent interference with the explosives are taken.

Maximum penalty—200 penalty units.

Example—

It may, for example, be necessary to erect signs and flags and to arrange for the lighting of the site.

(2) The person in charge of the blasting operations must inform an authorised person immediately of steps taken under subsection (1).

Maximum penalty—200 penalty units.

(3) An authorised person may direct the person in charge of the operations to take further or other measures to protect against risk of injury or property damage, or to prevent interference with the explosives.

(4) A person must comply with a direction under subsection (3).

Maximum penalty—200 penalty units.

PART 4—POWERS OF ENFORCEMENT

Power to direct

16. (1) An authorised person may give a person in charge of blasting operations oral or written directions about when and how blasting operations are to be carried out.

(2) A person must comply with a direction under subsection (1).

Maximum penalty—200 penalty units.

Stop orders

17. (1) An authorised person may order a person in charge of blasting operations to stop the operations if—

(a) the operations are not authorised by a permit under this local law; or

(b) a permit authorising the operations appears to have been issued in error or as a result of a false or misleading representation.

(2) An authorised person may order a person in charge of blasting operations to stop the operations if they appear likely to create a significant risk of—

(a) personal injury; or

(b) property damage; or

(c) environmental harm.

(3) An order under this section—

(a) may be given orally or in writing; and

(b) operates temporarily or permanently (as specified by the authorised person); and

(c) if the order operates permanently—cancels a permit authorising the blasting operations.

(4) A person must comply with an order under this section.

Maximum penalty—200 penalty units.

Review of stop order

18. (1) The Chief Inspector or the local government may, on application by the holder (or former holder) of a permit, revoke a stop order.

(2) If a stop order had the effect of cancelling the permit, the permit revives on revocation of the stop order.

PART 5___LOCAL LAW POLICIES

Local law policies[4]

19. The local government may make local law policies about___

(a) criteria for granting permits and the conditions of permits;[5] or

(b) other matters about which this local law specifically allows for the making of local law policies.

This and the preceding 10 pages bearing my initials is a certified copy of 'Local Law No. 16 - Blasting Operations' adopted in accordance with the provisions of the Local Government Act, 1993, by the Council of the Shire of Balonne, by resolution dated 21st November, 1997.

Signed at St. George this 28th day of January, 1998

Chief Executive Officer: _____

Seal of Council

[4] **See section 464 of the Local Government Act 1993.**
[5] **See sections 6 and 9.**