

GOLD COAST CITY COUNCIL



LOCAL LAW No. 38

(DISPOSAL OF MATERIAL EXCAVATED
FROM BUILDING SITES)

REPEALED (GAZETTE 19/12/08)

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Citation

1. This local law may be cited as Gold Coast City Council Local Law No. 38 (Disposal of Material Excavated from Building Sites).

Objects

2. The objects of this local law are to:-
 - (a) maintain the sand mass on the coastal strip; and
 - (b) provide for beach replenishment; and
 - (c) provide for the proper disposal of material other than sand excavated from building sites.

Definitions

3. In this local law the following terms have meanings set against them respectively, that is to say:-

“Area” - the Council area of the City of Gold Coast.

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

“Beach” - any area seaward of the boulder wall line exposed at mean low water spring tide.

“Boulder Wall Line” - the nominated alignment of the boulder wall as shown on the map thereof held in the Council’s Office at Bundall Road, Surfers Paradise.

“Council” - Council of the City of Gold Coast.

“Dune Area” - that area lying between the boulder wall line and mean high water mark at spring tide.

“Prescribed Site” - any site within the area the subject of an application for any building approval where any part of such site is within 500 metres of the boulder wall line.

“Security” - money deposited or any bond or other guarantee or security tendered to and accepted by an Authorised Person pursuant to Section 12(1) of this local law.

4. The term “owner” has the meaning given to it by Chapter 1 Part 3 of the Local Government Act 1993, as from time to time amended, and without limiting the foregoing in any way includes the registered proprietor of an estate in fee simple and any mortgagee in possession of a prescribed site or a parcel of land which includes a prescribed site.

Conditions of Disposal

5. All material excavated or otherwise dug up from or removed from a prescribed site shall be disposed of in accordance with the following sections of this local law.

Material Other than Clean Sand

6. Material other than clean sand may be disposed of in any manner approved by an Authorised Person or by another Officer appointed by the Council for that purpose.

Disposal of Clean Sand

7. Clean sand (including sand resulting from the sieving process described in Section 15 of this local law) shall be deposited on the beach area at a location approved by an Authorised Person: PROVIDED ALWAYS that except where in the opinion of an Authorised Person the volume of clean sand to be excavated and removed from a site is likely to exceed 2,000 cubic metres, an Authorised Person shall approve a location within five (5) kilometres of the prescribed site.
8. Without limiting the powers given to an Authorised Person under the last preceding Section, where in the opinion of an Authorised Person the volume of clean sand to be excavated and removed from a site is likely to exceed 2,000 cubic metres an Authorised Person may direct that the excess of such material over 2,000 cubic metres shall be placed on a beach or waterfront anywhere within the area.
9. Except where an Authorised Person directs the placement of sand in accordance with Section 8 of this local law, the holder of the building approval for construction of the building or other structure on the prescribed site shall grade sand placed in accordance with this local law to suitable profile approved by an Authorised Person and shall plant vegetation thereon and shall cause the area to be fenced, all to the satisfaction of an Authorised Person.

Volumes of Material

10. Every application for the building approval relative to a prescribed site shall be:-
- (a) accompanied by a statement by the applicant of his calculation of the volume of clean sand and the volume of other material which is, in his opinion, likely to be excavated from the site and a proposal for the disposal of such material; and
 - (b) such statement and proposal shall be in such form as an Authorised Person may from time to time prescribe.

Disposal on Beaches

11. A person shall not place on any part of any beach within the area any material excavated from any prescribed site except clean sand as hereinbefore provided.

Security Deposit

12. (1) Every applicant for any building approval relative to a prescribed site shall lodge with Council before the issue to him of that building approval cash or a bond or bank guarantee in a form acceptable to an Authorised Person (hereinafter referred to as "the Security") in one of the following amounts of money, namely:-
- (a) where the total amount of material (both clean sand and other material) is in the opinion of an Authorised Person, unlikely to exceed 2,000 cubic metres - such sum as is from time to time determined by the Council by resolution in its Annual Budget and until otherwise so determined the sum of \$1,000.00; or
 - (b) where the total volume of material (clean sand and other material) is estimated by an Authorised Person to exceed 2,000 cubic metres - such sum as is fixed by or by resolution pursuant to Section 12(1)(a) for the first 2,000 cubic metres plus such further sum for each 5,000 cubic metres (or part thereof) in excess of 2,000 cubic metres as is from time to time determined by the Council by resolution in its Annual Budget. Until otherwise so determined, the additional sum shall be \$2,000.00 for each 5,000 cubic metres or part thereof.
- (2) The Security lodged with the Council in accordance with Section 12(1) of this local law or such part thereof as is necessary for the purpose shall be applied by the Council in or towards the cost incurred by it of removing from any beach any material other than clean sand taken from the prescribed site in respect of which the Security was given or the cost of stabilising, planting vegetation or erecting fencing or all or any of those things as the case may be where the applicant has, in the opinion of an Authorised Person, failed to comply with the relevant provisions contained in this local law. Any surplus then remaining shall be paid to the person who gave the Security on demand made by him within three (3) months from the issuing of a Certificate of Classification in respect of the building on the prescribed site but if no such demand is made the surplus shall be paid into and form part of the Council's General Fund. Any deficiency in the amount of the Security may be recovered by the Council from the applicant for building approval as a present debt in any court of competent jurisdiction.

Calculation of Volume of Materials

13. Every applicant for a building approval relative to a prescribed site shall state in his application sufficient particulars to enable an Authorised Person to calculate accurately the likely total volume of material to be excavated showing the anticipated volume of clean sand and the anticipate volume of other material: PROVIDED ALWAYS that an Authorised Person may at his discretion cause to be made at the expense of the applicant for building approval such test or tests as are in the opinion of an Authorised Person reasonably necessary to enable him to calculate volume.

Obligations and Liabilities

14. Notwithstanding the obligations and liabilities placed by this local law on the applicant or holder of a building approval, the owner of the prescribed site to which the application or approval as the case may be relates shall be liable for the performance of all such obligations and liabilities equally with such applicant or holder: PROVIDED ALWAYS that not more than one deposit of cash, bond or guarantee shall be required in respect of any prescribed site and the Council shall not be entitled to recover the amount of any judgement for any surplus cost from both the applicant or holder and the owner.

Appointment and Employment of Supervisor

15. (1) Where the volume of material (clean sand and other material) to be excavated from a described site is in the opinion of an Authorised Person likely to exceed 2,000 cubic metres, the applicant for the building approval relevant to that prescribed site shall in addition to providing the Security to the Council at the time of lodging the application for building, pay at the time of lodging the application the full cost to the Council of the appointment and employment of a Supervisor appointed by an Authorised Person for the duration of the excavation and beach disposal works.
- (2) The purpose of the appointment is to procure the supervision of the removal of sand and other material from that prescribed site and to ensure that the sand is deposited upon the designated beach and that all material other than clean sand is removed from the excavated material before any such material is placed on the beach. An Authorised Person may at his discretion require all excavated material to be sieved adequately prior to its being transported to the site at which it is to be deposited. The appointment of such a supervisor shall not excuse any holder of any building approval or any owner from the performance of the obligations and liabilities imposed upon that holder or that owner by any Section contained in this local law.
- (3) The cost of appointment and employment of the Supervisor shall be estimated by an Authorised Person and every such estimate shall be subject to revision on completion of the excavation and any necessary adjustment shall be made in respect of the sum initially paid by the applicant by payment to the Council of any deficiency or refund to the applicant or any surplus as the case may be.

Offences and Penalties

16. A person who in any respect contravenes or fails to comply with any provision contained in this local law is guilty of an offence.

Maximum Penalty Units: 50 Penalty Units

Permits

17. Notwithstanding the local laws, Council may grant a permit on terms and conditions that Council considers beneficial for beach restoration.