

Bathing Reserves (Amendment)

Local Law (No. 1) 2015

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Dale Dickson
Chief Executive Officer

Council of the City of Gold Coast Bathing Reserves (Amendment) Local Law (No. 1) 2015

Contents

	Page
Part 1	Preliminary 1
1	Short title.....1
2	Object1
3	Commencement1
Part 2	Amendment of Local Law No. 10 (Bathing Reserves) 2008 1
4	Local law amended.....1
5	Amendment of section 2 (Objects)1
6	Replacement of section 10 (Regulation of business).....2
7	Renumbering of sections 11 to 54.....2
8	Insertion of new sections 11 and 12.....3
9	Amendment of section 13 (Prohibited conduct)4
10	Amendment of section 14 (Regulated conduct)5
11	Amendment of section 18 (Prohibition on use of aquatic equipment, vessels and wind powered craft in bathing areas).....6
12	Amendment of section 19 (Restrictions on use of aquatic equipment, land yachts, vessels and wind powered craft in bathing reserves).....6
13	Amendment of section 20 (Reservation of areas for use of aquatic equipment)7
14	Amendment of section 21 (Requirement for a permit)7
15	Amendment of section 23 (Grant of a permit)7
16	Amendment of section 24 (Term of a permit).....7
17	Amendment of section 25 (Conditions of a permit)8
18	Amendment of section 27 (Amendment, renewal or transfer of a permit).....8
19	Amendment of section 30 (Suspension or cancellation of permit in exceptional circumstances).....8
20	Amendment of section 42 (Authorised person's identity card)8
21	Amendment of section 45 (Protection from liability)8
22	Amendment of section 49 (Seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft)8
23	Amendment of section 50 (Powers of authorised persons on seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft)10
24	Amendment of section 51 (Procedure on seizure of property).....10
25	Amendment of section 52 (Procedure for disposal of property)10
26	Amendment of section 54 (Seized property register)10
27	Amendment of section 55 (Subordinate local laws)11
28	Insertion of new Part 11.....13
29	Amendment of Schedule (Dictionary).....14

Council of the City of Gold Coast Bathing Reserves (Amendment) Local Law (No. 1) 2015

Part 1 Preliminary

1 Short title

This local law may be cited as *Bathing Reserves (Amendment) Local Law (No. 1) 2015*.

2 Object

The object of this local law is to amend *Local Law No. 10 (Bathing Reserves) 2004* to—

- (a) provide the local government with appropriate powers to effectively regulate activities within bathing reserves; and
- (b) make consequential and minor amendments; and
- (c) insert and amend definitions of terms that are necessary for the implementation of the provisions of the local law; and
- (d) ensure consistency with State legislation, the local government's administrative procedures and the local government's other local laws and correct grammatical or typographical errors and other inconsistencies.

3 Commencement

This local law commences upon publication of the notice of the making of *Bathing Reserves (Amendment) Local Law (No. 1) 2015* in the gazette.

Part 2 Amendment of Local Law No. 10 (Bathing Reserves) 2008

4 Local law amended

This part amends *Local Law No. 10 (Bathing Reserves) 2004*.

5 Amendment of section 2 (Objects)

- (1) Section (e), after 'public safety and amenity'—

insert—

'and meets the objectives of the local government's commercial activities on ocean beaches management plan or surf management plan (as amended from time to time)'

- (2) Section (f), ‘bathing reserves, to activities’ —

omit, insert—

‘bathing reserves to activities’

- (3) Sections (f) after ‘economic significance to the area’ —

insert—

‘and meets the objectives of the local government’s commercial activities on ocean beaches management plan or surf management plan (as amended from time to time),’

6 Replacement of section 10 (Regulation of business)

Section 10 Regulation of business—

omit, insert—

‘10 Regulation of business

- (1) A person (other than the local government) must not carry on a business or associated activity on an excluded bathing reserve unless the business is—

- (a) a permitted business that is not a prohibited permitted business; and
- (b) authorised by a permit.

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

- (2) A person (other than the local government) must not carry on a business on a bathing reserve, which is not an excluded bathing reserve, unless the business is—

- (a) a permitted business; and
- (b) authorised by a permit.

Maximum penalty for subsection (2)—50 penalty units.’

7 Renumbering of sections 11 to 54

After section 10, sections ‘11 to 54’—

Renumber as sections ‘13 to 56’.

8 Insertion of new sections 11 and 12

After section 10—

insert new sections 11 and 12—

‘11 Designation of excluded bathing reserves

- (1) The local government may, by subordinate local law or resolution—
 - (a) designate the whole or any part of a bathing reserve as an excluded bathing reserve (an *excluded bathing reserve*); and
 - (b) designate the whole or any part of an excluded bathing reserve as an area where a person is prohibited from carrying on a permitted business or a permitted business of a specified type (a *prohibited permitted business*)—
 - (i) at all times; or
 - (ii) on specified days; or
 - (iii) during specified hours on specified days; and
 - (c) designate the whole or any part of an excluded bathing reserve as an area where a person is prohibited from carrying on a regulated activity, other than a permitted business, of a specified type (a *prohibited regulated activity*) —
 - (i) at all times; or
 - (ii) on specified days; or
 - (iii) during specified hours on specified days.
- (2) The local government must decide its own process for making a resolution about a designation under subsection (1) provided the process is consistent with this section.
- (3) The process must require the local government to—
 - (a) consult with the public about the proposed designation for at least 21 days; and
 - (b) consider every submission properly made to it about the proposed designation.
- (4) A designation under subsection (1) is not effective for the purposes of this local law until the designation is recorded in the register required to be kept under section 12 of this local law.

- (5) For the avoidance of doubt, the local government may, from time to time, by resolution, repeal or amend a resolution about a designation under subsection (1).
- (6) Each designation of an excluded bathing reserve under subsection (1) must include a description of the area designated as the excluded bathing reserve and, where required for identification purposes, the real property description of the land on which the excluded bathing reserve is located or some other description sufficient to identify the excluded bathing reserve with certainty.

12 Register of excluded bathing reserves

- (1) The local government must establish and maintain a register of excluded bathing reserves (the *excluded bathing reserves register*) which must be kept available for public inspection.
- (2) If the local government makes a resolution about a designation under section 11(1)(a), the excluded bathing reserves register must include the information specified in section 11(6).
- (3) If the local government makes a resolution about a designation under section 11(1)(b), the excluded bathing reserves register must specify, for the designation—
 - (a) the permitted business that must not be carried out in the excluded bathing reserve; and
 - (b) the times or days during which a permitted business, or specified permitted business must not be carried out in the excluded bathing reserve.
- (4) If the local government makes a resolution about a designation under section 11(1)(c), the excluded bathing reserves register must specify, for the designation—
 - (a) the regulated activity or activities that must not be carried out in the excluded bathing reserve; and
 - (b) the times or days during which the regulated activity or activities must not be carried out in the excluded bathing reserve.’

9 Amendment of section 13 (Prohibited conduct)

- (1) Section 13(1)(a)(ii), ‘*Fire and Rescue Service Act 1990*’—
omit, insert—
‘Fire and Emergency Services Act 1990’

- (2) Section 13(1)(d)—

omit, insert—

‘(d) bring an object which is dangerous or has the potential to be dangerous (including dangerous aquatic equipment) into a bathing reserve within 15 metres of a bathing area unless authorised under another section of this local law; or’

- (3) Section 13(1)(r), ‘Aquatic’—

omit in example

- (4) Section 13(3), ‘200’—

omit, insert—

‘50’

- (5) Section 13(6), ‘(1)(e) section’—

omit, insert—

‘(1)(e)’

- (6) Section 13(7), ‘(1)’—

omit, insert—

‘(7)’

10 Amendment of section 14 (Regulated conduct)

- (1) Section 14(1)(c), after ‘operating a’—

insert—

‘drone or a’

- (2) Section 14(1), ‘subsection (g)’—

omit—

- (3) Section 14(1)(m), after ‘50 people’—

insert—

‘(other than a marriage ceremony)’

- (4) Section 14(1), subsections ‘(h) to (n)’—

Renumber as subsections ‘(g) to (m)’

- (5) Section 14(1), after subsection (m)—

insert—

- ‘(n) conducting a club training activity involving more than 50 people; or’.

11 Amendment of section 18 (Prohibition on use of aquatic equipment, vessels and wind powered craft in bathing areas)

- (1) Section 18(3)(c), after ‘bathing area’—

insert—

‘in accordance with subsection 3(c),’

- (2) Section 18(3), subsections ‘(c) to (d)’—

Renumber as subsections ‘(d) to (e)’

- (3) Section 18, after subsection (3)(b)—

insert—

- ‘(c) an authorised person may authorise the use of aquatic equipment in a bathing area if the use is necessary at the time of the authorisation; and

Example—

The use may be authorised in an emergency situation to assist bathers in distress.’.

12 Amendment of section 19 (Restrictions on use of aquatic equipment, land yachts, vessels and wind powered craft in bathing reserves)

- (1) Section 19(5), ‘subsection (b)’—

omit, insert—

- ‘(b) 200m of a swimmer or a person using aquatic equipment or a wind powered craft.’

- (2) Section 19(7), after subsection (a)(iii)—

insert—

- ‘(iv) authorised under another section of this local law; or’

13 Amendment of section 20 (Reservation of areas for use of aquatic equipment)

Section 20(1), '17'—

omit, insert—

'19'

14 Amendment of section 21 (Requirement for a permit)

(1) Section 21(1)(b), '21'—

omit, insert—

'23'

(2) Section 21(1), '100'—

omit, insert—

'50'

15 Amendment of section 23 (Grant of a permit)

(1) Section 23(1)(k), 'reserve.'

omit, insert—

'reserve; and'

(2) Section 23, after subsection (1)(k)—

insert—

'(l) will allow sufficient time between (before and after) the undertaking of another regulated activity —

(i) for the maintenance, repair or rehabilitation of the bathing reserve and any areas adjacent to the bathing reserve; and

(ii) such that it does not adversely impact on the surrounding community and meets the objectives of the local government's commercial activities on ocean beaches management plan or surf management plan.'

16 Amendment of section 24 (Term of a permit)

Section 24(2), 'A'

omit, insert—

'If a time is not specified on the permit under subsection (1), the'

17 Amendment of section 25 (Conditions of a permit)

Section 25(2)(s), ‘non exclusive’

omit, insert—

‘nonexclusive’

18 Amendment of section 27 (Amendment, renewal or transfer of a permit)

Section 27(4)(a), ‘21’

omit, insert—

‘23’

19 Amendment of section 30 (Suspension or cancellation of permit in exceptional circumstances)

Section 30(3), ‘prohibition notice’

italicise—

‘prohibition notice’

20 Amendment of section 42 (Authorised person’s identity card)

Section 42(6), ‘10’

omit, insert—

‘40’

21 Amendment of section 45 (Protection from liability)

Section 45(3)(b), ‘48’

omit, insert—

‘50’

22 Amendment of section 49 (Seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft)

(1) Section 49(2)(c), ‘16’

omit, insert—

‘18’

(2) Section 49(3)(a), ‘17’

omit, insert—

‘19’

- (3) Section 49(3)(b), ‘17’
omit, insert—
‘19’
- (4) Section 49(4)(a), ‘17’
omit, insert—
‘19’
- (5) Section 49(4)(b), ‘17’
omit, insert—
‘19’
- (6) Section 49, ‘subsection (5)’
omit, insert—
‘(5) An authorised person may seize a vessel if-
- (a) A person-
 - (i) uses the vessel in that part of a bathing reserve which is less than 400m seaward of the low water mark at ordinary spring tides contrary to section 19(4); and
 - (ii) fails to comply with a direction given under section 19(9)(c); or
 - (b) A person-
 - (i) uses the vessel for tow-in surfing or power assisted surfing in a bathing reserve contrary to section 19(5); and
 - (ii) fails to comply with a direction given under section 19(9)(d).’
- (7) Section 49(6)(a), ‘17’
omit, insert—
‘19’

- (8) Section 49(6)(b), '17'

omit, insert—

'19'

23 Amendment of section 50 (Powers of authorised persons on seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft)

- (1) Sections 50(a) to (e), '47' wherever it appears

omit, insert—

'49'

- (2) Section 50(d), 'which is being used for tow in surfing or power assisted surfing'

omit—

24 Amendment of section 51 (Procedure on seizure of property)

- (1) Section 51(1), '47'

omit, insert—

'49'

- (2) Section 51, 'which is being used for tow in surfing or power assisted surfing'

omit wherever the words appear—

25 Amendment of section 52 (Procedure for disposal of property)

- (1) Section 52(1), '47'

omit, insert—

'49'

- (2) Section 52(2), '49'

omit, insert—

'51'

26 Amendment of section 54 (Seized property register)

- (1) Section 54(1), '47'

omit, insert—

'49'

- (2) Section 54(1), ‘**seized property register**’
italicise—
‘*seized property register*’
- (3) Sections 54(2)(b)(iv) and(v), ‘49’ wherever it appears
omit, insert—
‘51’

27 Amendment of section 55 (Subordinate local laws)

- (1) Sections 55(a) and (b), ‘11’ wherever it appears
omit, insert—
‘13’
- (2) Section 55(c), ‘17’
omit, insert—
‘19’
- (3) Section 55(d), ‘19’
omit, insert—
‘21’
- (4) Sections 55(e) and (f), ‘20’ wherever it appears
omit, insert—
‘22’
- (5) Section 55(g), ‘21’
omit, insert—
‘23’
- (6) Section 55(h), ‘22’
omit, insert—
‘24’

- (7) Sections 55(i) and (j), ‘23’ wherever it appears
omit, insert—
‘25’
- (8) Section 55(k), ‘27’
omit, insert—
‘29’
- (9) Section 55(l), ‘31’
omit, insert—
‘33’
- (10) Section 55(m), ‘32’
omit, insert—
‘34’
- (11) Section 55(n), ‘37’
omit, insert—
‘39’
- (12) Section 55(o), ‘38’
omit, insert—
‘40’
- (13) Section 55(p), ‘39’
omit, insert—
‘41’
- (14) Section 55(w), ‘law.’
omit, insert—
‘law; and’
- (15) Section 55, subsections ‘(a) to (w)’—
renumber as subsections ‘(e) to (aa)’

(16) Section 55, after ‘in a subordinate local law, specify—’

insert—

- ‘(a) a type of business which may be permitted in a bathing reserve pursuant to section 10 and the definition of ‘permitted business’ of this local law; and
- (b) a bathing reserve or part of a bathing reserve as an excluded bathing reserve pursuant to section 11(1)(a) of this local law; and
- (c) a permitted business as a prohibited permitted business pursuant to section 11(1)(b) of this local law; and
- (d) a regulated activity as a prohibited regulated activity pursuant to section 11(1)(c) of this local law; and’

(17) Section 55, after subsection (aa)’

insert—

- ‘(bb) prescribed criteria pursuant to the Schedule (Dictionary) of this local law.’

28 Insertion of new Part 11

After section 56

insert—

‘Part 11 Transitional provisions

57 Transitional provision for the designation of prohibited permitted businesses and prohibited regulated activities

- (1) If a permitted business becomes a prohibited permitted business on or after the commencement of this section, from the date the designation of the prohibited permitted business takes effect an existing approval under this local law authorising a permitted business is of no effect to the extent the permitted business has become a prohibited permitted business.
- (2) If a regulated activity becomes a prohibited regulated activity on or after the commencement of this section, from the date the designation of the prohibited regulated activity takes effect an existing approval under this local law authorising a permitted business is of no effect to the extent the regulated activity has become a prohibited regulated activity.
- (3) If an application for a permit for a permitted business is approved after the date a designation for a prohibited permitted business takes

effect, the permit does not authorise a person to carry out the prohibited permitted business.

- (4) If an application for a permit for a regulated activity is approved after the date a designation for a prohibited regulated activity takes effect, the permit does not authorise a person to carry out the prohibited regulated activity.
- (5) If a permitted business ceases to be a prohibited permitted business, a permit for the permitted business may authorise the permitted business that was formerly a prohibited permitted business subject to any conditions in the permit.
- (6) If a regulated activity ceases to be a prohibited regulated activity, a permit for the regulated activity may authorise the regulated activity that was formerly a prohibited regulated activity subject to any conditions in the permit.'

29 Amendment of Schedule (Dictionary)

- (1) Schedule, definition of *aquatic equipment*, 'a float'

omit, insert—

'an inflatable device or rubber or foam float or board that is not bathing equipment'

- (2) Schedule, definition of *authorised person*, footnote 6, 'authorizes'

omit, insert—

'authorises'

- (3) Schedule, definition of *bathing area*, '5'

omit, insert—

'6'

- (4) Schedule, definition of *bathing equipment*, 'means—'

omit, insert—

'means equipment that does not give rise a to risk of injury to bathers in a bathing area which is—'

- (5) Schedule, definition of *bathing equipment* subsection (b), 'that does not give rise to risk of injury to bathers in a bathing area.'

omit—

(6) Schedule, after definition of **camp**—

insert—

‘carry on for a business includes carrying on an activity associated with the business.

Example—

- conducting surfing lessons associated with a surf school.
- conducting fitness training associated with a commercial fitness activity.

club training activity—

(a) means a training session organised and conducted by—

- (i) an incorporated sports club or educational establishment; or
- (ii) a club participating in a local, regional, State or national sporting competition; and

(b) does not include life-saving training organised and conducted by a life-saving club.

commercial activities on ocean beaches management plan means the plan as adopted and amended by Council from time to time.

commercial fitness activity has the meaning given in *Subordinate Local Law No. 10.1 (Bathing Reserves) 2005*.

(7) Schedule, after definition of **essential services vessel**—

insert—

‘excluded bathing reserve see section 11(1)(a) of this local law.’

(8) Schedule, definition of **identity card register**, ‘40’

omit, insert—

‘42’

(9) Schedule, definition of **length** second example, ‘Example of things that do increase a vessel’s effective length’

italicise—

‘Example of things that do increase a vessel’s effective length’

- (10) Schedule, definition of **numbered identity card**, ‘40’
omit, insert—
‘42’
- (11) Schedule, after definition of **patrol flag**—
insert—
‘**permitted business** has the meaning given in *Subordinate Local Law No. 10.1 (Bathing Reserves) 2005.*’
- (12) Schedule, after definition of **plant**—
insert—
‘**prohibited permitted business** see section 11(1)(b) of this local law.
prohibited regulated activity see section 11(1)(c) of this local law.’
- (13) Schedule, definition of **prescribed criteria**, after ‘the criteria’
insert—
‘specified in a subordinate local law’
- (14) Schedule, definition of **prohibition notice**, ‘28’
omit, insert—
‘30’
- (15) Schedule, definition of **recognised life-saving club**, footnote 8, ‘33’
omit, insert—
‘35’
- (16) Schedule, definition of **regulated activity**
omit, insert—
‘**regulated activity** means an activity the undertaking of which
- (a) requires a permit under this local law; or
 - (b) is specified in a subordinate local law as an activity for which a permit is not required.’

- (17) Schedule, definition of **reserve sign**, footnote 9, ‘Sign’
omit, insert—
‘Signs’
- (18) Schedule, definition of **seized property register**, ‘52’
omit, insert—
‘54’
- (19) Schedule, after definition of **structure**—
insert—
‘**surf management plan** means the plan as adopted and amended by Council from time to time.’
- (20) Schedule, definition of **waste container**, subsection (d) ‘non reactive’
omit, insert—
‘nonreactive’