

# Local Law No. 8 (Heavy Vehicle Parking) 2019

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 8 (Heavy Vehicle Parking) 2019*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to ensure that the parking of 1 heavy vehicle on premises—
  - (a) does not result in harm to human health or safety; and
  - (b) does not unreasonably detract from the desirable characteristics of the area in which the heavy vehicle is parked.
- (2) The purpose is to be achieved by—
  - (a) providing a consistent and comprehensive process for the local government to grant and regulate approvals for the parking of 1 heavy vehicle on premises; and
  - (b) providing for miscellaneous administrative matters.

### 3 Definitions — the dictionary

The dictionary in schedule 2 defines particular words used in this local law.

### 4 Relationship with other laws

- (1) This local law is—
  - (a) 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; and
  - (b) to be read with *Local Law No. 1 (Administration) 2011*.
- (2) On the commencement of this local law, the planning scheme of the local government regulates the parking of 2 or more heavy vehicles on premises.

*Example of subsection (2)—*

The use definition *transport depot* means the use of premises for—

- (a) storing vehicles, or machinery, that are used for a commercial or public purpose; or
- (b) cleaning, repairing or servicing vehicles or machinery, if the use is ancillary to the use in paragraph (a).

*Examples of a transport depot: using premises to store buses, taxis, trucks, heavy vehicles or heavy machinery.*

## Part 2 Approval requirement for heavy vehicle parking

### 5 Requirement for approval

- (1) Subject to subsection (2), a person requires an approval under this local law to park 1 heavy vehicle on premises.

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

- (2) A person does not require an approval under subsection (1)—
- (a) if the parking of the heavy vehicle on the premises satisfies the criteria (*exemption criteria*) in schedule 1; or
  - (b) for any of the following—
    - (i) an emergency vehicle being used for an emergency or other official purpose;
    - (ii) a heavy vehicle being lawfully used in the immediate vicinity of, and in connection with, the construction or maintenance of development infrastructure;
    - (iii) a heavy vehicle involved in the conduct of a lawful activity reasonably required to be carried out under the planning scheme;
    - (iv) the heavy vehicle is permitted to be parked on the premises pursuant to a development approval given under the planning scheme.

*Example of subsection (2)(b)(iii)—*

*The short term parking of a removal van or heavy vehicle.*

- (3) For the avoidance of doubt —
- (a) subsection (2) does not apply to a person who parks a heavy vehicle on premises if the heavy vehicle is parked on the premises awaiting a job assignment; and
  - (b) the person requires an approval under subsection (1).

## 6 Application for approval

- (1) An application for an approval must be—
- (a) made by the person who will be parking the heavy vehicle; and
  - (b) made in the prescribed form; and
  - (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 for 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 50m 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 6(1)(c)(viii)(A); 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 6(1)(c)(viii)(A).
- (2) If an applicant for an approval 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 6 of this local law—
- (a) in an emergency; or
  - (b) if there are special reasons for dispensing with the requirements.

## 7 Grant of approval

- (1) The local government must—
- (a) consider an application for an approval; and
  - (b) subject to subsection (2), decide whether to grant or refuse the approval.
- (2) The local government must grant an approval 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; 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 the activity is to be undertaken; 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; and
  - (c) the application complies with section 6 of this local law; and
  - (d) the matters which are the subject of conditions specified in section 9 which are relevant to the heavy vehicle parking can be adequately addressed by the imposition of those conditions.
- (3) Before the local government decides an application for an approval, 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 the approval.

- (4) For the purposes of determining whether the criteria specified in subsection (2) 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 may have regard to the applicant's antecedents in terms of compliance or otherwise with this local law; and
  - (c) 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 the approval.

## 8 Term of approval

- (1) An approval granted by the local government is for a term extending from the date of issue until the date on which the earliest of the following occurs—
- (a) the person parking the heavy vehicle on the premises discontinues the parking of the heavy vehicle on the premises;
  - (b) the person parking the heavy vehicle on the premises transfers the premises to another person.
- (2) An approval expires at the end of the day specified in subsection (1).

## 9 Conditions of approval

- (1) An approval 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 an approval for heavy vehicle parking on premises—
- (a) the heavy vehicle parking must not constitute a nuisance; and
  - (b) the heavy vehicle parking must be positioned on the premises so as not to result in a loss of amenity in the area where the heavy vehicle parking is undertaken; and
  - (c) the heavy vehicle must not be parked on the premises whilst carrying—
    - (i) a dangerous good; or
    - (ii) regulated waste; or
    - (iii) livestock; or
    - (iv) a thing which in the opinion of the local government emits an offensive odour; and
  - (d) 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 prior notification to the local government and the approval of an authorised person; and



- (e) if the approval authorises the parking on the premises of more than 1 heavy vehicle, each of which is specified in the approval—a maximum of 1 heavy vehicle may be parked on the premises at any time; and
- (f) the heavy vehicle must be parked in a class 10 building; and
- (g) the heavy vehicle must be parked in an area which is set back from the frontage of the premises and must be effectively screened from view from—
  - (i) a public place; and
  - (ii) the external wall of any residential dwelling which is located —
    - (A) on land, other than the premises, but contiguous to the premises; and
    - (B) within 15 m of the place at which the heavy vehicle is parked; and
- (h) any equipment, material, machinery or tool used in association with the heavy vehicle must be enclosed in an approved structure; and
- (i) any equipment, materials, machinery or tools used in association with the heavy vehicle which are stored on the premises must be set back from the frontage of the premises and must be effectively screened from view from—
  - (i) a public place; and
  - (ii) the external wall of any residential dwelling which is located —
    - (A) on land, other than the premises, but contiguous to the premises; and
    - (B) within 15 m of the place at which the equipment, materials, machinery or tools used in association with the heavy vehicle are stored; and
- (j) the parking of the heavy vehicle on, and the moving of the heavy vehicle from, the premises must not take place outside the hours specified in the approval; and
- (k) no maintenance or repair work is to be undertaken on the heavy vehicle or any associated equipment, material, machinery or tool on the premises; and
- (l) fuel must not be stored on the premises for use in the heavy vehicle parking, otherwise than in a designated fuel tank which is part of the heavy vehicle; and
- (m) a contaminant must not be released to the environment as part of the heavy vehicle parking, where the release may cause environmental harm unless the release is specifically authorised by the *Environmental Protection Act 1994*; and
- (n) 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
- (o) only rainwater from uncontaminated areas shall drain directly into the stormwater drainage; and
- (p) any spillage of 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



- (q) the heavy vehicle parking must comply with all environmental legislation; and
- (r) the heavy vehicle parking must not breach a provision of a Local Government Act; and
- (s) the holder of the approval must notify the local government within a period specified in the approval if the holder of the approval is no longer parking the heavy vehicle at the premises or is parking the heavy vehicle otherwise than in accordance with the approval; and
- (t) the holder of the approval must undertake and comply with a periodic inspection, monitoring or management program for the parking of the heavy vehicle at the premises; and
- (u) the heavy vehicle must enter and exit the premises in a forward direction only; and
- (v) the parking of the heavy vehicle on, and the moving of the heavy vehicle from, the premises must comply with the exemption criteria.

*Example of paragraph (j)—*

An approval may specify that the parking of the heavy vehicle on, or the moving of the heavy vehicle from, the 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 premises.

- (3) Subject to subsection (2), the local government may, by subordinate local law, prescribe conditions that must be imposed on an approval or that will ordinarily be imposed on an approval.

## **Part 3 Subordinate local laws**

### **10 Subordinate local laws**

The local government may make subordinate local laws about the conditions that must be imposed on an approval or that will ordinarily be imposed on an approval<sup>1</sup>.



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<sup>1</sup> See section 9(3).

## Schedule 1 Exemption criteria

Section 5(2)(a)

1. A person parking a heavy vehicle on premises must—
  - (a) park the heavy vehicle—
    - (i) in an approved structure; or
    - (ii) if a residential dwelling is located on the premises— behind the residential dwelling; and
  - (b) ensure that the place at which the heavy vehicle is parking is effectively screened, for example by the planting and maintenance of vegetation, from the external wall of any residential dwelling which is located —
    - (i) on land, other than the premises, but contiguous to the premises; and
    - (ii) within 15m of the place at which the heavy vehicle is parked.
2. A person parking a heavy vehicle on premises—
  - (a) must not, whilst the heavy vehicle is parked on the premises, carry on the heavy vehicle any goods or materials which are hazardous, noxious or offensive goods or materials, for example, livestock; and
  - (b) must not load or unload goods or materials from the heavy vehicle, other than the loading and unloading of equipment which is ancillary to the operation of the heavy vehicle; and
  - (c) must not, if the heavy vehicle is fitted with a refrigeration unit—whilst the heavy vehicle is parked on the premises, operate, or run, the refrigeration unit.
3. If a person is undertaking heavy vehicle parking at premises, an approved heavy vehicle crossing must be provided by the person at the premises.
4. A person parking a heavy vehicle on premises must not carry out minor maintenance on the heavy vehicle except during the hours of—
  - (a) 7.00 am to 6.00 pm Monday to Saturday; and
  - (b) 9.00 am to 5.00 pm Sunday and public holidays.
5. A person parking a heavy vehicle on premises must not run the engine of the heavy vehicle on the premises before leaving the premises, or after arriving at the premises, for more than—
  - (a) if the heavy vehicle is not towing a trailer — 5 minutes;
  - (b) if the heavy vehicle is towing a trailer — 10 minutes.
6. A person parking a heavy vehicle on premises must ensure that the heavy vehicle enters and exits the premises in a forward direction only.





## Schedule 2 Dictionary

### Section 3

**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 vehicle.

**approval** has the meaning given in *Local Law No. 1 (Administration) 2011*.

**approved heavy vehicle crossing** means a heavy vehicle crossing that has been constructed in accordance with the local government's specifications for road and drainage infrastructure requirements.

**approved structure**, for a building or structure, means the building work for the building or structure has been assessed against, and complies with, the building assessment provisions.

**authorised person** has the meaning given in *Local Law No. 1 (Administration) 2011*.

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

**building assessment provisions** has the meaning given in the *Building Act 1975*, section 30.

**building work** has the meaning given in the *Building Act 1975*, section 5.

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

**combination** means a vehicle connected to 1 or more trailers.

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

**dangerous good** has the meaning given to **dangerous goods** in the *Work Health and Safety Act 2011*.

**development approval** has the meaning given in the *Planning Act 2016*.

**development infrastructure** has the meaning given in the *Planning Act 2016*.

**emergency vehicle** means a vehicle driven by a person who is—

- (a) an emergency worker; and
- (b) driving the vehicle in the course of his or her duties as an emergency worker.

**emergency worker** means—

- (a) an officer of the Queensland Ambulance Service or the ambulance service of another state; or
- (b) an officer of the Queensland Fire and Rescue Service or a fire and rescue service of another state; or
- (c) an officer or employee of the Police Service, or the police service of another State; or
- (d) an officer of the State Emergency Service or a state emergency service of another state; or
- (e) an officer or employee of an authority permitted by law to conduct utility installation or utility



maintenance; or

- (f) an officer of Emergency Management Queensland.

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

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

*exemption criteria* see section 5(2)(a).

*GVM* (gross vehicle mass) —











- (a) means the maximum loaded mass of a vehicle—
- (i) stated on the vehicle's compliance plate; or
  - (ii) stated in a way prescribed under a regulation made under the *Transport Operations (Road Use Management) Act 1995*; and
- (b) for a vehicle, the GVM of the vehicle may be determined—
- (i) by viewing the vehicle's compliance plate; or
  - (ii) by undertaking a search of the vehicle in the register of registered vehicles kept by the chief executive under the *Transport Operations (Road Use Management – Vehicle Registration) Regulation 2010*, section 18; or
  - (iii) in another 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 of more than 8 tonnes; or
- (b) a vehicle that runs a refrigeration unit while parked.

*Examples of heavy vehicles*



Type of Vehicle	Vehicle Description
1 	Medium rigid truck - more than 8 t GVM with not more than 2 axles and with or without a trailer weighing 9 t GVM or less
2 	Medium rigid tractor - more than 8 t GVM with not more than 2 axles
3 	Medium rigid bus - more than 8 t GVM with not more than 2 axles
4 	Heavy rigid truck - and more than 8 t GVM with more than 2 axles with or without a trailer weighing 9 t GVM or less, this includes a single prime mover
5 	Heavy rigid bus - with more than 8 t GVM with more than 2 axles and with or without a trailer weighing 9 t GVM or less
6 	Articulated bus - more than 8 t GVM with more than 2 axles
7 	Heavy Combination - rigid truck more than 8 t GVM towing 1 trailer weighing more than 9 t GVM
8 	Heavy combination - prime mover more than 8 t GVM towing 1 semitrailer
9 	B-double - prime mover towing 2 semitrailers, with 1 semitrailer supported at the front, and connected to the other semitrailer
10 	A specially constructed vehicle more than 8 t GVM being a— i a crane, hoist or load shifting equipment for which a WHS certificate is issued; or ii any other motor vehicle that is not constructed to carry passengers or a load, except things used in performing the vehicle's functions; but iii does not include a motor vehicle with a chassis that is substantially the same as a truck chassis

**heavy vehicle crossing** means a facility provided for the purpose of heavy vehicles making entry or exit at, or substantially at, right angles between a road and land adjoining or adjacent to the road and may include an invert, pipe or driveway at, or adjacent to, the boundary of the land.

**land** has the meaning given in the *Planning Act 2016*.

**Local Government Act** has the meaning given in the *Local Government Act 2009* and includes approvals granted pursuant to a Local Government Act.

**local government area** has the meaning given in the *Local Government Act 2009*.

**local government road** means a road under the *Local Government Act 2009*.

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

**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.

**owner**, in relation to premises, means the person for the time being entitled to receive the rent for the premises or who 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 premises, means stopping the heavy vehicle on the premises and allowing the vehicle to stay on the premises, whether or not the driver leaves the vehicle, for a period longer than is necessary for the loading and unloading of the vehicle.



**planning scheme—**

- (a) has the meaning given in the *Planning Act 2016*; and
- (b) unless otherwise specified, means the planning scheme of the local government.

**premises** means any land, building or structure and includes any part thereof but does not include a road.

**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 park as defined in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*; or
- (d) a reserve as defined in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*; or
- (e) a bathing reserve as defined in *Local Law No. 6 (Bathing Reserves) 2011*; or
- (f) premises of which the local government is the owner or occupier; or
- (g) premises which are managed or controlled by the local government.

**refrigeration unit** means plant or equipment that is on, or in, a vehicle and used, or intended to be used, to chill or preserve food or drink for direct or indirect sale to, or consumption by, the public.

**regulated waste** has the meaning given in the *Environmental Protection Regulation 2008*.

**reserve** has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*.

**residence** means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) a self-contained unit used by, or intended for the exclusive use of, on household.

**residential dwelling** means premises used, or intended to be used, predominantly as a place of residence.

**road** means a local government road or a State-controlled road.

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

**stormwater drain** has the meaning given in the *Local Government Act 2009* and **stormwater drainage** has a corresponding meaning.

**structure —**

- (a) has the meaning given in the *Local Government Act 2009*; and
- (b) includes a structure as defined in the *Building Act 1975*.

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

**trust land** means land dedicated as a reserve or granted in trust under the *Land Act 1994* and for which the local government is the trustee under the *Land Act 1994*.

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

This and the preceding 12 pages bearing my initials is a certified copy of *Local Law No. 8 (Heavy Vehicle Parking) 2019* made in accordance with the provisions of the *Local Government Act 2009* by Mackay Regional Council by resolution dated the 25 day of September 2019.



.....  
Chief Executive Officer