

GOLD COAST CITY COUNCIL



LOCAL LAW NO 19

(DRAINAGE PROBLEM AREA)

REPEALED (GAZETTE 19/12/08)

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SUMMARY OF PROVISIONS

1.	Citation.....	1
2.	Objects	1
3.	Definitions.....	1
4.	Declaration by Council	2
5.	Service of Notice.....	2
6.	Prohibitions in a drainage problem area	3

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Citation

1. This local law may be cited as Gold Coast City Council Local Law No. 19 (Drainage Problem Area).

Objects

2. The objects of this local law are to declare areas within the City where it is undesirable that any or further building construction for residential purposes should take place due to the area being:-
 - (a) so low-lying; or
 - (b) so effected whether frequently or infrequently by floods; or
 - (c) forms part of an area which is so difficult or expensive to drain.

Definitions

3. In this local law unless the context otherwise indicates or requires, the following terms have the meanings respectively assigned to them, namely:-

“Authorised Person” – means a person authorised by the Council to exercise the powers and undertake the duties of an authorised person under this local law.

“Drainage Problem Area” - Land declared by resolution of the Council under this local law to be a drainage problem area, provided that such resolution has not been revoked by subsequent resolution of the Council;

“Land” - Includes a tract of land of any area, as well as an allotment or a number of allotments of land whether contiguous or not;

“Rate Book” - Includes a book or set of rate cards or other documents or electronic record kept by the Council as, or as part of, a Rate Book;

“ Residential Building” - A building which, or any part of which, is normally used or so designed or equipped that it is capable of being used for human habitation and a domestic garage or outbuilding ordinarily used in connection with a residential building;

“Residential Purposes” - Means the purpose of a residential building as herein defined.

Declaration by Council

4. When, in the opinion of the Council, expressed by resolution, any land:-

- (1) Is so low-lying;
- (2) Is so affected, whether frequently or infrequently, by floods; or
- (3) Is, or forms part of an area which is so difficult or expensive to drain,

that it is undesirable that any or any further building construction for residential purposes should take place thereon without the permission of the Council, the Council may, by resolution, declare the land to be a drainage problem area.

Service of Notice

5. (1) A resolution as last mentioned in clause 4 of this local law shall not be passed unless:-

- (a) An Authorised Person has caused a written notice under this clause to be served upon every person shown in the Rate Book as the owner of land included in the drainage problem area proposed by the Council to be declared;
- (b) An Authorised Person has caused an advertisement to be published at least once in a newspaper circulating in the Area; and
- (c) The Council has considered all written objections lodged with an Authorised Person under this clause.

(2) A notice under this clause shall:-

- (a) Set forth the terms or general tenor of the proposed resolution;
- (b) Set forth the provisions of subclause (1) of clause 6 of this local law; and
- (c) State that, if the person upon whom the notice is served objects to the passing of the resolution, he may lodge with an Authorised Person within a period which shall be specified in the notice but shall not be less than thirty (30) days from the date of service thereof, a written objection stating the facts, circumstances and arguments on which such person relies to support his opposition to the passing of the resolution.

(3) An advertisement published under this clause shall:-

- (a) Set forth the terms or general tenor of the proposed resolution;
- (b) State that written objections lodged under the provisions of this clause may be so lodged with an Authorised Person within a period which shall be specified in the advertisement but shall not be less than thirty (30) days from the date of publication thereof.

(4) A written objection under this clause:-

- (a) May be lodged by a person upon whom a notice under this clause has been served, within the period specified in such notice;
- (b) May be lodged by any other person who has any legal or equitable interest in any land included in the proposed drainage problem area, within the period specified in an advertisement under this clause;
- (c) Shall state the facts, circumstances and submissions on which the person lodging the objection relies to support his opposition to the passing of the proposed resolution.

Prohibitions in a drainage problem area

6. (1) In a drainage problem area a person shall not:-
- (a) Erect a building for residential purposes;
 - (b) Change the use of a building from non-residential purpose to a residential purpose; or
 - (c) Rebuild or enlarge an existing building used for residential purposes,
- except with the written permission of the Council and in accordance with the condition, if any, to which such permission is subject.

Maximum Penalty Units: 165 Penalty Units

- (2) The Council may in its absolute discretion:-
- (a) Refuse its permission under this clause;
 - (b) Grant its permission under this clause unconditionally;
 - (c) Grant its permission under this clause subject to reasonable and relevant conditions.
- (3) A person to whom the permission of the Council has been granted under this clause shall comply with the conditions (if any) to which such permission is subject.

Maximum Penalty Units: 165 Penalty Units

- (4) When a person to whom the permission of the Council has been granted under this clause fails to comply with the conditions to which such permission is subject, the Council may, either in addition to or in lieu of taking or exercising any other proceeding or remedy cancel such permission provided that the Council or any officer of the Council shall not revoke any such permission within two (2) years from the date of grant thereof.
- (5) A development application for a building for residential purposes must not be approved if such building is situated in a drainage problem area unless the written permission of the Council under this local law has been obtained and is in force.