

Council of the City of Gold Coast

Public Interest Test Plan

Bathing Reserves (Amendment) Local Law (No. 1) 2015 *Bathing Reserves (Amendment) Subordinate Local Law (No. 1) 2015*

1. Introduction

In accordance with its obligations under section 38 of the *Local Government Act 2009* (Qld), the Council of the City of Gold Coast is conducting a public interest test on possible anti-competitive provisions identified in proposed *Bathing Reserves (Amendment) Local Law (No. 1) 2015* and *Bathing Reserves (Amendment) Subordinate Local Law (No. 1) 2015*.

The public interest test process was instituted as a result of the National Competition Policy reforms, which commenced in the mid-1990s. The test will be conducted against the principles and objectives set by the Competition Principles Agreement (CPA), which was entered into between the States and Territories and the Commonwealth of Australia as part of those reforms.

Under clause 5(1) of the CPA, Commonwealth and State governments agreed to the principle that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Under clause 5(9) of the CPA, a public interest test of legislation (including local laws) that restricts competition is required to:

- clarify the objectives of the legislation;
- identify the nature of the restriction on competition;
- analyse the likely effect of the restriction on competition and on the economy generally;
- assess and balance the costs and benefits of the restriction; and
- consider alternative means of achieving the same result including non-legislative approaches.

Without limiting the matters to be taken into account in a review, clause 1(3) of the CPA sets out matters which should be taken into account as follows:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;

- the interests of consumers generally or of a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

This public interest test plan has been prepared in accordance with the document entitled *National Competition Policy – Guidelines for conducting reviews on anti-competitive provisions in local laws* issued by the Department of Local Government, Community Recovery and Resilience (as it was at the time the Guidelines were issued) and called up under the *Local Government Regulation 2012* to provide a basis for community consultation. The Guidelines list criteria, and provide that provisions of local laws are anti-competitive if they fall within the criteria.

This public interest test plan details the activities to be conducted during the test and identifies the depth of analysis to be carried out on the possible anti-competitive provisions.

2. Definitions

The following expressions used in this plan have the following meanings:

- **Council** means the Council of the City of Gold Coast.
- **Amending LL10** means the proposed *Bathing Reserves (Amendment) Local Law (No. 1) 2015* which will amend LL10.
- **Amending SLL10.1** means the proposed *Bathing Reserves (Amendment) Subordinate Local Law (No. 1) 2015* which will amend SLL10.1.
- **LL10** means Councils existing *Local Law No. 10 (Bathing Reserves) 2004*, which Amending LL10 will amend.
- **SLL10.1** means Council’s existing *Subordinate Local Law No. 10.1 (Bathing Reserves) 2005* which Amending SLL10.1 will amend.

3. Objective of Amending LL10 and Amending SLL10.1

Section 2 of Amending LL10 provides that its objects are as follows:

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

- provide the local government with appropriate powers to effectively regulate activities within bathing reserves; and*
- make consequential and minor amendments; and*
- insert and amend definitions of terms that are necessary for the implementation of the provisions of the local law; and*
- 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;”*

Section 2 of Amending SLL10.1 provides that its objects are as follows:

“The object of this subordinate local law is to amend Subordinate Local Law No. 10.1 (Bathing Reserves) 2005 to—

- (a) *assist in the regulation of regulated activities;*
- (b) *make minor and consequential amendments”.*

4. Details of anti-competitive provisions

The possible anti-competitive provisions which have been identified in Amending LL10 are as follows:

- section 6, to the extent that it:
 - inserts a new section 10 (Regulation of business);
- section 8, to the extent that it:
 - inserts a new section 11 (Designation of excluded bathing reserves);
 - inserts a new section 12 (Register of excluded bathing reserves);
- section 10, to the extent that it amends section 14 (Regulated conduct);
- section 15, to the extent that it amends section 23 (Grant of a permit);
- section 27, to the extent that it amends section 55 (Subordinate local laws);
- section 28, to the extent that it:
 - inserts new Part 11 (Transitional provisions)
 - including new section 57 (Transitional provision for the designation of prohibited permitted businesses and prohibited regulated activities)

The possible anti-competitive provisions which have been identified in Amending SLL10.1 are as follows:

- section 7, to the extent that it amends section 5 (Prohibited activities);
- section 10, to the extent that it amends section 7 (Requirement for a permit);
- section 12, to the extent that it amends section 9 (Grant of a permit);
- section 15, to the extent that it inserts a new section 11 (Prescribed criteria);
- section 18, to the extent that it amends the Schedule (Dictionary) to:
 - insert a new definition of ‘commercial fitness activity’;
 - insert a new definition of ‘permitted business’;
 - insert a new definition of ‘underwater recreational activity’.

The reasons why the above provisions are considered to be anti-competitive are identified in the table which forms **Attachment ‘A’** to this plan. The list of possible anti-competitive provisions has been amended since it was presented to Council at its meeting on 02 November 2015.

5. Current environment

Regulation under LL10 and SLL10.1

LL10 and SLL10.1 regulate the use of Council's bathing reserves including use for commercial activities. The objects of LL10 (which will be retained with amendments in the proposed amendments) relevantly include the following:

- “(d) *restrict the economic scope of the conduct of commercial activities in bathing reserves in recognition of the fact that such activities may otherwise enjoy an unfair commercial advantage over competitive activities conducted from a fixed premises in the area;*
...
(f) *restrict the conduct of commercial activities in bathing reserves to activities which are of economic significance to the area 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), in recognition of the need to—*
(i) *prevent or minimise environmental harm in bathing reserves; and*
(ii) *preserve and enhance public safety and amenity in bathing reserves.”*

It is therefore a clearly stated objective that LL10 (and SLL10.1, which assists LL10 to achieve its objects) limits the scope of commercial activity in bathing reserves. Amongst other reasons, this is to protect and enhance the character of the Gold Coast's iconic beaches, which are a fundamental part of life on the coast and contribute significantly to its economy. The anti-competitive provisions in LL10 and SLL10.1 that impose those restrictions on commercial activity were subjected to a public-interest test process prior to their implementation and were retained. Prior to the current proposed amendments, the City undertook public consultation regarding the level of commercial activity on the City's Ocean Beaches, the results of which supported the economic restrictions imposed by LL10.

LL10 currently regulates the operation of commercial and other activities in bathing reserves through a permit system. Under section 10 of the existing LL10, a person must not operate a business or associated activity on a bathing reserve unless it is specified as a 'regulated activity' and authorised under a 'permit'.

Amendments to Regulation of Commercial Activity in Bathing Reserves

The proposed amendments to LL10 and SLL10.1 will continue to restrict commercial activity in bathing reserves. In particular, the business must not be carried on in a bathing reserve unless the business:

- (a) *is a permitted business; and*
(b) *is not a prohibited permitted business; and*
(c) *if the business is a permitted business but not a prohibited permitted business – the carrying on of the business is authorised by a permit.*

The following business is now identified as a *permitted business*:

- (a) *conducting an underwater recreational activity (as that expression is defined in SLL10.1); and*
(b) *conducting a marriage ceremony by marriage celebrant; and*
(c) *an entertainment or promotional event, product launch or corporate event, which:*
(i) *is of economic significance to the area; and*

- (ii) complies with the local government's ocean beaches management plan or surf management plan;
- (d) film production; and
- (e) a temporary broadcast of a radio or television program; and
- (f) photography undertaken for a commercial purpose; and
- (g) the delivery to a person in a bathing reserve of food or non-alcoholic beverages from a business located outside a bathing reserve; and
- (h) the delivery of beach equipment to a person in a bathing reserve; and
- (i) a temporary business authorised by a resolution of the local government for a specified time period.

However, a limited category of *permitted business* may be carried on without a permit, provided the business complies with criteria prescribed by subordinate local law, and in particular:

- (a) the delivery to a person in a bathing reserve of food or non-alcoholic beverages from a business located outside a bathing reserve; and
- (b) the delivery to a person in a bathing reserve of beach equipment from a business located outside a bathing reserve; and
- (c) the following businesses where they are solely associated with a marriage ceremony that has a permit under LL10:
 - (i) conducting a marriage ceremony by a marriage celebrant; and
 - (ii) photography undertaken for a commercial purpose.

The proposed new sections 11 and 12 to LL10 will allow for further restriction of commercial activity by prohibiting otherwise 'permitted business' by Council resolution. The new sections will allow Council (after public consultation) to prohibit otherwise 'permitted business' from operating in certain bathing reserve areas and could limit the restriction to certain days and/or times. In addition, section 23 will be amended to allow Council to refuse applications for 'regulated activities' (for example an event) to operate on particular days in order to undertake maintenance and reduce any adverse impacts on the community from other approved activities.

Prohibition on Particular Businesses

Additionally, amendments to sections 10 and 13(1)(r) of LL10 give Council the ability to prohibit an activity in a bathing reserve by specifying it as a 'prohibited activity' in a subordinate local law.

The prohibited activities that amending SLL10.1 specifies for the purposes of sections 10 and 13(1)(r) of amending LL10 are as follows:

- (a) the carrying out of a business involving commercial fitness activity; and
- (b) conducting a busking performance.

The prohibition for fitness training activities will be retained, however the amendments rename this as 'commercial fitness activity' and clarify those fitness activities included and those excluded from being prohibited.

Conclusions

The possible anti-competitive provisions identified in Amending LL10 and Amending SLL10.1 may have the following impacts:

(a) Impacts on the size, distribution or participation of business:

- for existing and potential permitted businesses, there may be a moderate impact, given that the frequency and location where they can operate in bathing reserves can be limited if maintenance is required, the amenity to the surrounding community is adversely impacted, or if Council resolves to prohibit a permitted business from an area of a bathing reserve;
- for potential beach equipment hire businesses, there may be a positive impact because they will have an opportunity to provide a delivery service of pre-hired equipment within a bathing reserve;
- for potential food supply businesses, there may be a positive impact because they will have an opportunity to provide a delivery service of pre-purchased food and non-alcoholic beverages within a bathing reserve;

(b) Impacts on the consumer price or cost of production:

- unlikely to have a significant impact on the consumer price or cost of production. The overhead costs of compliance with the new regulatory regime will be minimal, and are unlikely to be significantly higher than compliance with the current regime.

(c) Impacts on business ownership, structure, form and behaviour and product service/quality:

- may have a positive impact on business behaviour, given that food and beach equipment delivery operators will be able to operate on beaches however they will need to ensure their practices comply with the prescribed criteria if they wish to provide that service.
- for other permitted businesses, there may be a minor impact on ownership, structure, form and behaviour because opportunities to operate in bathing reserves may become more limited if sections of bathing reserve are restricted due to maintenance activities, amenity impacts on the community and Council excluding sections of bathing reserve from the impact of commercial activity.
- unlikely to have any negative impact on product service or quality.

6. Confirm sections are anti-competitive

At this stage, the possible anti-competitive provisions that have been identified are still considered to be anti-competitive, and no errors were made during the identification process.

The possible anti-competitive provisions will be re-evaluated following the completion of public consultation.

7. Determination of exclusions

Amending LL10 and Amending SLL10.1 are not excluded from the review of anti-competitive provisions under the Guidelines.

8. Preliminary assessment

A preliminary assessment has been conducted in accordance with the Guidelines. Council is not

presently satisfied that there will not be any significant impacts from the possible anti-competitive provisions. Accordingly, the review process will be conducted in accordance with the principles set out in the Guidelines.

9. Realistic regulatory and non-regulatory alternatives to LL10, SLL10.1, Amending LL10 and Amending SLL10.1

The objects of LL10 and SLL10.1 (including Amending LL10 and Amending SLL10.1) are achieved through prohibition and by the implementation of a conventional permit system which requires that certain activities cannot be undertaken in bathing reserves without a permit, and allows for the imposition of conditions which assist in implementing the objects of the local law.

Amending LL10 and Amending SLL10.1 will extend Council's powers of management and control in respect of some business activities that are currently prohibited. It will also provide the ability for 'food and non-alcoholic beverage delivery' and 'pre-hired beach equipment delivery' business activities to be undertaken in a bathing reserve without a permit provided they comply with prescribed criteria.

The current regime is imposed through a system of **regulation** by local laws. Regulation is considered to be an effective and appropriate means of achieving the objectives of LL10, SLL10.1, Amending LL10 and Amending SLL10.1.

The other regulatory and non-regulatory alternatives available to the local government which may achieve the objectives of LL10, and SLL10.1 (including Amending LL10 and Amending SLL10.1) are identified in the Guidelines. Those alternatives have been analysed with a view to determining whether any are potentially viable alternatives to the current system of regulation. Following that analysis, it has been concluded that the following alternatives are not considered to be viable:

- self-regulation;
- no-regulation;
- master licensing;
- public information and education program;
- economic incentives;
- industry accreditation; and
- empowering consumers.

The following alternatives were, however, considered to be potentially viable alternatives, and were chosen for further consideration:

- co-regulation; and
- negative licensing.

Co-Regulation

The legal instruments and administrative arrangements involved with co-regulation are much the same as with local government regulation. The difference is that the rules are drafted in close consultation and co-operation with affected parties. For example, the regulation of local business (e.g. business hours) are developed through the joint endeavours of administrators, business, and representatives of the relevant chamber of commerce. The chances of compliance (with or without enforcement) are, therefore, increased because those that are directly affected make the rules, in part.

In a co-regulation environment, the role of local government is that of ‘senior partner’ in relation to product/service providers and consumers.

Negative Licensing

Under a negative licensing system, operators are presumed to have the right to be in business and prepared to ‘play by the rules’, provided they know what the rules are. Participants are fined heavily and immediately for breaches of the rules, and complaints are responded to quickly.

A complete change from the current regulation system to negative licensing may be capable of partially achieving the stated objectives of LL10 and SLL10.1 (including Amending LL10 and Amending SLL10.1). The proposed permit exemptions for businesses undertaking delivery of ‘food and non-alcoholic beverages’ and ‘pre-hired beach equipment’ are in the nature of a negative licensing system. These activities are considered suitable for permit exemption as any individual breach of local law requirements will not have a significant impact on the laws objectives.

By comparison the other business activities that will require a permit or are prohibited have far greater potential for significant negative impact on the laws objectives and for a large financial impost on the community.

A complete change to negative licensing would also require that proposed LL10, SLL10.1, Amending LL10 and Amending SLL10.1 be substantially re-drafted to accommodate the change in regulation.

10. Key stakeholders affected by the current situation and by a move to alternative arrangements

The following key stakeholders and broad impacts have been identified as potentially being affected by the proposed amendments to LL10 and SLL10.1:

Stakeholder	Approximate size of group	Distribution of group	Impact Rating and Rationale
Council of the City of Gold Coast	One Council	Local Government Area	Low positive Enhanced control over commercial activities in bathing reserves. Potential reduction in complaints about disturbance to users of bathing reserves from commercial activity however may be offset by food and beach hire equipment delivery complaints. .
Users of Bathing Reserves	1,000,000	Area of Council’s bathing reserves	Low positive Continued regulation of limited commercial activity in bathing reserves to protect access, amenity and safety whilst allowing delivery to beachgoers of some products. Increase in potential disturbance from new commercial activity and corresponding decrease in amenity and safety.
Life-saving clubs	21	Area of Council’s bathing reserves	Low positive Potential to participate in food and beach equipment hire delivery activities however may face competition from other commercial operators. Still are the only operator able to set up hire facilities within the bathing reserve

Stakeholder	Approximate size of group	Distribution of group	Impact Rating and Rationale
Surf School operators	19	Area of Council's bathing reserves	Low negative Increased regulation and limitation on opportunities to obtain permits due to possibility of areas of bathing reserve being excluded for commercial use. Operators are considered to be well catered for.
Wedding celebrants	30	Local Government Area	Mod positive Reduces regulation if operating under a bride and groom permit.
Beach equipment hire businesses	6	Area of Council's bathing reserves	Mod positive Increased opportunity to operate beach equipment hire delivery businesses without cost of applying for a permit.
Gold Coast's Chambers of Commerce and/or Industries	9	Local Government Area	Neutral Both positive and negative positions (i.e. over regulated and under regulated) from members depending upon business models, cost structures etc.
Food Industry	3,800	Local Government Area	Low positive Increased opportunity to operate food and non-alcoholic beverage delivery businesses without cost of applying for a permit. Some beachside businesses may be negatively impacted by competition from remote businesses. Total sector sales may increase.
Event industry	30, including surf life-saving clubs located in bathing reserves	Local Government Area	Low positive Increased commercial opportunity and some constraints. Amendments allow for: <ul style="list-style-type: none"> • product launches and corporate events; • areas excluded from commercial activities; • clean-up and maintenance periods in between consecutive events.

The likely broad impacts on the key stakeholders that would result from a change to **co-regulation** are as follows:

Stakeholder	Approximate size of group	Distribution of group	Impact Rating and Rationale
Council of the City of Gold Coast	One Council	Local Government Area	Mod negative Would require the suspension of the current local-law making process and a potentially lengthy period of consultation with industry stakeholders whilst the laws are substantially re-drafted and an education and training program implemented. It is also not considered that this would result in any substantive benefit to Council, since Council's current practice is to consult with affected stakeholders during the process of developing its local

Stakeholder	Approximate size of group	Distribution of group	Impact Rating and Rationale
			<p>laws.</p> <p>Whilst the objective of co-regulation is to encourage increased compliance through cooperation, the likely result of moving to a system of co-regulation will be an overall decrease in the regulation of business in bathing reserves. This may negatively impact on the objective of prohibiting business in bathing reserves except where specifically authorised because of some intrinsic need or benefit.</p> <p>Increase in resources required to properly maintain safety and amenity in bathing reserves due to decrease in standards for commercial activities.</p>
Users of Bathing Reserves	1,000,000	Bathing Reserves	<p>Low negative</p> <p>Increased consultation with business is likely to result in overall decrease in regulation of bathing reserves.</p> <p>Likely increase in operators of the affected businesses over time, leading to reduced amenity of bathing reserves and likely impacts on the safety of users.</p>
Life-saving clubs	21	Bathing Reserves	<p>Low negative</p> <p>Increased consultation with business is likely to result in overall decrease in regulation of bathing reserves which may affect the life saving clubs.</p>
Surf School operators	19	Bathing Reserves	<p>Low positive</p> <p>Increased consultation may result in minor reductions in regulatory constraints however operators are well catered for.</p>
Wedding celebrants	30	Local Government Area	<p>Low positive</p> <p>A system of co-regulation may result in reductions in regulatory constraints. However with input from other stakeholders there is also potential for additional regulatory constraints.. The proposed amendments advantage this stakeholder group as they work on a negative-license system with limited regulation.</p>
Beach equipment hire businesses	6	Bathing reserves	<p>Low positive</p> <p>A system of co-regulation may result in reductions in regulatory constraints however there is also potential with input from other stakeholders for additional constraints. The proposed amendments advantage this stakeholder group as they work on a negative-license system (for delivery activities) with limited regulation.</p>
Gold Coast's Chambers of Commerce and/or Industries	9	Local Government Area	<p>Neutral</p> <p>Fewer complaints by business of over-regulation and anti-competitive local laws because of the reduced regulation.</p> <p>Potential increased complaints by operators of fixed-location businesses at a disadvantage over operators on bathing reserves.</p>

Stakeholder	Approximate size of group	Distribution of group	Impact Rating and Rationale
Food Industry	3,800	Local Government Area	<p>Low positive</p> <p>A system of co-regulation may result in reductions in regulatory constraints however with input from other stakeholders there is also potential for additional constraints. The proposed amendments advantage this stakeholder group (for food deliveries) as they work on a negative-license system with limited regulation.</p> <p>Operators may benefit from input into the development of the regulatory regime however this would require the suspension of the current local-law making process and a potentially lengthy period of consultation with industry stakeholders whilst the laws are substantially re-drafted and an education and training program implemented. Proposed amendments will allow partial operation of a currently prohibited activity sooner.</p>
Event industry	30, including surf life-saving clubs located in bathing reserves	Local Government Area	<p>Low positive</p> <p>A system of co-regulation may result in reductions in regulatory constraints however with input from other stakeholders there may also be an increase in constraints. The proposed amendments advantage this stakeholder group as they allow for product launches and corporate events .</p>

The likely broad impacts on the key stakeholders that would result from a change to **negative licensing** are as follows:

Stakeholder	Approximate size of group	Distribution of group	Impact Rating and Rationale
Council of the City of Gold Coast	One Council	Local Government Area	<p>High negative</p> <p>High potential for increase in complaints about safety and amenity issues in bathing reserves. Associated impacts on the reputation of Council's beaches which are integral to its economy. Loss of potential permit fees.</p> <p>Negative licensing would require substantial changes to the local law to abolish the permit system and require Council expenditures on business awareness raising and training.</p> <p>Increase in resources required to properly maintain safety in bathing reserves due to decrease in standards for commercial activities.</p>
Users of Bathing Reserves	1,000,000	Area of Council's bathing reserves	<p>Moderate negative</p> <p>Likely increase in operators of the affected businesses over time and poor compliance standards leading to reduced amenity of bathing reserves and likely impacts on the safety of users.</p>

Stakeholder	Approximate size of group	Distribution of group	Impact Rating and Rationale
Life-saving clubs	21	Area of Council's bathing reserves	Moderate negative Potential increase in resources required to properly maintain safety in bathing reserves due to decrease in standards for commercial activities.
Surf School operators	19	Area of Council's bathing reserves	Low negative The current restrictions to prevent operators moving in on other operator's areas would be removed by a negative-licensing scenario. Existing operators would be impacted by a lack of regulation protecting their specified location and potential damage to the industry's reputation from itinerant operators. An influx of operators may provide increased access to school services however due to reduced standards there may also be an increased safety risk to school patrons and other beachgoers.
Wedding celebrants	30	Local Government Area	Low positive The current means of regulation by Council is similar to a negative-licensing scenario. The status quo would therefore effectively be maintained, however operators would benefit from the continuing lack of regulation.
Beach equipment hire businesses	6	Area of Council's bathing reserves	Low positive Currently proposed for this group (for equipment delivery). Increased opportunity to operate beach equipment hire delivery businesses without cost of applying for a permit
Gold Coast's Chambers of Commerce and/or Industries	9	Local Government Area	Low Negative Decreased beach safety and amenity standards resulting from negative licensing would impact on the city's attractiveness as a tourism destination and the economy. Fewer complaints by business of over-regulation and anti-competitive local laws because of the reduced regulation. Increased complaints by operators of fixed-location businesses at a disadvantage over operators on bathing reserves. Increased complaints by operators vying for a location to run their business.
Food Industry	3,800	Local Government Area	Low positive Currently proposed for this group (for food delivery). Increased opportunity to operate food and non-alcoholic beverage delivery businesses without cost of applying for a permit
Event industry	30, including surf life-saving clubs located in bathing reserves	Local Government Area	High negative Unable/difficulty in securing location and times to hold events. Increased competition with similar events held at the same time and/or same location.

11. Type of assessment and level of resources required

The assessment will comply with the following principles set out in the Guidelines:

1. Meaningful consultation with relevant businesses about the anti-competitive provisions;
2. Examination of the reasonable alternatives to the anti-competitive provisions;
3. A cost benefit analysis that involves calculating the value of the impacts, both positive and negative, of the anti-competitive provisions including:
 - (i) the local government's costs in implementing and enforcing the provisions;
 - (ii) the costs of compliance for business;
 - (iii) comparison of the total costs for each of the reasonable alternatives;
 - (iv) the benefits to the community from the anti-competitive provisions.
4. Determining whether on balance the anti-competitive provisions should be retained in the proposed local law in the overall public interest.

In conducting the assessment Council will also have regard to the Public Benefit Test Guidelines dated October 1999 by Queensland Treasury. The assessment will be conducted by Council as a minor assessment. The emphasis will be on qualitative analysis with key impacts expressed in monetary terms where data is available.

The review will be conducted in-house by a team of Council officers.

12. Extent of consultation to be conducted

Consultation will be conducted by giving public notice of the review in the local newspaper and inviting submissions. Public notices will also be posted on the public notice boards in Council's chambers and on Council's website, and letters will be sent to representative bodies of existing operators advising of the review and inviting submissions. The public notice will also advise that the consultation on anti-competitive provisions is being conducted with the public consultation for Amending LL10 and Amending SLL10.1.

The public interest test plan and copies of Amending LL10 and Amending SLL10.1 will be open to inspection at Council's public office and copies will be available for purchase.

13. Determine time-frame for conducting the public interest test

The time-frames for conducting the public interest test will be as follows:

Commence public interest test	15 November 2015
Estimate of time for completing public interest test Consultation period	6 weeks, including consultation period. Minimum of 3 weeks (21 days)
Target date for presenting report to local government	The Council meeting to be convened by Council on 29 January 2016.

14. Determine content of the public interest test report

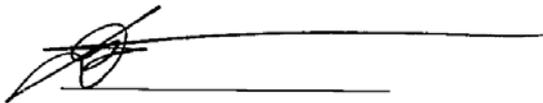
The public interest test report will provide:

- a summary of the consultation process including a list of affected groups consulted and the outcomes of consultation;
- a statement of alternatives which are assessed to be not viable;
- a summary of the positive and negative impacts associated with the alternatives compared to the existing environment;
- a summary of the net impacts (positive or negative) associated with the alternatives; and
- recommendations.

15. Public interest test plan approval

This decision has been delegated by Council to the Chief Executive Officer. The *Local Government Act 2009* allows this decision to be delegated by Council. Council will not delegate any decision in respect of recommendations contained in the actual public interest test report.

Approved by:



Dale Dickson
Chief Executive Officer, Council of the City of Gold Coast

Dated: 12 / 11 / 2015

ATTACHMENT A

Council of the City of Gold Coast
Bathing Reserves (Amendment) Local Law (No. 1) 2015
Bathing Reserves (Amendment) Subordinate Local Law (No. 1) 2015
List of Possible Anti-Competitive Provisions

Date: 05 November 2015

Name of Local Law	Brief description of object/purpose of local law	Description of anti-competitive provisions	Criteria under which anti-competitive provisions caught	Reasons, or basis, for thinking the provision is caught by the criteria
<p><i>Bathing Reserves (Amendment) Local Law (No. 1) 2015 (Amending LL10)</i></p>	<p>The object of this local law is to amend <i>Local Law No. 10 (Bathing Reserves) 2004</i> to—</p> <p>(a) provide the local government with appropriate powers to effectively regulate activities within bathing reserves; and</p>	<p>6 (Replacement of section 10 (Regulation of business))</p>	<p>Barrier to entering the market, including prohibition, licensing or registration and restrictions on conduct.</p>	<p>Requires businesses to obtain approval (in the form of a permit) from the local government before operating. Some business will be prohibited and will not be able to operate.</p> <p>Places restrictions on the conduct of a business including where businesses may operate and the hours of operation.</p>
	<p>(b) make consequential and minor amendments; and</p> <p>(c) insert and amend definitions of terms that are necessary for the implementation of the provisions of the local law; and</p>	<p>8 (Insertion of new sections 11 and 12)</p> <p>Proposed new section 11 (Designation of excluded bathing reserves)</p>	<p>Barrier to entering the market, including prohibition and restrictions on conduct.</p>	<p>Could place restrictions on the conduct of a business including where businesses may operate and the hours of operation.</p>
	<p>(d) ensure consistency with State legislation, the local</p>	<p>8 (Insertion of new sections 11 and 12)</p> <p>Proposed new section 12 (Register of excluded bathing reserves)</p>	<p>Barrier to entering the market, including prohibition and restrictions on conduct.</p>	<p>Could place restrictions on the conduct of a business including where businesses may operate and the hours of operation.</p>

Name of Local Law	Brief description of object/purpose of local law	Description of anti-competitive provisions	Criteria under which anti-competitive provisions caught	Reasons, or basis, for thinking the provision is caught by the criteria
	government's administrative procedures and the local government's other local laws and correct grammatical or typographical errors and other inconsistencies.	<p>10 (Amendment of section 14 Regulated conduct)</p> <p>Inclusion of 'a drone'</p> <p>Remove 'busking and public entertainment'</p> <p>Remove 'gathering of up to 50 people for a marriage ceremony'</p> <p>Include 'club training activity up to 50 people'</p>	Barrier to entering the market, including prohibition, licensing or registration and restrictions on conduct.	<p>Busking prohibited by removal which prevents entry to market potential</p> <p>Use of drones will require a permit which may be a barrier to business.</p> <p>Sporting clubs will require a permit if over 50 people, however potentially prohibited under current law if considered 'group fitness training'.</p> <p>Marriage ceremonies require permit which may be a barrier to business.</p>
		Section 15 (Amendment of section 23 (Grant of a permit))	Barrier to entering the market, including prohibition and restrictions on conduct.	Could place restrictions on the conduct of a business including where businesses may operate and the hours of operation..
		Section 27 (Amendment of section 55 (Subordinate local laws))	Barrier to entering the market, including prohibition and restrictions on conduct.	Could place restrictions on the conduct of a business including where businesses may operate and the hours of operation..
		<p>Section 28 (Insertion of new Part 11 (Transitional provisions))</p> <p>Proposed new section 57 (Transitional provision for the designation of prohibited permitted businesses and prohibited regulated activities)</p>	Barrier to entering the market, including prohibition and restrictions on conduct.	Could place restrictions on the conduct of a business including where businesses may operate and the hours of operation.

Name of Local Law	Brief description of object/purpose of local law	Description of anti-competitive provisions	Criteria under which anti-competitive provisions caught	Reasons, or basis, for thinking the provision is caught by the criteria
<p><i>Bathing Reserves (Amendment) Subordinate Local Law (No. 1) 2015</i> (Amending SLL10.1)</p>	<p>The object of this subordinate local law is to amend <i>Subordinate Local Law No. 10.1 (Bathing Reserves) 2005</i> to—</p> <p>(a) assist in the regulation of regulated activities;</p> <p>(b) make minor and consequential amendments.</p>	Section 7 (Amendment of section 5 (Prohibited activities))	Barrier to entering the market, including prohibition.	Prevents entry to market potential.
		Section 10 (Amendment of section 7 (Requirement for a permit))	Barrier to entering the market, including prohibition, licensing or registration and restrictions on conduct.	<p>Restricts types of business that can operate without requiring a permit provided specific conditions are met.</p> <p>Places restrictions on the conduct of a business including how businesses may operate.</p>
		Section 12 (Amendment of section 9 (Grant of a permit))	Barrier to entering the market, including prohibition.	Prevents entry to market potential.
		Section 15 (Insertion of new section 11 (Prescribed criteria))	Barrier to entering the market, including restrictions on conduct.	Places restrictions on the conduct of a business including where businesses may operate and how they operate.
		<p>Section 18 (Amendment of Schedule (Dictionary))</p> <p>Proposed new definition of 'commercial fitness activity'</p>	Barrier to entering the market, including prohibition.	Prevents entry to market potential for those businesses meeting definition.
		<p>Section 18 (Amendment of Schedule (Dictionary))</p> <p>Proposed new definition of 'permitted business'</p>	Barrier to entering the market, including prohibition, licensing or registration and restrictions on conduct.	<p>Prevents entry to market potential for those businesses that do not meet the definition</p> <p>Places permit requirements and restrictions on the conduct of a business including where businesses may operate and the hours of operation for those businesses meeting the definition.</p>

Name of Local Law	Brief description of object/purpose of local law	Description of anti-competitive provisions	Criteria under which anti-competitive provisions caught	Reasons, or basis, for thinking the provision is caught by the criteria
		<p>Section 18 (Amendment of Schedule (Dictionary))</p> <p>Proposed new definition of 'underwater recreational activity'</p>	<p>Barrier to entering the market, including licensing or registration and restrictions on conduct.</p>	<p>Places permit requirements and restrictions on the conduct of a business including where businesses may operate and the hours of operation for those businesses meeting the definition.</p>

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