

GOLD COAST CITY COUNCIL



Gold Coast City Council

**LOCAL LAW NO. 30
(BATHING RESERVES) 2004**

GOLD COAST CITY COUNCIL LOCAL LAW NO. 30 (BATHING RESERVES) 2004

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Part 1 Preliminary

1. Short title

This local law may be cited as Gold Coast City Council Local Law No. 30 (Bathing Reserves) 2004.

2. Objects

The objects of this local law are to—

- (a) provide for the supervision and regulation of bathing reserves; and
- (b) provide for the surveillance of bathing reserves by life-saving patrols; and
- (c) regulate conduct in bathing reserves so as to enhance public safety, convenience and amenity and in particular —
 - (i) the use of aquatic and other equipment in bathing reserves; and
 - (ii) the erection of notices, signs and structures generally in bathing reserves.
- (d) restrict the economic scope of the conduct of commercial activities in bathing reserves, where such activities are permitted, in recognition of the fact that such activities may otherwise enjoy an unfair commercial advantage over competitive activities conducted from fixed premises in the area for which rates and other charges are paid, and to which planning and other regulatory legislation applies; and
- (e) provide for, and encourage public access to and use and enjoyment of, bathing reserves for both active and passive recreation, while ensuring that such access use and enjoyment occurs consistently with the preservation and enhancement of public safety and amenity; and
- (f) restrict the conduct of commercial activities in bathing reserves, to activities which are of economic significance to the area 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.

3. Definitions—the dictionary

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

Part 2 Bathing Reserves

Division 1 Designation of bathing reserves

4. Signs indicating existence of bathing reserve

- (1) If the local government proposes to regulate the use of a bathing reserve under this local law, the local government must erect and maintain signs, in prominent positions on or adjacent to the foreshore, to indicate the existence of the bathing

reserve.

- (2) Signs must be erected at the lateral boundaries of the bathing reserve indicating the position of the boundaries.
- (3) The signs must face both seawards and shorewards.

Division 2 *Bathing areas*

5. *Bathing areas*

- (1) An authorised person may mark out a bathing area within a bathing reserve.
- (2) The area selected as a bathing area must be the part of the bathing reserve that is, in the authorised person's opinion, the safest and most suitable for bathing in view of the prevailing conditions.
- (3) The bathing area is marked out by placing 2 patrol flags at different points on or adjacent to the foreshore.
- (4) The bathing area consists of the area defined by—
 - (a) an imaginary line between the 2 flags; and
 - (b) lateral boundaries extending seaward from each flag at right angles from the imaginary line; and
 - (c) the outer boundary of the bathing reserve.
- (5) An authorised person may, in view of prevailing conditions, change the boundaries of a bathing area by changing the position of the patrol flags.
- (6) Patrol flags must not be exhibited if the bathing area is not under surveillance by a life-saving patrol.

6. *Flags to inform bathers about prevailing conditions*

- (1) If an authorised person marks out a bathing area, the authorised person may exhibit in a prominent position on or adjacent to the foreshore—
 - (a) a yellow flag warning bathers to use particular caution in view of prevailing conditions; or
 - (b) a green flag indicating that, in the authorised person's opinion, conditions for bathing are normal.
- (2) An authorised person may, in view of prevailing conditions, substitute a green flag for a yellow flag or a yellow flag for a green flag.

7. *Closure of bathing reserve*

- (1) An authorised person may close a bathing reserve, or part of a bathing reserve, to bathing by erecting in a prominent position on or adjacent to the foreshore—
 - (a) a red flag; and

- (b) other appropriate signs indicating that the reserve, or the relevant part of the reserve, is closed to bathing.¹
- (2) If patrol flags marking out a bathing area have been placed in position, the patrol flags must be removed on closure of the bathing reserve or a part of the bathing reserve in which the bathing area is situated.
- (3) A person must not bathe in a bathing reserve or part of a bathing reserve, while the reserve or the relevant part of the reserve is closed to bathing.

Maximum penalty for subsection (3)—50 penalty units.

Division 3 Reservation for training

8. Reservation for training

- (1) An authorised person may—
 - (a) temporarily set apart the whole or a part of a bathing reserve for life-saving training; and
 - (b) impose restrictions on access to the area set apart.
- (2) However an authorised person may not set apart any part of a bathing reserve for life-saving training exclusively.
- (3) An area set apart under subsection (1), and the restrictions applying to access, must be clearly indicated by signs erected in prominent positions on the bathing reserve.

Division 4 Licensing of bathing reserves for a regulated purpose

9. Licence for regulated purpose

- (1) A person must not use a bathing reserve or any part of a bathing reserve for a regulated purpose unless authorised by a licence (a use licence) under this division.

Maximum penalty—100 penalty units.

- (2) For subsection (1), a **regulated purpose** is—
 - (a) the conduct of a surfing competition; or
 - (b) filming for the purposes of a television commercial or a movie; or
 - (c) the setting apart of a bathing reserve or a part of a bathing reserve for life-saving training on an exclusive basis; or
 - (d) the conduct of an entertainment or promotional event which is of economic significance to the area; or
 - (e) the conduct of a life-saving competition; or

¹ Although this local law does not require strict compliance with Australian Standard No. 2416 (Design and Application of Water Safety Signs), that standard should, where practicable, be complied with.

- (f) another purpose specified by subordinate local law as a regulated purpose.

10. Application for use licence

An application for a use licence must be on the prescribed form and include or be accompanied by—

- (a) details of the use proposed by the applicant; and
- (b) details of any adverse environmental impact the proposed use is likely to have on the bathing reserve; and
- (c) details of any adverse impact the proposed use is likely to have on the area surrounding the bathing reserve; and
- (d) details of how and when existing facilities in the bathing reserve will be used for the purposes of the activity proposed in the application; and
- (e) details of how the use proposed by the applicant is likely to have an adverse impact on the safety of persons who participate in the activity or the general public; and
- (f) details of all equipment the applicant proposes to use; and
- (g) details of the commencement and duration of the proposed use; and
- (h) the prescribed fee.

11. Grant of use licence

- (1) The local government may grant a use licence authorising the use of a bathing reserve or a particular part of a bathing reserve for a regulated purpose if it is satisfied that—
 - (a) the licence may be granted consistently with the objects of this local law; and
 - (b) the activity is appropriate in the bathing reserve; and
 - (c) the activity will not have an adverse environmental impact on the bathing reserve; and
 - (d) the activity will not have an adverse impact on the area surrounding the bathing reserve; and
 - (e) the facilities in the bathing reserve are adequate for the use proposed in the application; and
 - (f) the activity will not have an adverse impact on the safety of participants or the general public.
- (2) A subordinate local law may specify criteria with which the activity of using the bathing reserve for the regulated purpose must comply, or will ordinarily be expected to comply.
- (3) A licence under this division can not authorise a person to carry on a use for which a development permit is required under the *Integrated Planning Act 1997*.

12. Term of use licence

A use licence is granted for a term specified in the licence.

13. Conditions of use licence

- (1) A use licence may be granted on conditions the local government considers appropriate.
- (2) The conditions of the licence may, for example, require the holder of the licence to—
 - (a) define the licensed area by signs, flags and floating buoys or in some other way that clearly indicates the licensed area and the use for which it is set apart; and
 - (b) take specified precautions to protect the safety of persons who enter the licensed area; and
 - (c) properly maintain all equipment and facilities used by the holder of the licence within the licensed area; and
 - (d) indemnify the local government in writing in respect of all claims for damage to property and personal injury arising out of the use authorised by the licence; and
 - (e) effect and maintain in force at all times a public liability insurance policy noting the local government's interest as an insured party in respect of the use authorised by the licence for an amount of \$10,000,000.00 or such higher amount as the local government considers appropriate; and
 - (f) produce evidence of the existence and currency of the policy after receipt of a written request from an authorised person; and
 - (g) where the holder of the licence is granted the right to use a bathing reserve or a particular part of a bathing reserve on a non exclusive basis, make facilities installed under the licence available for use by the public at specified times or over specified periods; and
 - (h) where the holder of the licence is granted the right to use a bathing reserve or a particular part of a bathing reserve for a specified event on a commercial basis, make facilities installed under the licence available for use by patrons of the event at specified times or over specified periods; and
 - (i) provide temporary toilet facilities at a rate of 1 toilet per 80 people who attend the bathing reserve for the activity; and
 - (j) remove any barrier or other structure placed or erected on the bathing reserve at the conclusion of the activity; and
 - (k) collect and properly dispose of all waste and rubbish at the conclusion of the activity; and
 - (l) erect temporary advertising signs to promote the use for which the licensed area is set apart at specified locations on the bathing reserve and specified

times or over specified periods.

- (3) The local government may, by subordinate local law, prescribe conditions that must be imposed in a use licence or that will ordinarily be imposed in a use licence.

14. Compliance with conditions of use licence

The holder of a use licence must ensure that the conditions of the licence are complied with.

Maximum penalty—50 penalty units.

15. Power to change conditions of use licence

- (1) The local government may, by written notice given to the holder of a use licence, change² the conditions of the licence.
- (2) However, the local government may only change the conditions of a use licence if—
 - (a) the holder of the licence agrees to the proposed change; or
 - (b) the local government—
 - (i) has given the holder of the licence reasonable written notice of the proposed change inviting the holder of the licence to make written representations about the proposed change within a reasonable period fixed in the notice; and
 - (ii) if the holder of the licence makes written representations within the time allowed in the notice — has taken the representations into account.

16. Direction to leave use licence area

- (1) This section applies if—
 - (a) a use licence is granted by the local government; and
 - (b) the licence sets apart for the exclusive use of the holder of the licence, a bathing reserve or a particular part of a bathing reserve; and
 - (c) the licence allows the holder of the licence to impose restrictions on access to the bathing reserve or the particular part of the bathing reserve, as the case may be, which is set apart for the exclusive use of the holder of the licence; and
 - (d) the bathing reserve or the particular part of the bathing reserve, as the case may be, set apart for the exclusive use of the holder of the licence and the restrictions applying to access are clearly indicated by signs erected in

² A **change** to the conditions of a licence includes a change by addition, exception, omission or substitution (See *Acts Interpretation Act 1954*, section 36).

- (1) The local government may grant a vehicle licence if satisfied—
 - (a) of the necessity for the vehicle to be driven in the bathing reserve at the time or times and on the day or days detailed in the application; and
 - (b) that the licence may be granted consistently with the objects of this local law; and
 - (c) that it is appropriate for the applicant to drive the vehicle in the bathing reserve or the particular part of the bathing reserve, as the case may be; and
 - (d) that the driving of the vehicle in the bathing reserve will not—
 - (i) damage the bathing reserve; or
 - (ii) have an adverse effect on the amenity of the bathing reserve; or
 - (iii) obstruct or cause a nuisance to other users of the bathing reserve; or
 - (iv) have an adverse impact on the safety of other users of the bathing reserve.
- (2) A subordinate local law may specify criteria with which the activity of driving a vehicle in the bathing reserve must comply, or will ordinarily be expected to comply.

20. Term of vehicle licence

- (1) A vehicle licence is granted for a term specified in the licence.
- (2) The local government may, from time to time, on application by the licence holder, renew the vehicle licence.
- (3) The term for which a vehicle licence is granted or renewed is to be—
 - (a) fixed as required by a relevant subordinate local law; or
 - (b) in the absence of a relevant subordinate local law—decided by the local government when it grants the licence or renewal.
- (4) However, the local government must, on application for renewal of a vehicle licence made before the end of the term for which the licence was granted or last renewed, renew the licence for a further term unless—
 - (a) the local government has given the holder of the licence reasonable written notice of its intention not to renew the licence; or
 - (b) there are proper grounds for cancellation of the licence.⁴

21. Conditions of vehicle licence

- (1) A vehicle licence may be granted on conditions the local government considers appropriate.
- (2) The conditions may, for example, require the holder of the licence to—

⁴ Proper grounds for cancellation of a licence exist if the holder of the licence fails to remedy a contravention of this local law or a condition of a licence within the time allowed in a compliance notice (See section 37(1)).

- (a) drive in the bathing reserve only on specified days and at specified times; and
 - (b) ensure that at all times when the vehicle is in the bathing reserve, the driver of the vehicle complies with section 83 of the *Transport Operations (Road Use Management) Act 1995*⁵; and
 - (c) enter and exit the bathing reserve only at ramps designated for vehicular access; and
 - (d) ensure that a path clear of pedestrians is available prior to approaching any point of vehicular access to or egress from the bathing reserve; and
 - (e) ensure that the vehicle is fitted with a flashing yellow light which is displayed at all times when the vehicle is in the bathing reserve other than when the vehicle is stationary; and
 - (f) ensure that the vehicle is driven at a speed not exceeding—
 - (i) in a bathing area, 5 kilometres per hour; and
 - (ii) elsewhere in a bathing reserve, 20 kilometres per hour; and
 - (g) drive the vehicle only within a specified area or part of the bathing reserve; and
 - (h) so far as any vehicle identified in the licence is concerned — ensure compliance with section 10 of the *Transport Operations (Road Use Management — Vehicle Registration) Regulation 1999*⁶; and
 - (i) use only one or more specified vehicles in the bathing reserve; and
 - (j) indemnify the local government in respect of all claims for damage to property and personal injury arising out of any activity authorised by the licence; and
 - (k) effect and maintain in force at all times a public liability insurance policy noting the local government's interest as an insured party in respect of the activity authorised by the licence for an amount of \$10,000,000.00 or such higher amount as the local government considers appropriate; and
 - (l) produce evidence of the existence and currency of the policy after receipt of a written request from an authorised person; and
 - (m) carry a true copy of the licence and particulars of all conditions imposed in the licence in the vehicle at all times whilst the vehicle is in the bathing reserve; and
 - (n) give way to all pedestrians in the bathing reserve.
- (3) The local government may, by subordinate local law, prescribe conditions that must be imposed in a vehicle licence or that will ordinarily be imposed in a vehicle licence.

⁵ Section 83 (Careless driving of motor vehicles).

⁶ Section 10 (Vehicles used on roads must be registered).

22. Compliance with conditions of vehicle licence

The holder of a vehicle licence must ensure that the conditions of the licence are complied with.

Maximum penalty—50 penalty units.

23. Power to change conditions of vehicle licence

- (1) The local government may, by written notice given to the holder of a vehicle licence, change⁷ the conditions of the licence.
- (2) However, the local government may only change the conditions of a vehicle licence if—
 - (a) the holder of the licence agrees to the proposed change; or
 - (b) the local government—
 - (i) has given the holder of the licence reasonable written notice of the proposed change inviting the holder of the licence to make written representations about the proposed change within a reasonable period fixed in the notice; and
 - (ii) if the holder of the licence makes written representations within the time allowed in the notice has taken the representations into account.

Division 6 Prohibited conduct in bathing reserves

24. Commercial supply prohibited

- (1) A person (supplier) must not, in furtherance of a commercial purpose, supply to someone else in a bathing reserve any —
 - (a) services; or
 - (b) goods, materials, thing or substance.

Maximum penalty – 100 penalty units.

- (2) Subsection (1) does not apply if —
 - (a) the supply is a regulated purpose and the supplier is the holder of a current use licence; or
 - (b) the supply consists of the hiring out of beach equipment in a bathing reserve, or for use in a bathing reserve and the supplier is the holder of a current hiring licence; or
 - (c) the supply is authorised under some other law.
- (3) Notice of the prohibition imposed under subsection (1) must be included on reserve signs or on notices adjacent to the reserve signs.

⁷ A **change** to the conditions of a licence includes a change by addition, exception, omission or substitution (See *Acts Interpretation Act 1954*, section 36).

- (4) In this section supply includes the following —
- (a) exchange, give or sell;
 - (b) possess for supply;
 - (c) offer or agree to exchange, give, sell or otherwise supply;
 - (d) cause or permit to be given, sold or otherwise supplied.

25. Other activities prohibited in a bathing reserve

- (1) A person must not use a bathing reserve or any part of a bathing reserve for a prohibited activity.

Maximum penalty — 50 penalty units.

- (2) For subsection (1), a **prohibited activity** is —
- (a) the lighting or maintaining of a fire in a bathing reserve unless —
 - (i) the fire is in a fire place established by the local government for the purpose; or
 - (ii) the fire is authorised by a notification under section 63 or a permit under section 65, or required by a notification or notice under section 69 of the *Fire and Rescue Service Act 1990*; or
 - (b) the removal of turf, sand, clay, soil or other material from a bathing reserve; or
 - (c) the removal or damage of any infrastructure or facility in a bathing reserve; or
 - (d) the storage of any goods or materials in a bathing reserve; or
 - (e) any other activity specified by subordinate local law as a prohibited activity.
- (3) Subsection (1) has effect subject to —
- (a) the Peaceful Assembly Act 1992; and
 - (b) the Police Powers and Responsibilities Act 2000.
- (4) Notice of the prohibitions imposed under subsection (1) must be included on reserve signs or on notices adjacent to the reserve signs.

Part 3 Aquatic Equipment, Land Yachts and Vessels

26. Prohibition on use of aquatic equipment and vessels in bathing areas

- (1) A person must not use aquatic equipment⁸ or a vessel⁹ in a bathing area.

Maximum penalty—50 penalty units.

- (2) A person must not allow aquatic equipment or a vessel to enter a bathing area.

⁸ See definition of **aquatic equipment** in the dictionary.

⁹ See definition of **vessel** in the dictionary.

Maximum penalty—50 penalty units.

- (3) However—
- (a) this section does not prevent the use of aquatic equipment or a vessel if its use is authorised under some other law; and
 - (b) bathing equipment¹⁰ may be used in a bathing area; and
 - (c) if an authorised person authorises the use of aquatic equipment or a vessel in a bathing area, the equipment or vessel, as the case may be, may be used subject to conditions fixed by the authorised person when giving the authorisation; and
 - (d) life-saving equipment may be used in a bathing area for surveillance of the bathing area or to assist bathers in distress by—
 - (i) members of a life-saving patrol; or
 - (ii) a lifeguard¹¹.
- (4) If subsection (3) does not apply and a person uses aquatic equipment or a vessel in a bathing area an authorised person may direct the person to take specified action to remove the aquatic equipment or vessel, as the case may be, from the bathing area.
- (5) A person must not fail to comply with a direction given under subsection (4).

Maximum penalty—50 penalty units.

27. Restrictions on use of aquatic equipment, land yachts and vessels in bathing reserves

- (1) Subject to subsection (2), a person may use aquatic equipment in a bathing reserve
- (2) A person must not use aquatic equipment in a bathing reserve within 60m of a bathing area.

Maximum penalty—50 penalty units.

- (3) A person must not use a land yacht¹² in a bathing reserve.

Maximum penalty—50 penalty units.

- (4) A person must not use a vessel on that part of a bathing reserve which is less than 400m seawards of low water mark at ordinary spring tides.

Maximum penalty—50 penalty units.

- (5) However this section does not prevent the use in a bathing reserve of—
- (a) aquatic equipment, a land yacht or a vessel if its use is authorised under —
 - (i) some other law; or
 - (ii) a use licence granted under part 2, division 4; or

¹⁰ See definition of **bathing equipment** in the dictionary.

¹¹ See definition of **lifeguard** in the dictionary.

¹² See definition of **land yacht** in the dictionary.

- (iii) a subordinate local law; or
 - (b) life-saving equipment if it is being used for training, the surveillance of the bathing reserve or to assist bathers in distress by—
 - (i) members of a life-saving patrol; or
 - (ii) a lifeguard; or
 - (c) an essential services vessel¹³ if it is being used to provide the service for which it is designed or ordinarily used; or
 - (d) a vessel if it is being used by the holder of a licence, permit or authority issued under the *Fisheries Regulation 1995* in the exercise of the rights of the holder under the licence, permit or authority, as the case may be.
- (6) Notice of the prohibitions and restrictions imposed under subsections (2), (3) and (4) must be included on—
- (a) reserve signs or on notices adjacent to the reserve signs; and
 - (b) signs erected adjacent to each public marine facility¹⁴ in the area.
- (7) An authorised person may direct a person to take specified action to remove from a bathing reserve—
- (a) aquatic equipment if the person uses the equipment in the bathing reserve contrary to subsection (2); or
 - (b) a land yacht if the person uses the yacht in the bathing reserve contrary to subsection (3); or
 - (c) a vessel if the person uses the vessel in a bathing reserve contrary to subsection (4).
- (8) A person must not fail to comply with a direction given under subsection (7).

Maximum penalty—50 penalty units.

28. Reservation of areas for use of aquatic equipment

- (1) Subject to section 27(2), an authorised person may temporarily set apart a particular part of a bathing reserve for the use of aquatic equipment of a particular type.
- (2) A part of the bathing reserve set apart under this section must be defined by signs and flags or in some other way that clearly indicates the relevant part of the reserve and the use for which it is set apart.
- (3) If a part of a bathing reserve is set apart for the use of aquatic equipment of a particular type under this section, a person must not use aquatic equipment, in the relevant part of the reserve, that is not of the type for which the relevant part of the reserve is set apart.

Maximum penalty for subsection (3)—50 penalty units.

¹³ See definition of **essential services vessel** in the dictionary.

¹⁴ See definition of **public marine facility** in the dictionary.

Part 4 Hiring Out of Beach Equipment

29. Requirement to hold a hiring licence

- (1) A person must not hire out beach equipment¹⁵ in a bathing reserve, or for use in a bathing reserve, unless authorised by a licence (a **hiring licence**) under this part.

Maximum penalty—100 penalty units.

- (2) The local government may grant a licence authorising a person to hire out beach equipment in a bathing reserve or for use in a bathing reserve upon application made in that behalf in accordance with this part.

30. Application for hiring licence

An application for a licence authorising a person to hire out beach equipment in a bathing reserve or for use in a bathing reserve must be on the prescribed form and include or be accompanied by—

- (a) details of—
- (i) where the equipment is to be offered for hire; and
 - (ii) when the equipment is to be offered for hire; and
 - (iii) the nature of the beach equipment that is to be offered for hire; and
 - (iv) all works proposed to be undertaken by the applicant in the bathing reserve during the term of the licence; and
- (b) other information prescribed by subordinate local law; and
- (c) the prescribed fee.

31. Grant of licence

- (1) The local government may grant a licence authorising the applicant to hire out beach equipment in, or for use in, a bathing reserve if satisfied that—
- (a) the licence may be granted consistently with the objects of this local law; and
 - (b) the activity is appropriate in the bathing reserve; and
 - (c) there is a public demand for the beach equipment proposed to be hired by the applicant; and
 - (d) the current licences granted for the hiring out of the beach equipment proposed to be hired out by the applicant are not sufficient to meet public demand; and
 - (e) the range of beach equipment available for hire under current licences granted by the local government is not sufficient to meet demand; and

¹⁵ See definition of **beach equipment** in the dictionary.

- (f) the grant of the licence will not have an adverse environmental impact on the bathing reserve; and
- (g) the hiring out of the beach equipment—
 - (i) is not likely to cause obstruction, nuisance or inconvenience to other users of the bathing reserve; and
 - (ii) will not have an adverse impact on the safety of users of the bathing reserve.
- (2) A subordinate local law may specify criteria with which the activity of hiring out beach equipment must comply, or will ordinarily be expected to comply.
- (3) A hiring licence under this local law cannot authorise a person to carry on a business for which a development permit is required under the *Integrated Planning Act 1997*.

32. Term of hiring licence

- (1) The term of a hiring licence must—
 - (a) be specified in the licence; and
 - (b) not exceed 3 years.
- (2) The local government may, from time to time, on application by the licence holder, renew the hiring licence.
- (3) The term for which a hiring licence is granted or renewed is to be—
 - (a) fixed as required by a relevant subordinate local law; or
 - (b) in the absence of a relevant subordinate local law decided—by the local government when it grants the licence or renewal.
- (4) However, the local government must, on application for renewal of a hiring licence made before the end of the term for which the licence was granted or last renewed, renew the licence for a further term unless—
 - (a) the local government has given the holder of the licence reasonable written notice of its intention not to renew the licence; or
 - (b) there are proper grounds for cancellation of the licence.¹⁶

33. Conditions of hiring licence

- (1) A hiring licence may be granted on conditions the local government considers appropriate.
- (2) The conditions may, for example, require that the holder of the licence—
 - (a) keep the equipment in good repair and, where relevant, seaworthy condition; and

¹⁶ Proper grounds for cancellation of a licence exist if the holder of the licence fails to remedy a contravention of this local law or a condition of the licence within the time allowed in a compliance notice (See section 37(1)).

- (b) instruct people hiring the equipment in the use of appropriate safety precautions; and
 - (c) inform people hiring the equipment about restrictions affecting the use of the equipment in the bathing reserve; and
 - (d) legibly and permanently mark all equipment offered for hire—
 - (i) with the name and address of the holder of the licence; or
 - (ii) otherwise so as to indicate ownership by the holder of the licence; and
 - (e) not hire out specified equipment whilst the bathing reserve is closed; and
 - (f) if an authorised person so directs, not hire out a particular type of beach equipment which would be dangerous if used in the prevailing conditions, until the authorised person advises the holder of the licence that the conditions are again suitable for the use of the equipment; and
 - (g) use the licensed area only for the purposes of the conduct of the licensed business; and
 - (h) not undertake any works in the licensed area in respect of which a development permit is required under the *Integrated Planning Act 1997* without the necessary development permit; and
 - (i) indemnify the local government in writing in respect of all claims for damage to property and personal injury arising out of any activity authorised by the licence; and
 - (j) effect and maintain in force at all times a public liability insurance policy noting the local government's interest as an insured party in respect of the activity authorised by the licence for an amount of \$10,000,000.00 or such higher amount as the local government considers appropriate; and
 - (k) produce evidence of the existence and currency of the policy after receipt of a written request from an authorised person; and
 - (l) advise the local government in writing of the full name, telephone number, mobile telephone number, facsimile number, and e-mail address of—
 - (i) the licensee, where the licensee is an individual; or
 - (ii) the licensee's representative where the licensee is not an individual; and
 - (m) operate the licensed business during specified hours on specified days during the term of the licence; and
 - (n) not make available for hire any item other than beach equipment; and
 - (o) comply with all directions given orally or in writing by an authorised person about the location within the bathing reserve of the beach equipment, signs and other objects associated with the licence holder's business.
- (3) The local government may, by subordinate local law, prescribe conditions that must be imposed in a hiring licence or that will ordinarily be imposed in a hiring licence.

34. Compliance with conditions of hiring licence

The holder of a hiring licence must ensure that the conditions of the licence are complied with.

Maximum penalty—50 penalty units.

35. Power to change conditions of hiring licence

- (1) The local government may, by written notice given to the holder of a hiring licence, change¹⁷ the conditions of the licence.
- (2) However, the local government may only change the conditions of a hiring licence if—
 - (a) the holder of the licence agrees to the proposed change; or
 - (b) the local government—
 - (i) has given the holder of the licence reasonable written notice of the proposed change inviting the holder of the licence to make written representations about the proposed change within a reasonable period fixed in the notice; and
 - (ii) if the holder of the licence makes written representations within the time allowed in the notice—has taken the representations into account.

36. Transfer of hiring licence

- (1) The holder of a hiring licence may, with the approval of the local government, transfer the licence to another person.
- (2) The local government may impose conditions on the transfer of a hiring licence.
- (3) However, the local government cannot—
 - (a) unreasonably refuse its approval of the transfer of a hiring licence; or
 - (b) impose unreasonable conditions on the transfer of a hiring licence.

Part 5 Enforcement

37. Compliance notices

- (1) If the holder of a licence granted under this local law contravenes a provision of this local law or a condition of the licence, an authorised person may give the holder a written notice (a **compliance notice**) under this section.
- (2) A compliance notice may—
 - (a) if the contravention is of a continuing or recurrent nature—require the holder to stop the contravention; and

¹⁷ A **change** to the conditions of a licence includes a change by addition, exception, omission or substitution (See *Acts Interpretation Act 1954*, section 36).

- (b) whether or not the contravention is of a continuing or recurrent nature—require the holder to take specified action, within a time specified in the notice, to remedy the contravention.
- (3) The holder of the licence must comply with a notice under this section.
Maximum penalty for subsection (3)—50 penalty units.

38. Local government's power to have work carried out

If a person fails to have work required by a compliance notice carried out within the time allowed in the notice, the local government may itself carry out the work.

39. Powers of entry and cost recovery

- (1) If work required by a compliance notice is to be carried out on land of which the local government is not the owner or occupier, the local government may enter the land to perform the work—
 - (a) under section 1066 of the Act, if the person who has failed to carry out the work is the owner or occupier of the land; or
 - (b) under section 1070 of the Act, if the person who has failed to carry out the work is not the owner or occupier of the relevant land.
- (2) If the person who failed to comply with the notice is the owner of the relevant land, the amount properly and reasonably incurred by the local government in performing the work is recoverable (together with interest) under section 1066, 1067 and 1068 of the Act.
- (3) If the person who failed to comply with the notice is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the person in default (together with interest) on the same basis as applies to an owner of land under section 1067 of the Act.¹⁸

40. Suspension or cancellation of licence

- (1) If the holder of a licence granted under this local law fails to remedy a contravention of this local law or a condition of the licence within the time allowed in the compliance notice the local government may, by written notice given to the holder of the licence, suspend or cancel the licence.
- (2) However, before suspending or cancelling a licence granted under this local law, the local government must—
 - (a) give written notice to the holder of the licence of the proposed suspension or cancellation; and
 - (b) allow the holder of the licence a reasonable period stated in the notice to make written representations to the local government about the proposed suspension or cancellation; and

¹⁸ Section 1067(2) provides for the payment of interest on the same basis as for an overdue rate.

- (c) consider representations made in response to the notice.

41. Suspension or cancellation of licence in exceptional circumstances

- (1) This section applies if an authorised person reasonably believes that circumstances causing, or likely to cause, an immediate risk to the health and safety of users of a bathing reserve have arisen, or are likely to arise, as a result of the use of the bathing reserve or a particular part of the bathing reserve by the holder of a licence granted under this local law in accordance with the licence.
- (2) An authorised person may direct the holder of the licence that caused, or is likely to cause, the circumstances to stop using, or allowing to be used, the bathing reserve or the particular part of the bathing reserve, as the case may be, as authorised by the licence.

Example—

A direction may be given requiring the holder of a use licence to stop using a bathing reserve or a particular part of a bathing reserve for the activity specified in the licence if an authorised person reasonably believes that an immediate risk to health and safety has arisen as a result of the holder of the licence using the bathing reserve or the particular part of the bathing reserve for the use specified in the licence.

- (3) The direction may be given orally, but must be confirmed by written notice (a **prohibition notice**) given to the holder of the licence as soon as practicable.
- (4) A person must comply with the direction or prohibition notice.

Maximum penalty—50 penalty units.

- (5) Subsection (2) does not apply to an activity or procedure necessary to rectify the circumstances.
- (6) A prohibition notice must state—
- (a) the authorised person believes that circumstances causing, or likely to cause, an immediate risk to the health and safety of users of the bathing reserve or a particular part of the bathing reserve, as the case may be, have arisen, or are likely to arise; and
 - (b) briefly, the circumstances that have caused or are likely to cause the risk; and
 - (c) if the authorised person believes the circumstances involve a contravention, or likely contravention, of a provision of this local law or a condition of the licence granted under this local law — the provision or condition contravened or likely to be contravened; and
 - (d) the circumstances (if any) under which the notice will be lifted.

Part 6 Behaviour in Bathing Reserves

42. Dangerous objects

- (1) A person must not bring aquatic equipment or anything else into a bathing reserve, or use aquatic equipment or anything else in a bathing reserve, if the

equipment or thing is dangerous.

Maximum penalty—50 penalty units.

Examples of dangerous objects—

- *A surfboard with sharp or broken edges.*
 - *Aquatic equipment with projections liable to cause injury to bathers.*
- (2) This section does not apply to life-saving equipment used for surveillance of the bathing reserve or to assist bathers in distress by—
- (a) members of a life-saving patrol; or
 - (b) a lifeguard.

43. Prohibited equipment

(1) A person must not have prohibited equipment in a bathing reserve.

Maximum penalty—25 penalty units.

- (2) However, this section does not apply—
- (a) if, in the case of an emergency, the use of certain prohibited equipment is necessary; or
 - (b) if the use of the prohibited equipment has been approved by the local government and the prohibited equipment is being used in accordance with that approval; or
 - (c) in other circumstances excluded under a subordinate local law from the application of this section.

44. Dangerous conduct

A person must not use bathing equipment, aquatic equipment or anything else in a bathing reserve in a way that creates a risk to the safety of others.

Maximum penalty—25 penalty units.

45. Shark alarms

- (1) If a shark alarm is given, a person within a bathing reserve—
- (a) must leave the water as soon as practicable; and
 - (b) must not enter or re-enter the water until the all-clear is given.

Maximum penalty—50 penalty units.

- (2) A shark alarm is given by the prolonged ringing of a bell or the prolonged sounding of a siren accompanied by the exhibition of a red flag and the all-clear is given by a short ringing of the bell or sounding of the siren accompanied by the replacement of the red flag by a yellow or green flag.
- (3) A shark alarm and the all-clear may also be given in ways recognised by SLSQ.

Example—

The shark alarm may be given by holding up a red and white quartered flag and the all-clear may be given by taking down the flag when the danger has passed.

46. False alarms

A person must not, without the authority of an authorised person—

- (a) give a shark alarm or do anything likely to be reasonably interpreted as a shark alarm; or
- (b) give the all-clear after a shark alarm or do anything likely to be reasonably interpreted as the all-clear after a shark alarm.

Maximum penalty—50 penalty units.

Part 7 Life—Saving Clubs and Powers of Authorised Persons

Division I Life-saving clubs and patrols

47. Recognised life-saving clubs

- (1) The local government may, after consultation with interested life-saving clubs, assign to a life-saving club the responsibility for patrolling a bathing reserve or a particular part of a bathing reserve.¹⁹
- (2) The responsibility—
 - (a) may be assigned on conditions the local government considers appropriate; and
 - (b) may only be assigned with the agreement of the club to which the responsibility is to be assigned.

Example for paragraph (a)—

The local government may impose a condition that the recognised life-saving club effect and maintain in force at all times specified insurance noting the local government's interest as an insured party against claims by persons who may suffer personal injury, or loss or damage, as a result of the activity of patrolling the bathing reserve or a particular part of the bathing reserve.

- (3) The local government may only assign responsibility for patrolling a white water area to a life-saving club affiliated with SLSQ.

48. Facilities for life-saving patrols

A recognised life-saving club may, with the local government's written approval—

¹⁹ Under the *Transport Operations (Marine Safety) Act 1994* —

- (a) a person involved with a ship's operation must not cause the ship to be operated unsafely; and
- (b) the owner or master of a ship must not operate the ship if the ship is not equipped with safety equipment as required by regulation; and
- (c) persons on ships, for example, lifesavers may be exempted from the application of regulatory provisions in that Act.

- (a) enclose a part of a bathing reserve for the exclusive use of members of life-saving patrols; and
- (b) on a temporary basis, place a life-saving tower on a bathing reserve for the exclusive use of members of life-saving patrols.

49. Distinctive clothing

- (1) A member of a life-saving patrol must wear a distinctive uniform —
 - (a) appropriate to the member's rank; and
 - (b) approved by SLSQ.
- (2) If a member of a life-saving patrol is a patrol captain the uniform must include a hat or cap bearing the words patrol captain or otherwise clearly identify the member as a patrol captain.
- (3) A lifeguard must wear a distinctive uniform approved by the local government including a hat or cap bearing the word lifeguard.

Division 2 Seizure and disposal of property

50. Seizure of dangerous objects, aquatic equipment and land yachts

- (1) If a person has a dangerous object in a bathing reserve or uses or has used an object (including aquatic equipment) in a bathing reserve in a dangerous way an authorised person may seize the object.
- (2) An authorised person may seize aquatic equipment if a person—
 - (a) uses the aquatic equipment in a bathing area; or
 - (b) allows the aquatic equipment to enter a bathing area; and
 - (c) fails to comply with a direction given under section 26(4).
- (3) An authorised person may also seize aquatic equipment if a person—
 - (a) uses the aquatic equipment in a bathing reserve contrary to section 27(2); and
 - (b) fails to comply with a direction given under section 27(7)(a).
- (4) An authorised person may seize a land yacht if a person —
 - (a) uses the land yacht in a bathing reserve contrary to section 27(3); and
 - (b) fails to comply with a direction given under section 27(7)(b).

51. Powers of authorised persons on seizure of dangerous objects, aquatic equipment and land yachts

An authorised person may use force that is reasonably necessary but not force which is likely to cause bodily harm to a person to effect the seizure of—

- (a) a dangerous object or an object used in a dangerous way under section 50(1); or

- (b) aquatic equipment under section 50(2) or (3); or
- (c) a land yacht under section 50(4).

52. Procedure on seizure of property

- (1) If an authorised person seizes an object, an item of aquatic equipment or a land yacht under section 50 the authorised person must give the person from whom the object, item of aquatic equipment or land yacht, as the case may be, is taken, a receipt stating—
 - (a) the nature of the object, item of aquatic equipment or land yacht, as the case may be; and
 - (b) the date and time of seizure; and
 - (c) a period (which must be at least 1 hour and not more than 6 months) for which the object, item of aquatic equipment or land yacht, as the case may be, is to be detained; and
 - (d) a place where the object, item of aquatic equipment or land yacht, as the case may be, may be reclaimed.
- (2) For the purposes of subsection (1)(c) the period must be—
 - (a) where the authorised person is a lifeguard — at least 1 hour and not more than 6 months; and
 - (b) where the authorised person is a person other than a lifeguard — at least 1 hour and not more than 10 hours.
- (3) The object, item of aquatic equipment or land yacht, as the case may be, must, if not reclaimed on the day on which it was seized, be delivered into the custody of the local government.
- (4) The object, item of aquatic equipment or land yacht, as the case may be, must be returned to the owner if the owner of the object, item of aquatic equipment or land yacht, as the case may be —
 - (a) reclaims the object, item of aquatic equipment or land yacht, as the case may be, by written application made to the local government after, but not more than 6 months after, the end of the period fixed for its detention; and
 - (b) provides appropriate proof of ownership; and
 - (c) pays the prescribed release fee²⁰.
- (5) An authorised person must, as soon as practicable after seizing an object, item of aquatic equipment or land yacht, as the case may be, remove the seized property to a place established by the local government or the relevant life-saving club, as the case may be, for the safe custody of property seized under this part.
- (6) The local government or the relevant life-saving club, as the case may be, must take all reasonable measures to ensure the safe custody of seized property until the property is—

²⁰ See section 19 of the local government's *Local Law No. 16 (Administration)*.

- (a) returned to its former owner; or
- (b) otherwise disposed of under this part.

53. Procedure for disposal of property

- (1) This section—
 - (a) applies where property is seized under section 50; and
 - (b) is subject to section 491 the Act²¹.
- (2) If the property is not reclaimed under section 52(4) then so much of the property as is in the safe custody of a recognised life-saving club must be removed by an authorised person to a place established by the local government for the safe custody of the property and the local government may—
 - (a) if, in the opinion of an authorised person, the property is reasonably saleable, sell the property²²; or
 - (b) if paragraph (a) does not apply, or if the authorised person is unable to sell the property after making reasonable efforts, destroy or otherwise dispose of the property.
- (3) The process for sale under subsection (2)(a) must include reasonable and appropriate advertising in a newspaper circulating generally in the area, but the sale need not be by way of auction and may be made by private contract²³.
- (4) An amount realised on the sale of property must be applied—
 - (a) first, towards the local government's costs of the sale; and
 - (b) second, by payment to the former owner of the property.

54. Purchaser of property gets valid title

- (1) The sale or disposal of property under this part confers valid and paramount title to the property sold or disposed of on the purchaser of the property regardless of the amount or value of the consideration (if any) and despite a failure by the local government to comply with a provision of this local law²⁴.
- (2) However subsection (1) does not affect a right which a person would otherwise have to claim indemnities against the local government if, because of a failure to comply with this part, the local government sells or disposes of property which the local government was not lawfully entitled to sell or dispose of.

55. Seized property register

- (1) The local government must keep a register of all property seized under section 50

²¹ Section 491 (When tenders or auctions are required).

²² The application of this provision is subject to section 491 of the Act.

²³ The application of this provision is subject to section 491 of the Act.

²⁴ In terms of *Local Law No. 16 (Administration)* of the local government, the property in confiscated goods vests in the local government. As the lawful owner of the relevant goods, the local government is able to confer good title on the purchaser or acquirer of the goods from the local government.

(the **seized property register**).

- (2) The seized property register must—
- (a) be open to public inspection; and
 - (b) contain the following details in respect of property seized—
 - (i) the date, time and location of the seizure; and
 - (ii) the name of the person in charge of the property at the time of seizure; and
 - (iii) the person believed to be the owner of the property; and
 - (iv) whether or not the property has been released in accordance with section 52; and
 - (v) details of disposal of the property in the event that the property was not released in accordance with section 52.

56. Limitation of local government's liability

- (1) An action does not lie against the local government or against an authorised person or any other officer, employee or agent of the local government assisting the authorised person, for or in respect of injury to a person or loss of, or damage to, property during, or because of, its seizure, removal or detention under this part.
- (2) However, subsection (1) does not apply—
- (a) if the injury, loss or damage was wilfully or negligently caused by the authorised person or other officer, employee or agent of the local government; or
 - (b) if the injury occurred because the authorised person wilfully or negligently contravened section 51.

Division 3 Powers of authorised persons

57. Power to remove or reduce danger

- (1) If a person brings an object onto a bathing reserve that may endanger the safety of another, an authorised person may direct the person to take specified action to remove or reduce the danger.

Example—

If a person brings a beach umbrella onto a bathing reserve and the umbrella appears likely to blow away, an authorised person might direct the person to take specified action to secure the umbrella.

- (2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—20 penalty units.

58. Power to stop dangerous and antisocial conduct

- (1) If a person behaves in a bathing reserve in a way that endangers the safety of or

causes a nuisance to another, an authorised person may direct the person to stop the behaviour.

Examples —

- *Throwing a stone, projectile, missile or other object in a way that endangers the safety of or causes a nuisance to another.*
- *Hitting a golf ball in a way that endangers the safety of or causes a nuisance to another.*
- *Digging or displacing turf, sand, clay, soil or other material in a bathing reserve in a way that endangers the safety of or causes a nuisance to another.*
- *The operation of a model aircraft propelled by a motor in a way that endangers the safety of or causes a nuisance to another.*
- *The use of a compressor, generator, go-kart, toy, machine or other object in a bathing reserve in a way that causes a nuisance to another.*

(2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—20 penalty units.

59. Power to require bathers to leave water

(1) An authorised person may require a bather to leave the water if—

- (a) the bathing reserve, or the relevant part of the bathing reserve, is closed to bathing; or
- (b) a shark alarm has been given; or
- (c) there is some other risk to the bather's safety.

(2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—10 penalty units.

Part 8 Authorised Persons

60. Conflict with *Local Law No. 16 (Administration)*

Where there is an inconsistency between part 4 of *Local Law No. 16 (Administration)* of the local government and this part of this local law, the latter will apply.

61. Who are authorised persons

(1) The following persons are authorised persons for this local law—

- (a) a person who holds the rank of captain in a life-saving patrol;
- (b) a lifeguard while he or she holds that position;
- (c) a person who is an authorised person under a subordinate local law;
- (d) a person appointed as an authorised person for this local law under this section.

Example for paragraph (c)—

- *The subordinate local law might provide that a person who holds a particular rank in a life-saving patrol is an authorised person.*
- (2) A local government may appoint any of the following persons as authorised persons for this local law—
 - (a) employees of the local government;
 - (b) other persons who are eligible for appointment as authorised persons under Chapter 15, part 5 of the Act²⁵.
- (3) An appointment of a person as an authorised person under this section must state the provisions for which the person is appointed as an authorised person.
- (4) However, a person may be appointed as an authorised person under this section only if—
 - (a) the local government considers the person has the necessary expertise or experience for the appointment; or
 - (b) the person has satisfactorily finished training approved by the local government for the appointment.

62. Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment or under a subordinate local law.

Example—

The powers of an authorised person who holds the rank of captain in a life-saving patrol may be limited such that the person can only exercise the powers of an authorised person in a bathing area as distinct from a bathing reserve or alternatively the powers of an authorised person in particular sections of this local law.

63. Authorised person's appointment conditions

- (1) An authorised person holds office on the conditions stated in the instrument of appointment or a relevant subordinate local law.

Example—

The instrument of appointment or subordinate local law might provide that if there is any conflict between an authorised person who is a lifeguard and an authorised person who is a patrol captain regarding the way the powers of an authorised person should be exercised under this local law, the powers shall be exercised as directed by the lifeguard.

- (2) An authorised person—
 - (a) if the instrument or subordinate local law provides for a term of appointment— ceases holding office at the end of the term; and
 - (b) if appointed as an authorised person—may resign by signed notice of resignation given to the local government; and
 - (c) if the person holds a particular rank or position, and is an authorised person under a subordinate local law because he or she holds the relevant rank or

²⁵ Chapter 15, part 5 (Enforcement of Local Government Acts).

position—ceases holding office as an authorised person on ceasing to hold the relevant rank or position; and

- (d) if the conditions of appointment provide—ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the **main office**).
- (3) However, an authorised person may not resign from the office of authorised person (the **secondary office**) under subsection (2)(b) if a term of the authorised person's employment to the main office requires the authorised person to hold the secondary office.

64. Authorised person's identity card

- (1) Each authorised person must hold an identity card issued by the local government or a recognised life-saving club.
- (2) An identity card issued by the local government must—
 - (a) contain a recent photograph of the authorised person; and
 - (b) be signed by the authorised person; and
 - (c) identify the person as an authorised person for the local government; and
 - (d) include an expiry date.
- (3) An identity card issued by a recognised life-saving club must—
 - (a) contain a recent photograph of the authorised person or state the authorised person's date of birth or be allocated a unique identification number; and
 - (b) identify the person as an authorised person for the life-saving club; and
 - (c) include an expiry date.
- (4) If a recognised life-saving club issues an identity card to an authorised person and the identity card (**numbered identity card**) is allocated a unique identification number, the life-saving club must keep a register of all numbered identity cards issued under subsection (1) (the **identity card register**).
- (5) The identity card register must —
 - (a) be open to public inspection; and
 - (b) contain the following details in respect of each numbered identity card issued by a recognised life-saving club —
 - (i) the unique identification number allocated to the identity card; and
 - (ii) if the recognised life-saving club issues the identity card to an authorised person — the full name of the authorised person and the term of appointment of the authorised person.
- (6) A person who ceases to be an authorised person must return the person's identity card to the local government or the life-saving club that issued it within 21 days after the person ceases to be an authorised person.

Maximum penalty—10 penalty units.

- (7) This section does not prevent the giving of a single identity card to a person for this part and for other purposes.

65. Production of identity card

- (1) An authorised person may exercise a power in relation to someone else (the **other person**) only if the authorised person—
- (a) first produces his or her identity card for the other person’s inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person’s inspection at the first reasonable opportunity.

66. Offence

A person must not pretend to be an authorised person or a member of a life-saving patrol.

Maximum penalty—50 penalty units.

67. Protection from liability

- (1) This section applies to—
- (a) an authorised person; and
 - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act done or omission made honestly and without negligence under this local law.

Part 9 Review

68. Reviewable decisions

A decision of the local government or an authorised person under this local law is reviewable (a **reviewable decision**) unless it is—

- (a) a decision made by resolution of the local government; or
- (b) a decision with which immediate compliance is required; or
- (c) a decision made on an earlier application for review; or
- (d) a decision to prosecute a person for an offence against this local law; or
- (e) a decision to issue an infringement notice for an offence against this local law.

Example for paragraph (b)—

A decision by an authorised person to require a person to leave the water under section 59.

69. Application for review

- (1) A person who is aggrieved by a reviewable decision may apply to the local government for a review of the decision.
- (2) An application for review of a reviewable decision must—
 - (a) be in writing; and
 - (b) state the reasons why the applicant considers the decision should be reviewed; and
 - (c) be lodged at the office of the local government within 14 days after the day on which notice of the decision was given to the applicant or within a further period allowed by the local government (before or after the end of that period).

70. Carrying out review

- (1) The local government must either—
 - (a) carry out a review at a meeting of the local government; or
 - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

71. Decision on review

- (1) On completing a review, the local government may confirm, vary or reverse the decision under review.
- (2) The local government must give the applicant written notice of the result of the review.
- (3) If the local government does not decide an application for review within 28 days after receiving the application, the local government is taken to have confirmed the decision under review.

Part 10 Miscellaneous

72. Compliance with Australian standards

- (1) The flags and signs to be used for the purposes of this local law should comply with any relevant Australian Standard issued or approved by the Standards Association of Australia.
- (2) However, non-compliance with an applicable standard does not invalidate anything done under this local law.

73. Obstruction of authorised persons, life-savers and lifeguards

- (1) A person must not obstruct—

- (a) an authorised person; or
- (b) a member of a life-saving patrol; or
- (c) a lifeguard.

Maximum penalty—50 penalty units.

- (2) A person must not use insulting or abusive language to—
- (a) an authorised person; or
 - (b) a member of a life-saving patrol; or
 - (c) a lifeguard.

Maximum penalty—25 penalty units.

74. Interference with flags and life-saving equipment

- (1) A person must not, without the approval of an authorised person, damage, destroy or interfere with a sign or flag erected or placed under this local law.

Maximum penalty—50 penalty units.

- (2) A person must not, without the approval of an authorised person, interfere with life- saving equipment on a bathing reserve.

Maximum penalty—50 penalty units.

- (3) A person must not, without the approval of an authorised person, enter a part of a bathing reserve which has been enclosed for the exclusive use of the members of a life-saving patrol.

Maximum penalty —50 penalty units.

75. Limitation of local government's liability

- (1) An action does not lie against the local government or against an authorised person or any other officer, employee or agent of the local government assisting the authorised person, for or in respect of injury to a person or loss of, or damage to, property during, or because of, its performance of life-saving services under this local law.
- (2) However, subsection (1) does not apply if the injury, loss or damage was wilfully or negligently caused by an authorised person or other officer, employee or agent of the local government.

76. Defence of reasonable excuse

If a person is charged with an offence involving a contravention of a provision of this local law, it is a defence to prove that the person had a reasonable and lawful excuse for the contravention.

77. Subordinate local laws

The local government may make subordinate local laws in relation to those matters about which this local law specifically allows for the making of subordinate local laws.

78. Repeal of interim local law

This local law repeals *Gold Coast City Council Interim Local Law No. 30 (Bathing Reserves) 2003*²⁶ which commenced on the date on which *Gold Coast City Council (Making of Interim Local Law) Notice (No. 1) 2003* was published in the Gazette.

²⁶ *Gold Coast City Council Interim Local Law No. 30 (Bathing Reserves) 2003* was made as an interim local law and commenced on the date on which *Gold Coast City Council (Making of Interim Local Law) Notice (No. 1) 2003* was published in the Gazette.

SCHEDULE

DICTIONARY

section 3

aquatic equipment means—

- (a) a float; or
- (b) a boogie board; or
- (c) a surfboard; or
- (d) a surf ski; or
- (e) a kayak; or
- (f) a canoe; or
- (g) another device for use on or in water to carry a person or thing across or through water or for recreational use in water and designed to be—
 - (i) paddled by a person; or
 - (ii) ridden by a person on a wave or in a white water area; or
- (h) a sail board; or
- (i) a kite surf; or
- (j) a windsurfer; or
- (k) another device for use on or in water to carry a person or thing across or through water or for recreational use in water and designed to be—
 - (i) powered by wind; and
 - (ii) ridden by the person balancing on the device; or
- (l) another device specified by subordinate local law.

authorised person means a person who is an authorised person for this local law under part 8.

bathe means the immersion or partial immersion of the body in water.

bathing includes all activities involving the immersion or partial immersion of the body in water.

bathing area means an area within a bathing reserve marked out by an authorised person in accordance with section 5.

bathing equipment means—

- (a) an inflatable device designed for use on or in water to carry a person across or through water or for recreational use in water; or
- (b) a rubber or foam float or board that does not give rise to risk of injury to bathers

in a bathing area.

bathing reserve means a part of the seashore and adjacent land and sea placed under the control of the local government as a bathing reserve under section 935 of the Act²⁷.

beach equipment includes—

- (a) bathing equipment; and
- (b) a beach umbrella which has attached to it a weight of sufficient mass to prevent it from becoming dangerous; and
- (c) a deck chair; and
- (d) other equipment specified by subordinate local law.

compliance notice see section 37.

essential services vehicle means a motor vehicle that is in the care or control of any officer of—

- (a) the Queensland Ambulance Transport Brigade; or
- (b) a fire brigade; or
- (c) a fuel gas supplier franchised under the *Gas Act 1965*; or
- (d) an electricity entity under the *Electricity Act 1994*; or
- (e) the police force; or
- (f) the State Emergency Service; or
- (g) Road Transport Construction Services (Department of Main Roads); or
- (h) a carrier or service provider licensed under the *Telecommunications Act 1997 (Commonwealth)*; or
- (i) the local government; or
- (j) any other department or body (whether or not incorporated) that has a function or power conferred on it under an Act; or
- (k) another entity specified by subordinate local law.

essential services vessel means a vessel that is in the care or control of any officer of—

- (a) the Queensland Ambulance Transport Brigade; or
- (b) the police force; or
- (c) the State Emergency Service; or
- (d) Road Transport Construction Services (Department of Main Roads); or
- (e) the local government; or

²⁷ Section 935(2) of the Act provides that the Governor in Council may, by Gazette notice, place under the control of a local government as a bathing reserve—

- (a) a part of the seashore; and
- (b) land under the sea adjacent to that part of the seashore and seawards for a distance not more than 1 km beyond low-water mark at ordinary spring tides; and
- (c) sea above that part of the seashore and land.

- (f) an Australian Volunteer Coastguard Organisation or a Volunteer Marine Rescue Organisation which is the holder of a current accreditation issued by the Department of Emergency Services; or
- (g) any other department or body (whether or not incorporated) that has a function or power conferred on it under an Act; or
- (h) another entity specified by subordinate local law.

hiring licence means a licence to hire out beach equipment in a bathing reserve, or for use in a bathing reserve granted under part 4.

identity card register see section 64(4).

land yacht means a device with wheels and 1 or more sails designed—

- (a) to be ridden by a person; and
- (b) for recreational use on a beach.

length, of a vessel, means the distance between the front and the end tips of the vessel however the length does not include anything that does not increase the vessel's effective length.

Examples of things that do not increase a vessel's effective length—

- an anchor rail;
- a bowsprit.

Examples of things that do increase a vessel's effective length—

- additions to the vessel's hull (whether fixed temporarily or permanently) that increase the vessel's deck area.

lifeguard means a person who—

- (a) is an employee of the local government; and
- (b) the local government considers has the necessary expertise or experience to provide life-saving services; or
- (c) has satisfactorily finished training approved by the local government so as to be capable of performing life-saving services.

life-saver means a member of a recognised life-saving club assigned by the club or SLSQ to patrol a bathing reserve, or part of a bathing reserve, at a particular time.

life-saving club means a body—

- (a) affiliated with—
 - (i) Surf Life Saving Queensland Inc (SLSQ); or
 - (ii) the Head Centre of the Royal Life Saving Society; and
- (b) accredited by the Department of Emergency Services.

life-saving equipment means equipment for use in sea rescue, life-saving, or the provision of first aid.

life-saving patrol, for a bathing reserve or part of a bathing reserve, at a particular time means—

- (a) the members of a recognised life-saving club assigned by the club or SLSQ to patrol the bathing reserve, or the part of the bathing reserve at that time; or
- (b) the lifeguard assigned by the local government to patrol the bathing reserve, or the part of the bathing reserve, at that time.

life-saving services means the services provided by lifeguards and life-savers for the protection and safety of persons within a bathing reserve including carrying out rescues, saving lives and the provision of first aid.

numbered identity card see section 64(4).

patrol flag means a red and yellow flag of the design prescribed by Australian Standard No. 2416.

prescribed fee means a fee or charge determined by the local government for the matter in respect of which the term is used.

prescribed form means a form approved by resolution of the local government for the matter in respect of which the term is used.

prohibited activity see section 25(2).

prohibited equipment means—

- (a) a spear gun; or
- (b) a fishing spear; or
- (c) another object classified under a subordinate local law as prohibited equipment.

prohibition notice see section 41(3).

public marine facility includes each public marine facility of which the local government is appointed the manager under the *Transport Infrastructure (Public Marine Facilities) Regulation) 2000*.

recognised life-saving club means a life-saving club to which the local government has assigned the responsibility for patrolling a bathing reserve or a particular part of a bathing reserve.²⁸

reserve sign means a sign indicating the existence of a bathing reserve.²⁹

reviewable decision see section 68.

seized property register see section 55(1).

SLSQ means Surf Life Saving Queensland Inc.

supplier see section 24(1).

supply see section 24(4).

surveillance means the visual supervision of an area.

the Act means the *Local Government Act 1993*.

use licence means a licence conferring a right to use a bathing reserve or a particular part of a bathing reserve granted under part 2 division 4.

²⁸ See section 47.

²⁹ See section 4

vehicle licence means a licence to drive a vehicle in a bathing reserve granted under part 2 division 5.

vessel means—

- (a) a motorised boat, craft or device for use on or in water to carry a person or thing across or through water or for recreational use in water; or
- (b) a wind powered boat or craft which has a length of more than 2.5 m other than aquatic equipment or a land yacht.

white water area means a bathing reserve, or part of a bathing reserve, that is directly exposed to the open sea.

CERTIFICATION

This and the preceding 40 pages bearing my initials is a certified copy of *Gold Coast City Council Local Law No. 30 (Bathing Reserves) 2004*, made in accordance with the provisions of the *Local Government Act 1993* by Gold Coast City Council by resolution dated the Thirteenth day of December 2004.

Dale Dickson)
Chief Executive Officer) Date