

Gold Coast City Council



Local Law No. 44

(Heavy Vehicle Parking) 2007

Annotations

Original Local Law

Local Law No. 44 (Heavy Vehicle Parking) 2007
date of gazettal

Gazettal Notice

Certification

It is hereby certified that this is a true and correct copy of *Local Law No. 44 (Heavy Vehicle Parking) 2007* made, in accordance with the *Local Government Act 1993*, by the Gold Coast City Council.

Dale Dickson
Chief Executive Officer

Gold Coast City Council
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Gold Coast City Council Local Law No. 44 (Heavy Vehicle Parking) 2007

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 44 (Heavy Vehicle Parking) 2007*.

2 Commencement

This local law commences on the date a notice of the making of this local law is published in the Gazette.

3 Object

The object of this local law is to ensure that heavy vehicle parking on residential premises—

- (a) does not result in harm to human health or safety; and
- (b) does not unreasonably detract from the desirable characteristics of the natural and built environment in which the heavy vehicle is parked.

4 Definitions – the dictionary

The dictionary in the Schedule (Dictionary) of this local law defines particular words used in this local law.

5 Relationship to other laws

This local law is in addition to and does not derogate from any other law applicable in the local government area including any local law made by the local government to regulate parking.

6 Repeal of interim local law

This section repeals *Interim Local Law No. 44 (Heavy Vehicle Parking) 2006* on the date of commencement of this local law.

Part 2 Licensing

7 Requirement for a licence

- (1) Subject to section 7(3) (Requirement for a licence) of this local law, a person must not—

- (a) park a heavy vehicle on residential premises within the local government area unless authorised by a licence granted under section 9(1) (Grant of a licence) of this local law; or
- (b) change the manner of heavy vehicle parking on residential premises within the local government area without obtaining an approval for an amendment to the terms of a licence under section 13 (Amendment or transfer of a licence) of this local law.¹

Maximum penalty for subsection (1)—50 penalty units.

- (2) A person must not exhibit a sign or in any manner or by any means indicate that heavy vehicle parking which does not comply with this local law does comply with this local law.

Maximum penalty for sub-section (2)—50 penalty units.

- (3) A person does not require a licence under this local law for—
 - (a) an emergency vehicle being used for an emergency or other official purpose; or
 - (b) a heavy vehicle being lawfully used in the immediate vicinity of and in connection with the construction, investigation or maintenance of a community facility or undertaking; or
 - (c) a heavy vehicle involved in the conduct of a lawful activity reasonably required to be carried out in the residential area; or
 - (d) a heavy vehicle permitted to be parked on residential premises pursuant to a development approval given under the local government's planning scheme; or
 - (e) the temporary parking of a heavy vehicle on residential premises.

Example of subsection (3)(e)—

The short term parking of a removal van.

8 Application for a licence

- (1) An application for a licence must be—
 - (a) made by the person who will be parking the heavy vehicle; and
 - (b) made in the prescribed form; and

¹ A change to the manner of heavy vehicle parking which is a material change of use under the *Integrated Planning Act 1997* must also be authorised in accordance with the *Integrated Planning Act 1997*.

- (c) accompanied by, if appropriate—
 - (i) the prescribed fee; and
 - (ii) evidence that all approvals under the local government Acts required for the heavy vehicle parking have been obtained; and
 - (iii) the street address, real property description and details of the owner of the premises at which the heavy vehicle will be parked; and
 - (iv) the name, street address, telephone number, facsimile number and email address of the person parking the heavy vehicle; and
 - (v) the trading name, street address, telephone number, facsimile number, email address, registered business name and Australian Company Number of the business under which the heavy vehicle parking is to be undertaken; and
 - (vi) a copy of the current registration certificate of the heavy vehicle; and
 - (vii) details of the heavy vehicle including a site plan to scale of the location of the heavy vehicle parking; and
 - (viii) a written statement of the applicant which states—
 - (A) that the applicant has consulted or attempted to consult with each owner and occupier of any premises which is within 50 metres of the boundaries of the land and premises at which the heavy vehicle will be parked; and
 - (B) the name and address or details of each owner and occupier with which the applicant has consulted in accordance with section 7(1)(c)(viii)(A) (Application for a licence) of this local law; and
 - (C) the outcome of any of the consultations that the applicant has carried out or attempted to carry out with each of the persons specified in section 7(1)(c)(viii)(A) (Application for a licence) of this local law.
- (2) If an applicant for a licence is not the owner of the premises on which the heavy vehicle is to be parked, the application must be accompanied by the written consent of the owner.

- (3) The local government may waive the requirements of section 7 (Application for a licence) of this local law—
 - (a) in an emergency; or
 - (b) if there are special reasons for dispensing with the requirements; or
 - (c) if the local government is the owner of the premises on which the heavy vehicle parking is to be parked.

9 Grant of a licence

- (1) The local government must—
 - (a) consider an application for a licence; and
 - (b) subject to section 9(2) (Grant of a licence) of this local law, decide whether to grant or refuse a licence.
- (2) The local government must grant a licence for the heavy vehicle parking if the local government is satisfied that—
 - (a) the heavy vehicle parking—
 - (i) will not give rise to an increased risk of harm to human health or safety or personal injury; and
 - (ii) will not result in property damage or a loss of amenity; and
 - (iii) will not result in environmental harm or environmental nuisance; and
 - (iv) will not cause obstruction of or significant distraction to vehicular or pedestrian traffic; and
 - (v) will not adversely affect the amenity of the area in which it is to be situated; and
 - (b) any structure used in association with the heavy vehicle parking has been constructed in accordance with the local government's planning scheme and any relevant development approval.
- (3) Before the local government decides an application for a licence, an authorised person may—
 - (a) inspect any premises, vehicle, equipment or thing to be involved in the parking of the heavy vehicle; and
 - (b) request any further information or material which is required to assess the application for a licence.

- (4) For the purposes of determining whether the criteria specified in section 9(2) (Grant of a licence) of this local law have been satisfied—
- (a) the local government may have regard to the results of any periodic inspection, testing or monitoring program undertaken in respect of the heavy vehicle parking; and
 - (b) the local government is not obliged to look beyond—
 - (i) any information or material which is submitted to the local government in respect of the heavy vehicle parking; and
 - (ii) any other information held by the local government which is relevant to the application for a licence.

10 Term of a licence

- (1) A licence granted by the local government is for a term extending from the date of issue until the thirty-first day of the following August unless otherwise specified in the licence.
- (2) A licence expires at the end of the day specified in section 10(1) (Term of a licence) of this local law.

11 Conditions of a licence

- (1) A licence may be granted by the local government on conditions the local government considers appropriate.
- (2) The local government may impose all or any of the following conditions on a licence for heavy vehicle parking—
- (a) the heavy vehicle parking must not constitute a nuisance; and
 - (b) the heavy vehicle parking must be positioned on the residential premises so as not to result in a loss of amenity in the neighbourhood; and
 - (c) any premises, building, structure, vehicle, facility and equipment which is used in association with the heavy vehicle parking must not be changed in any respect without the prior notification to the local government and the approval of an authorised person; and
 - (d) only one heavy vehicle must be parked on the residential premises at any time; and
 - (e) the heavy vehicle must be parked in a class 10 building; and
 - (f) the heavy vehicle must be parked in an area which is setback from the frontage of the residential premises and must be effectively screened from view from—

- (i) a public place; and
 - (ii) any residential premises located within 50 metres of the premises at which the heavy vehicle parking is being undertaken; and
- (g) any equipment, material, machinery or tool used in association with the heavy vehicle must be housed in a class 10 building on the residential premises; and
- (h) any equipment materials, machinery or tools used in association with the heavy vehicle must be stored on the residential premises, setback from the frontage of the residential premises and effectively screened from view; and
- (i) parking of the heavy vehicle on, or moving of the heavy vehicle from, the residential premises must not take place outside the hours specified in the licence; and
- (j) no washing down, maintenance or repair work is undertaken on the heavy vehicle or associated equipment, material, machinery or tool on the residential premises; and
- (k) fuel must not be stored on the residential premises for use in the heavy vehicle parking, otherwise than in a designated fuel tank which is part of the heavy vehicle; and
- (l) a contaminant must not be released to the environment as part of the heavy vehicle parking, where the release may cause environmental harm unless such release is specifically authorised by the *Environmental Protection Act 1994*; and
- (m) all objects (including vehicles and machinery) which are dismantled as part of the heavy vehicle parking must be dismantled on a paved impervious surface which is unaffected by stormwater runoff; and
- (n) only rainwater from uncontaminated areas shall drain directly into the stormwater drainage; and
- (o) any spillage of a waste, a contaminant or other material must—
 - (i) be cleaned up immediately; and
 - (ii) not be cleaned up by hosing, sweeping or otherwise releasing the waste, contaminant or material to any stormwater drainage; and
- (p) the heavy vehicle parking must comply with all environmental legislation; and

- (q) the heavy vehicle parking must not breach a provision of a local government Act; and
- (r) the holder of the licence must notify the local government within a period specified in the licence that the holder of the licence is no longer parking the heavy vehicle or is parking the heavy vehicle parking other than in accordance with the licence; and
- (s) the holder of the licence must undertake and comply with a periodic inspection, monitoring or management program for parking the heavy vehicle.²

Example of paragraph (i)—

A licence may specify that the parking of the heavy vehicle on, or the moving of the heavy vehicle from, the residential premises must not take place outside the hours of 6.30am to 6.30 pm, however, the local government may vary the hours specified depending on the location of the residential premises.

12 Power to change the conditions of a licence

- (1) The local government may change a condition of a licence where³—
 - (a) the holder of the licence agrees to the proposed change; or
 - (b) the change is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance.
- (2) If the local government is satisfied that it is necessary to change a condition of a licence, the local government must—
 - (a) give the holder of the licence a written notice stating—
 - (i) the proposed change and the reasons for the change; and
 - (ii) that the holder of the licence may make written representations to the local government about the proposed change; and

² The power to inspect and monitor compliance with this local law must be exercised consistently with Part 5 of Chapter 15 of the *Local Government Act 1993*.

³ A change to the conditions of a licence includes a change by omission, substitution, exception or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).

- (iii) the time (at least 15 business days after the written notice is given to the holder of the licence) within which the written representations may be made; and
 - (b) consider any representation made by the holder of the licence within the time stated in the written notice.
- (3) After considering any written representation made by the holder of the licence, the local government must give to the holder of the licence—
 - (a) if the local government is not satisfied the change is necessary—a written notice stating that it has decided not to change the condition; or
 - (b) if the local government is satisfied that the change is necessary—a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the written notice was given to the holder of the licence.

13 Amendment or transfer of a licence

- (1) The holder of a licence may make an application to the local government to—
 - (a) amend the licence; or
 - (b) transfer the licence.
- (2) An application to amend or transfer a licence must be—
 - (a) made by the holder of the licence; and
 - (b) made in the prescribed form; and
 - (c) accompanied by the prescribed fee and such other information as is requested by the local government; and
 - (d) accompanied by, in the case of a transfer of the licence—
 - (i) the written consent of the person to whom the licence will be transferred; and
 - (ii) the written consent of the owner of the premises on which the heavy vehicle parking is or is to take place.
- (3) The local government may transfer a licence—
 - (a) where the heavy vehicle parking complies with the conditions of the licence and the provisions of this local law; and

- (b) subject to such conditions the local government considers appropriate.⁴
- (4) The local government may amend a licence—
 - (a) where the heavy vehicle parking complies with the criteria specified in section 9(1) (Grant of a licence) of this local law; and
 - (b) subject to such conditions the local government considers appropriate.⁵
- (5) The local government may not amend a licence that has been granted for a specific location where the proposed amendment is to the location at which the heavy vehicle parking is to be parked.
- (6) For the purposes of determining whether the criteria specified in section 13(3)(a) (Amendment or transfer of a licence) of this local law have been satisfied, the local government is not obliged to look beyond—
 - (a) any information or materials submitted to the local government in respect of the application; and
 - (b) any other information held by the local government which is relevant to the application.

14 Renewal of a licence

- (1) The local government is taken to have requested the holder of a licence to renew the licence by giving to the holder of the licence a written notice.
- (2) The holder of a licence shall be deemed to have made an application to the local government to renew the licence—
 - (a) where the written notice requires the payment of a prescribed fee, upon the payment of the prescribed fee; or
 - (b) where the written notice does not require the payment of a prescribed fee, if the local government is not otherwise notified by the holder of the licence within 30 days of the issue of the written notice.
- (3) The local government may renew a licence—

⁴ The conditions that will be imposed on a licence under section 13(3)(b) (Amendment or transfer of a licence) of this local law will generally reflect the conditions detailed in section 10 (Conditions of a licence) of this local law, subject to the circumstances of individual cases.

⁵ The conditions that will be imposed on a licence under section 13(4)(b) (Amendment or transfer of a licence) of this local law will generally reflect the conditions detailed in section 10 (Conditions of a licence) of this local law, subject to the circumstances of individual cases.

- (a) if the heavy vehicle parking complies with the conditions of the licence and the provisions of this local law; and
 - (b) subject to the conditions of the licence unless otherwise determined by the local government; and
 - (c) if satisfied that any requirements specified in the written notice given by the local government pursuant to section 14(1) (Renewal of a licence) of this local law have been complied with; and
 - (d) subject to such other conditions as the local government considers appropriate.⁶
- (4) For the purposes of determining whether the criteria specified in section 14(3)(a) (Renewal of a licence) of this local law have been satisfied, the local government is not obliged to look beyond—
- (a) any information or material which is submitted to the local government in respect of the renewal of the licence; and
 - (b) any other information held by the local government which is relevant to the renewal of the licence.
- (5) If the local government renews a licence subject to conditions pursuant to section 14(3)(b) (Renewal of a licence) or 14(3)(c) (Renewal of a licence) of this local law, the local government must—
- (a) when giving the holder of the licence a written notice pursuant to section 14(1) (Renewal of a licence) of this local law, give the holder of the licence a written notice stating—
 - (i) the proposed conditions of the licence; and
 - (ii) that the holder of the licence may make written representations to the local government about the proposed conditions of the licence; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the licence) within which the representations may be made; and
 - (b) consider any written representations made by the holder of the licence within the time stated in the written notice; and

⁶ The conditions that will be imposed on a licence under section 14(3)(d) (Renewal of a licence) of this local law will generally reflect the conditions detailed in section 11 (Conditions of a licence) of this local law, subject to the circumstances of individual cases.

- (c) after considering any written representation made by the holder of the licence, give to the holder of the licence—
 - (i) if the local government is satisfied the condition is not necessary—a written notice stating that it has decided not to impose the condition; or
 - (ii) if the local government is satisfied that the condition is necessary—a written notice stating that it has decided to impose the condition.

15 Cancellation of a licence

- (1) The local government may cancel a licence where—
 - (a) the holder of the licence agrees to the cancellation; or
 - (b) the cancellation is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (c) the holder of the licence contravenes—
 - (i) this local law; or
 - (ii) a condition of a licence; or
 - (iii) a requirement of a compliance notice or a stop order; or
 - (d) the licence was granted on false, misleading or incomplete information; or
 - (e) changes in circumstances since the licence was granted make the continued operation of the licence inappropriate.
- (2) If the local government is satisfied it is necessary to cancel a licence, the local government must—
 - (a) give the holder of the licence a written notice stating—
 - (i) the reasons for the proposed cancellation; and
 - (ii) that the holder of the licence may make written representations to the local government about the proposed cancellation; and

- (iii) the time (at least 15 business days after the written notice is given to the holder of the licence) within which written representations may be made; and
 - (b) consider any written representation made by the holder of the licence within the time stated in the written notice.
- (3) After considering any written representation made by the holder of the licence the local government must give to the holder of the licence—
 - (a) if the local government is not satisfied that the cancellation is necessary—a written notice stating it has decided not to cancel the licence; or
 - (b) if the local government is satisfied that the cancellation is necessary—a written notice stating it has decided to cancel the licence.
- (4) Before the local government cancels a licence under section 15(3) (Cancellation of a licence) of this local law, the local government must consider the impact of the cancellation of the licence (other than a financial impact on the holder of the licence) on those persons who would be affected by the heavy vehicle parking ceasing.
- (5) The cancellation of the licence takes effect from the day the written notice was given to the holder of the licence.
- (6) Where the local government has cancelled a licence, the holder of the licence must cease to park the heavy vehicle at the residential premises.

Maximum penalty for subsection (7)—50 penalty units.

16 General compliance provision

The holder of a licence and any person parking the heavy vehicle under a licence must ensure that the conditions of the licence are complied with.

Maximum penalty—50 penalty units.

Part 3 Enforcement

17 Compliance notice

- (1) The local government may give a compliance notice to—
 - (a) a person who contravenes this local law; and
 - (b) any person involved in the contravention of this local law pursuant to section 24 (Liability of third parties) of this local law; and

- (c) the owner or occupier of the premises on which the heavy vehicle is parked.
- (2) A compliance notice may require the person to whom it is given to—
 - (a) stop the contravention, if the contravention is of a continuing or recurrent nature; and
 - (b) perform work or otherwise take specified action to remedy the contravention (including the making of an application for a licence) within a time specified in the compliance notice, whether or not the contravention is of a continuing or recurrent nature; and
 - (c) perform work or otherwise take specified action within a time specified in the compliance notice to ensure compliance with section 16 (General compliance provision) of this local law.
- (3) A person to whom the compliance notice is given must comply with the compliance notice.

Maximum penalty for subsection (3)—50 penalty units.

18 Stop order

- (1) The local government may, by notice to the person parking the heavy vehicle on residential premises, require the person to cease the heavy vehicle parking within the time specified in the notice where—
 - (a) a compliance notice is not complied with within the time specified for compliance in the compliance notice; or
 - (b) the person does not hold a licence from the local government; or
 - (c) the heavy vehicle parking is in the local government’s opinion likely to give rise to—
 - (i) harm to human health or safety or personal injury;
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (d) the heavy vehicle parking does not comply with the conditions of a licence.
- (2) Before the local government gives a notice under section 18(1) (Stop order) of this local law, the local government must consider the impact of the stop order (other than a financial impact on the holder of the licence) on those persons who would be affected by the heavy vehicle parking ceasing.

(3) Subject to section 18(4) (Stop order) of this local law, the person to whom a stop order is given must—

- (a) cease the heavy vehicle parking; and
- (b) comply with the stop order.

Maximum penalty for subsection (3)—200 penalty units.

(4) The stop order ceases where the person to whom a stop order is given has complied with to the satisfaction of the local government—

- (a) the requirements of this local law; and
- (b) the conditions of any relevant licence; and
- (c) the requirements of any relevant compliance notice; and
- (d) the requirements of the stop order.

19 Inspection of heavy vehicle parking

(1) An authorised person may inspect the heavy vehicle parking and any premises, vehicle, equipment, animal or thing involved in the heavy vehicle parking to find out whether there is compliance with⁷—

- (a) the requirements of this local law; and
- (b) the conditions of the licence; and
- (c) the requirements of a compliance notice; and
- (d) the requirements of a stop order.

(2) An authorised person may direct the person parking the heavy vehicle to produce for inspection⁸—

- (a) the licence granted by the local government; and
- (b) any records that are required to be kept as a condition of the licence and may take copies of or extracts from those records; and
- (c) any vehicle, equipment, animal or thing involved in the heavy vehicle parking; and

⁷ Parts 4 and 5 of Chapter 15 of the *Local Government Act 1993* empower an authorised person to enter a place to—

- (a) monitor compliance with a local government Act which is defined to include a local law; and
- (b) find out whether the conditions of an authorisation or notice have been complied with or to inspect work carried out under an authorisation or notice.

⁸ Parts 4 and 5 of Chapter 15 of the *Local Government Act 1993* provide for these powers.

- (d) any inspection, monitoring or management programs required to be kept as a condition of the licence.
- (3) An authorised person may measure, weigh, sample, test or otherwise examine anything that may be inspected pursuant to section 19 (Inspection of heavy vehicle parking) of this local law.⁹
- (4) The person parking the heavy vehicle must comply with a direction of an authorised person pursuant to section 19(2) (Inspection of heavy vehicle parking) of this local law.

Maximum penalty for subsection (4)—50 penalty units.

20 Performance of work

- (1) A person committing an offence under this local law must make good any damage caused directly or indirectly by the commission of the offence.
- (2) The local government may perform work where a person has failed to perform work required to be performed by¹⁰—
 - (a) section 20(1) (Performance of work) of this local law; or
 - (b) a compliance notice or a stop order issued under this local law; or
 - (c) a condition of a licence; or
 - (d) any other provision of this local law.
- (3) The local government may in the course of performing work remove from the premises any structure, vehicle, equipment, animal or thing involved in the heavy vehicle parking where the local government is satisfied there is a risk of¹¹—
 - (a) harm to human health or safety or personal injury; or
 - (b) property damage or a loss of amenity; or
 - (c) environmental harm or environmental nuisance.

⁹ Parts 4 and 5 of Chapter 15 of the *Local Government Act 1993* provide for these powers.

¹⁰ The exercise of this power is subject to section 1066 (Performing work for owner or occupier) of the *Local Government Act 1993*.

¹¹ The exercise of this power is subject to section 1066 (Performing work for owner or occupier) of the *Local Government Act 1993*.

- (4) The local government may dispose as it sees fit of any material of any nature removed by the local government pursuant to section 20 (Performance of work) of this local law.
- (5) An authorised person may perform the work that the local government is empowered to undertake pursuant to section 20 (Performance of work) of this local law.
- (6) The Court may order a person found guilty of an offence under this local law to—
 - (a) perform work required to be performed by—
 - (i) section 20(1) (Performance of work) of this local law; or
 - (ii) a compliance notice or a stop order issued under this local law; or
 - (iii) a condition of a licence; or
 - (iv) a provision of this local law; and
 - (b) pay to the local government all costs incurred by the local government in performing the work pursuant to section 20 (Performance of work) of this local law.

21 Power of entry and cost recovery

- (1) If the work to be carried out by the local government is on land of which the local government is not the owner or occupier, the local government may enter the land to perform the work—
 - (a) under section 1066 (Performing work for owner or occupier) of the *Local Government Act 1993*, if the person who has failed to perform the work is the owner or occupier of the land; or
 - (b) section 1070 (Entry on land for local government purposes) of the *Local Government Act 1993*, if the entry is necessary for the exercise of the local government's jurisdiction.¹²
- (2) If the person who failed to perform the work is the owner of the land, the amount properly and reasonably incurred by the local government to perform the work is recoverable (together with any interest) under section 1066 (Performing work for owner or occupier), section 1067 (Cost of work recoverable as a rate) and section 1068 (Cost of work a charge over land) of the *Local Government Act 1993*.

¹² A magistrate may make an order for entry under section 1063 (Order on occupier who refuses entry) of the *Local Government Act 1993* if the occupier refuses to permit entry.

- (3) If the person who failed to perform the work is not the owner of the land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the person in default together with interest on the same basis as applies to an owner of the land under section 1067 (Cost of work recoverable as a rate) of the *Local Government Act 1993*.¹³

Part 4 Administrative provisions

22 Executive officers must ensure the corporation complies with the local law

- (1) The executive officers of a corporation must ensure the corporation complies with this local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with the provision.
- (4) However, it is a defence for an executive officer to prove—
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

- (5) This section applies so as not to limit or affect in any way the liability of a corporation to be proceeded against and punished for an offence committed by the corporation in contravention of this local law.

23 Owners and occupiers must ensure compliance with the local law

- (1) The owner and occupier of premises must ensure that a person who is parking the heavy vehicle on the premises complies with this local law.

¹³ Section 1067(2) (Cost of work recoverable as a rate) of the *Local Government Act 1993* provides for the payment of interest on the same basis as for an overdue rate.

- (2) If a person who is parking the heavy vehicle on the premises commits an offence against a provision of this local law, the owner and the occupier of the premises also commit an offence, namely, the offence of failing to ensure that the person who is operating the heavy vehicle parking on the premises complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision.

- (3) Evidence that the person who is parking the heavy vehicle on the premises has been convicted of an offence against a provision of this local law is evidence that the owner and the occupier of the premises committed the offence of failing to ensure that the person who is operating the heavy vehicle parking on the premises complied with the provision.
- (4) However it is a defence for an owner or occupier to prove that—
- (a) reasonable diligence was exercised by that person to ensure that the person parking the heavy vehicle on the premises complied with the provision; or
 - (b) the non-compliance with a provision of this local law occurred without that person's knowledge or consent.

24 Liability of third parties

- (1) Any person involved in a contravention of this local law commits an offence.

Maximum penalty for subsection (1)—the penalty for which any person who committed the contravention would be liable.

- (2) For the purposes of section 24(1) (Liability of third parties) of this local law, a person involved in a contravention of this local law is any person who—
- (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced, whether by threats or promises or otherwise, the contravention; or
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) has conspired with others to effect the contravention; or
 - (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

25 Attempts to commit offences

- (1) A person who attempts to commit an offence under this local law commits an offence.

Maximum penalty for subsection (1)—half the maximum penalty for committing the offence.

- (2) The provisions of the *Criminal Code* (relevant to attempts to commit offences) apply to the attempt.

26 Defences

It is a defence to any breach or non-compliance of any provision contained in this local law if a person has a lawful excuse or defence.

Example—

It is a defence to any breach or non-compliance of any provision contained in this local law if a person was not criminally responsible in accordance with Chapter 5 of the Criminal Code.

Part 5 Review

27 Review of decision made under local laws

- (1) This part applies to a decision of the local government or an authorised person made under this local law.
- (2) The local government must carry out a review of the decision in accordance with the general complaints process established by the local government in accordance with the provisions of Part 5, Chapter 6 of the *Local Government Act 1993*.

Schedule Dictionary

adjunct vehicle means any of the following—

- (a) a trailer designed or adapted to carry goods with a capacity to carry in excess of 2 tonnes tare, including the trailer of an articulated vehicle;
- (b) a trailer designed or adapted for earthmoving or road making purposes, including a vehicle or equipment designed or adapted for excavating materials;
- (c) equipment such as rollers, compressors or the like, designed or adapted to be towed behind a heavy vehicle;
- (d) a trailer containing a refrigeration unit that runs while parked;
- (e) earthmoving equipment or vehicle that is being transported on the tray of a heavy vehicle.

apartment has the meaning given in the local government’s planning scheme.

approval means a consent, permit, licence, authorisation, registration, membership or approval under a local government Act or a local law and includes all the conditions of a consent, permit, licence, authorisation, registration, membership or approval.

attached dwelling has the meaning given in the local government’s planning scheme.

authorised person means a person authorised by the local government to exercise the powers of an authorised person under this local law.¹⁴

building has the meaning given in the *Building Act 1975*.

bus has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

class 10 building has the meaning given in the *Building Code of Australia*.

compliance notice means the written notice given pursuant to section 17 (Compliance notice) of this local law.

contaminant has the meaning given in the *Environmental Protection Act 1994*.

corporation means a corporation as defined in the *Corporations Act 2001* (Cth) and includes an association as defined in the *Associations Incorporations Act 1981*.

¹⁴ Section 14 (Authorised persons) of *Local Law No. 16 (Administration)* provides for the local government to, by resolution, authorise a person to exercise the powers of an authorised person under a local law.

Court means the court of law which has jurisdiction to deal with offences under this local law.

device means a design, writing, drawing, depiction, structure, erection, placard, banner, notice, signboard, notice of sign, publication or sign of any kind.

detached dwelling has the meaning given in the local government's planning scheme.

development approval has the meaning given in the *Integrated Planning Act 1997*.

direction means a written or oral direction given by an authorised person pursuant to this local law.

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

executive officer of a corporation means a person who is concerned with, or takes part in, the corporation's management whether or not the person is a director or the person's position is given the name of executive officer.

exhibit includes in relation to a sign the painting, writing, drawing, depiction, making, erection, affixing, putting up, operation or transport of a sign.

GVM (gross vehicle mass) means the maximum loaded mass of a vehicle—

- (a) stated on the vehicle's compliance plate; or
- (b) stated in a way prescribed under a regulation made under the *Transport Operations (Road Use Management) Act 1995*.

heavy vehicle means—

- (a) a vehicle or combination of vehicles (including an adjunct vehicle) with a GVM or more than 4.5 tonnes or has a total length in excess of 7.5 metres; and
- (b) a vehicle transporting dangerous goods—
 - (i) for reward; or
 - (ii) if the amount of the dangerous goods is greater than the amount prescribed under a regulation made under the *Transport Operations (Road Use Management) Act 1995*; and
- (c) a commercial vehicle that runs a refrigeration unit while parked.

knowledge includes actual or constructive knowledge.

land has the meaning given in the *Integrated Planning Act 1997*.

licence means a licence which has been granted pursuant to section 9 (Grant of a licence) of this local law or amended, renewed or transferred pursuant to section 13 (Amendment or transfer of a licence) of this local law which—

- (a) has not expired pursuant to section 10(2) (Term of a licence) of this local law; and
- (b) has not been cancelled pursuant to section 15 (Cancellation of a licence) of this local law.

local government Act has the meaning given in the *Local Government Act 1993* and includes approvals granted pursuant to a local government Act.¹⁵

local government area has the meaning given in the *Local Government Act 1993*.

local government road means a road under the *Local Government Act 1993*.

local law includes any subordinate local laws and all approvals granted pursuant to this local law.

newspaper has the meaning given in the *Printing and Newspapers Act 1981*.

nuisance means—

- (a) an environmental nuisance; or
- (b) an act or omission which constitutes an unreasonable interference with an occupier's use and enjoyment of premises or an occupier's right in respect of premises.

occupier in relation to premises means the person who has the control or management of the premises and includes a person in charge of the operation of the heavy vehicle parking on the premises.

official traffic sign means a sign, marking, light or device placed or erected to regulate, warn or guide traffic that is an official traffic sign under the *Transport*

¹⁵ **local government Act** is defined in the Schedule (Dictionary) of the *Local Government Act 1993* to mean 'an Act under which a local government may exercise the jurisdiction of local government, and includes, for example –

- (a) this Act [the *Local Government Act 1993*]; and
- (b) the *Integrated Planning Act 1997*; and
- (c) the *Plumbing and Drainage Act 2002*; and
- (d) the *Water Act 2000*, chapter 3; and
- (e) an development control provision; and
- (f) a local law; and
- (g) a planning scheme.'

*Operations (Road Use Management) Act 1995.*¹⁶

owner in relation to premises means the person for the time being entitled to receive the rent for the premises or would be entitled to receive the rent for it if it were let to a tenant at a rent.

parking of a heavy vehicle on residential premises means stopping a vehicle and allowing the vehicle to stay, whether or not the driver leaves the vehicle, for a period longer than is necessary for the loading and unloading of the heavy vehicle.

perform work has the meaning given in the *Local Government Act 1993* and includes—

- (a) work required to be performed pursuant to a compliance notice, a stop order or a condition of a licence; and
- (b) without limiting paragraph (a), seizing and removing a thing.

planning scheme has the meaning given in the *Integrated Planning Act 1997*.

premises means any road, land, building, structure or vehicle and includes any part thereof.

prescribed fee means the fee prescribed by the local government.

prescribed form means the form prescribed by the local government.

public place means—

- (a) a road; or
- (b) trust land; or
- (c) a reserve; or
- (d) premises of which the local government is the owner or occupier.

publication means any printed matter or written matter and includes a book, pamphlet, leaflet, circular, handbill, notice, ticket, voucher, pass, advertisement, poster, magazine or other periodical publication but does not include a newspaper.

publicise means to draw to the attention of, make known, advertise or promote and **publicises** has the corresponding meaning.

¹⁶ The design, methods, standards and procedures for the installation and use of an official traffic sign must conform with the Manual of Uniform Traffic Control Devices issued by Queensland Transport under the *Transport Operations (Road Use Management) Act 1995* or be approved by Queensland Transport (see the definition of “official traffic sign” in section 166(1) (Official traffic sign approvals) of the *Transport Operations (Road Use Management) Act 1995*).

reserve has the meaning given in *Local Law No. 9 (Parks and Reserves) 1998*.

residential premises means a premises used as a detached dwelling, attached dwelling or apartment in the Park Living Domain, the Village Domain, the Detached Dwelling Domain, the Residential Choice Domain or a precinct designated for a residential use for a detached dwelling, attached dwelling or apartment in a local area plan in the local government's planning scheme.

road means a local government road and a State-controlled road.

sign means a device that publicises a matter.

State-controlled road means a State-controlled road under the *Transport Infrastructure Act 1994*.

stop order means the written notice given pursuant to section 18(1) (Stop order) of this local law which has not ceased pursuant to section 18(4) (Stop order) of this local law.

stormwater drainage has the meaning given in the *Local Government Act 1993*.

structure has the meaning given in the *Local Government Act 1993* and includes a structure as defined in the *Building Act 1975*.

trust land has the meaning given in *Local Law No. 9 (Parks and Reserves) 1998*.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.