

City of Gold Coast information sheet

Local Law No. 17 (Maintenance Of Works In Waterway Areas) 2013

Subordinate Local Law No. 17.1 (Works In Non-Coastal Waterway Areas) 2013

On 11 June 2013 Gold Coast City Council (**Council**) made *Local Law No. 17 (Maintenance of Works in Waterway Areas) 2013 (Local Law 17)* and *Subordinate Local No. 17.1 (Works in Non-Coastal Waterway Areas) 2013 (Subordinate Local Law 17.1)*.

Part 6 of Local Law 17.1 (Sale of lots and prescribed work reports) contains provisions that may affect contracts for the sale of certain lots in Council's local government area.

Contracts to which Local Law 17 applies

Section 15 of the Local Law 17 applies to a contract for the sale of a **relevant lot**.

A **relevant lot** is a lot under the *Land Title Act 1994* or *Land Act 1994*—

- (a) on which a **specified prescribed work** is completely or partly situated; or
- (b) that is waterfront land (ie land adjacent to a waterway area in Council's local government area) and which is connected to a **specified prescribed work**.

By section 5 of Subordinate Local Law 17.1 the following are **specified prescribed works**—

- a revetment wall; and
- a training wall; and
- a jetty; and
- a pontoon.

Seller's obligation when selling a relevant lot

Under section 15(2) of Local Law 17, the seller under a contract for the sale of a relevant lot must ensure that, when the buyer becomes bound by the contract, the contract includes a clause stating or specifying the following matters—

- (a) the contract is a contract to which section 15 applies; and
- (b) the actual specified prescribed work that is completely or partly situated on, or which is connected to, the relevant lot; and
- (c) under Local Law 17, a person who is a responsible person for the specified prescribed work is, at that person's cost, required to maintain and keep the specified prescribed work in—
 - (i) a safe condition; and
 - (ii) good working order, repair and condition, including so that the prescribed work can continue to perform its intended function; and
- (d) whether or not there is an outstanding notice issued by Council under Local Law 17 in relation to the actual specified prescribed work and, if so, the contents of that notice.

It is an offence for a seller not to comply with section 15. It does not matter that the seller may not be a responsible person for the prescribed work under Local Law 17.

Buyer No Longer Has Right To Terminate Contract

Since 5 June 2017, section 57A of the *Property Law Act 1974* has provided that Local Law 17 does not and cannot give a buyer a right to terminate a contract for the sale of land for the seller's failure to comply with the seller's disclosure obligation. As a result, section 15(3) of Local Law 17 has no effect on contracts entered into from 5 June 2017. However, section 15(3), which says, if the contract has not already been settled, the buyer may terminate the contract, by notice in writing to the seller, if—

- (a) the seller has not complied with section 15(2); or
- (b) there is an outstanding notice issued by Council under Local Law 17 in relation to the actual specified work and that fact, or the contents of the notice, have not been specified in a clause in the contract;

may still apply to a contract entered into before that date.

Council rates search

Council's rates search response will include a notification that an owner of a relevant lot may be a responsible person for a prescribed work under Local Law 17.

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