Mareeba Shire Council

Local Law No. 5 (Parking) 2018

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 5 (Parking) 2018.*

2 Purpose and how it is to be achieved

(1) The purpose of this local law is to complement the regulated parking provisions in Chapter 5, Part 6 of the TORUM Act by providing for the exercise of local government powers authorised under that Act.

(2) The purpose is achieved by providing for—

(a) the establishment of traffic areas and off-street regulated parking areas; and

(b) lawfully parking contrary to an indication on an official traffic sign with a parking permit or in a loading zone with a commercial vehicle identification label; and

(c) the prescribing of infringement notice penalties for minor traffic offences.

3 Definitions—the dictionary

The dictionary in the schedule 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 the TORUM Act, chapter 5, part 6;[2] and

(b) is to be read with *Local Law No. 1 (Administration) 2018*.

[1] This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

[2] A local government cannot regulate parking on a State-controlled road unless the written agreement of the chief executive has been obtained under the TORUM Act, section 101(1)(b).

Part 2 Declaration of parking areas for the TORUM Act

5 Declaration of traffic areas

(1) The local government may, by subordinate local law, declare the whole or a part of its area to be a traffic area.[3] [4]

(2) The subordinate local law must define the boundaries of the traffic area.

6 Declaration of off-street regulated parking areas

(1) The local government may, by subordinate local law, declare an area of land controlled[5] by the local government, including structures on the land, as an off-street regulated parking area.[6]

(2) The subordinate local law must define the boundaries of the off-street regulated parking area.

Part 3 Parking contrary to parking restriction

7 Parking permits[7]

(1) The local government may issue a parking permit.[8]

(2) The local government may prescribe, by subordinate local law, the persons that may be issued with a permit mentioned in subsection (1).

(3) A vehicle may be parked contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays—

(a) a parking permit for people with disabilities;[9] or

(b) a permit issued by the local government and valid for the place and time at which the vehicle is parked.

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[3] See the TORUM Act, sections 102(3)(a) and 102(2)(b).

[4] The TORUM Act, section 69(4), provides: *"A local government may install or remove an official traffic sign that will result in a change to the management of a local government road, of a kind mentioned in the Transport Planning and Coordination Act 1994, section 8D(1), only if the chief executive has approved the proposed change under the Transport Planning and Coordination Act 1994, section 8D."*

[5] See the TORUM Act, section 104(2).

[6] See the TORUM Act, sections 104(1)(b) and 101(1)(c).

[7] See the TORUM Act, section 103(4).

[8] *Local Law No. 1 (Administration) 2018*, section 5(b), provides that a ***prescribed activity*** includes "an activity for which a Local Government Act authorises the local government to grant an approval but does not make any other provision, except provision that is consistent with this part, about the process for the local government to grant the approval". Section 7 of *Local Law No. 1 (Administration) 2018* provides that an approval required for a prescribed activity must be obtained under part 2 of *Local Law No. 1 (Administration) 2018.* As a result, an approval for a parking permit must be obtained under that part.

[9] Parking permits for people with disabilities are issued under the TORUM Act, section 111, by the chief executive of the department administering the TORUM Act.

8 Commercial vehicle identification labels[10]

(1) The local government may issue a commercial vehicle identification label.[11]

(2) The local government may, by subordinate local law, prescribe vehicles that may be issued with a commercial vehicle identification label.[12]

(3) A vehicle displaying a current commercial vehicle identification label may be lawfully parked in a loading zone.[13]

Part 4 Minor traffic offence infringement notice penalties

9 Minor traffic offence infringement notice penalties

(1) The local government may prescribe, by subordinate local law, an amount (in penalty units) as the infringement notice penalty for a minor traffic offence.[14]

(2) However, a subordinate local law under subsection (1) may not prescribe an amount greater than 5 penalty units.

Part 5 Miscellaneous

10 Subordinate local laws

The local government may make subordinate local laws about—

(a) the declaration of traffic areas;[15] or

(b) the declaration off-street regulated parking areas;[16] or

(c) the persons who may be issued with a permit to park a vehicle contrary to an indication on an official traffic sign;[17] or

(d) vehicles that may be issued with a commercial vehicle identification label;[18] or

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[10] See the TORUM Act, section 103(5).

[11] *Local Law No. 1 (Administration) 2018* section 5(b), provides that a ***prescribed activity*** includes *"an activity for which a Local Government Act authorises the local government to grant an approval but does not make any other provision, except provision that is consistent with this part, about the process for the local government to grant the approval."* Section 7 of *Local Law No. 1 (Administration) 2018* provides that an approval required for a prescribed activity must be obtained under part 2 of *Local Law No. 1 (Administration) 2018*. As a result, an approval for a commercial vehicle identification label must be obtained under that part.

[12] The TORUM Act already defines certain vehicles designed for the carriage of goods as commercial vehicles – see schedule 4, definition, ***commercial vehicle***.

[13] See also *Transport Operations (Road Use Management-Road Rules) Regulation 1999*, section 179, relating to drivers who are permitted to stop in a loading zone.

[14] See the TORUM Act, section 108(1). The maximum penalty for an offence relating to paid parking is 40 penalty units under the TORUM Act, section 106(1). The maximum penalty for other parking offences is 40 penalty units under the TORUM Act, section 74.

[15] See section 5(1).

[16] See section 6.

[17] See section 7(2).

[18] See section 8(2).

(e) infringement notice penalty amounts that apply for minor traffic offences.[19]

[19] See section 9(1).

Schedule Dictionary

Section 3

Commercial vehicle identification label means a label of the type depicted in the Manual of Uniform Traffic Control Devices as a commercial vehicle identification label.

indication, on an official traffic sign, see TORUM Act, schedule 4.

infringement notice penalty means an infringement notice fine under the *State Penalties Enforcement Act 1999*.

minor traffic offence see TORUM Act, section 108(4).

official traffic sign see TORUM Act, schedule 4.

off-street regulated parking area see TORUM Act, schedule 4.

parking permit for people with disabilities see TORUM Act, schedule 4.

traffic area see TORUM Act, schedule 4.

TORUM Act means the *Transport Operations (Road Use Management) Act 1995*.