

# **Local Law No. 9**

## **(Parks and Reserves) 2008**

**Consolidated version**

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This and the following 31 pages is a certified copy of the CONSOLIDATED VERSION of  
*Local Law No. 9 (Parks and Reserves) 2008*  
made in accordance with the provisions of the *Local Government Act 2009*  
by the Council of the City of Gold Coast by resolution dated 11 December 2015

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Dale Dickson  
Chief Executive Officer

**Council of the City of Gold Coast  
Local Law No. 9  
(Parks and Reserves) 2008**

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# **Council of the City of Gold Coast**

## **Local Law No. 9**

### **(Parks and Reserves) 2008**

#### **Part 1 Preliminary**

##### **1 Short title**

This local law may be cited as *Local Law No. 9 (Parks and Reserves) 2008*.

##### **2 Object**

The object of this local law is to ensure—

- (a) that public access and use of parks and reserves is in accordance with the preservation of public safety and amenity, and does not have an adverse effect on the surrounding community; and
- (b) the protection of the environment and the facilities of parks and reserves.

##### **3 Definitions—the dictionary**

The dictionary in the Schedule (Dictionary) of this local law defines particular words used in this local law.

##### **4 Relationship to other laws**

- (1) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
  - (a) the *Environmental Protection Act 1994*; and
  - (b) the *Sustainable Planning Act 2009*; and
  - (c) the *Criminal Code Act 1899*; and
  - (d) the *Fire and Emergency Services Act 1990*; and
  - (e) the *Forestry Act 1959*; and
  - (f) the *Mineral Resources Act 1989*; and
  - (g) the *Nature Conservation Act 1992*; and
  - (h) the *Recreation Areas Management Act 2006*; and
  - (i) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
  - (j) the *Health Act 1937*; and
  - (k) the *Land Act 1994*; and

- (l) the *Building Act 1975*; and
  - (m) the *Transport Infrastructure Act 1994*; and
  - (n) the *Transport Operations (Road Use Management) Act 1995*; and
  - (o) the *Tobacco and Other Smoking Products Act 1998*; and
  - (p) the *Public Health Act 2005*; and
  - (q) the *Fisheries Act 1994*.
- (2) The local government may only exercise its powers under this local law over—
- (a) trust land, if the proposed exercise of power is consistent with—
    - (i) the terms and conditions of the trust; and
    - (ii) the *Land Act 1994*; or
  - (b) a reserve, if the proposed exercise of power is consistent with the legislation which has placed the reserve under the control of the local government; or
  - (c) a road, if the proposed exercise of power is—
    - (i) in the case of a State-controlled road, approved in writing by the chief executive of the department which administers Chapter 6 of the *Transport Infrastructure Act 1994*; and
    - (ii) in the case of a local government road, consistent with the *Land Act 1994* and the *Local Government Act 2009*.

## **Part 2 Administration of parks**

### **5 Park authority**

- (1) The local government may, by a subordinate local law—
- (a) establish a park authority to manage a park or facility; and
  - (b) specify the membership and structure of a park authority; and
  - (c) specify the procedures governing the operation of a park authority; and
  - (d) specify policies and guidelines governing the management of a park by the park authority; and
  - (e) specify the powers given to the local government pursuant to this local law that may be exercised by a park authority on behalf of the local government.

(2) A park authority may exercise the powers of the local government pursuant to this local law that are specified in a subordinate local law.

(3) A park authority must comply with this local law and all subordinate local laws.

Maximum penalty for subsection (3)—200 penalty units.

## **6 Register of parks**

The local government must establish and maintain a register of parks which must be kept available for public inspection.

# **Part 3 Regulation of parks**

## **Division 1 Access to parks**

### **7 Access by public**

(1) The local government may, by a sign exhibited in a park or a subordinate local law—

(a) specify the hours and days during which a park or any part thereof is open to the public; and

(b) specify that the ingress or egress to a park by the public must be through a designated access; and

(c) specify that public access to a park or an area of a park is temporarily or permanently closed to public access; and

(d) otherwise regulate access to a park by the public.

(2) A person must not, unless authorised by a permit, contravene a restriction imposed pursuant to subsection (1).

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

### **8 Access by vehicles**

(1) The local government may by a sign, which must be an official traffic sign, exhibited in a park or a subordinate local law—

(a) specify a designated vehicle which may be driven, led, stood, wheeled or parked in a park; and

(b) specify a designated vehicle area in a park in which a vehicle may be driven, led, stood, wheeled or parked; and

(c) otherwise regulate or prohibit the driving, riding, leading, standing, wheeling or parking of a vehicle in a park.

- (2) A person must not, unless authorised by a permit, contravene a restriction imposed pursuant to subsection (1).

Maximum penalty for subsection (2)—40 penalty units.

- (3) A person must not, unless authorised by a permit, drive, lead, stand, wheel or park a motor vehicle in a park other than in—

(a) a designated vehicle area; or

(b) an area which is intended to be used for public access by a motor vehicle.

Maximum penalty for subsection (3)—20 penalty units.

## **9 Access by animals**

The local government regulates access by animals to a park and a reserve under *Local Law No. 12 (Animal Management) 2013*.

## **Division 2 Use of parks**

### **10 Regulation of use**

- (1) The local government may, by a sign exhibited in a park or a subordinate local law, regulate the use by the public of the park or a facility to ensure the protection of—

(a) the park (including the environment in a park); or

(b) a facility; or

(c) a person using a park or any facility.

- (2) A person must not, unless authorised by a permit, contravene a restriction imposed pursuant to subsection (1).

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

### **11 Public use**

- (1) A person may apply to the local government pursuant to Part 5 (Permits) of this local law to—

(a) use a park or a facility or control a park or a facility for the purpose of a recreational activity; and

(b) have exclusive access for the purpose of a recreational activity to a specified area of a park not exceeding that which may be reasonably necessary for that recreational activity.

- (2) A person must not use a park or a facility contrary to a permit or the conditions of a permit referred to in subsection (1).

Maximum penalty for subsection (2)—400 penalty units.

- (3) The local government may, notwithstanding the existence of a permit, limit the use of a facility to—

- (a) ensure equal access by all sectors of the public; or
- (b) protect a park or a facility from overuse or damage.

- (4) A person must not, unless authorised by a permit, use a park or a facility contrary to a limitation made pursuant to subsection (3).

Maximum penalty for subsection (4)—400 penalty units.

- (5) A person must not, without the prior written consent of the local government, carry out development, including erecting a facility in, on, across or over a park.

Maximum penalty for subsection (5)—400 penalty units.

Note: Section 11(5) is intended to operate in the same way as the requirement under section 263 of the *Sustainable Planning Act 2009* that the consent of the owner of land the subject of an application is required before it is made.

## **12 Regulated conduct**

- (1) A person must not, unless authorised by a permit, a sign exhibited in the park or a subordinate local law, use a park for the purpose of—

- (a) camping; or
- (b) occupying or remaining overnight in a park; or
- (c) operating a model aircraft propelled by a motor; or
- (d) operating a model boat propelled by a petrol powered motor; or
- (e) operating a generator or other engine driven equipment (other than a motor vehicle); or
- (f) lighting an open fire (other than in a designated fireplace); or
- (g) using, storing or possessing fireworks; or
- (h) performing, busking, any public address, or promoting any form of public entertainment; or
- (i) using any megaphone, sound amplifier, radio, loud speaker or any other means of mechanically, electrically or artificially increasing or reproducing sound; or



- (j) undertaking scientific research on a plant or animal; or
- (k) exhibiting a sign; or
- (l) catching, capturing or endeavouring to catch or capture any fish other than recreational fishing carried out by a recreational fisher authorised under the *Fisheries Act 1994*; or
- (m) aircraft operations; or
- (n) using electric power from a power point; or
- (o) conducting a social gathering of more than 50 people; or
- (p) conducting a meeting (including a religious service) of more than 50 people; or
- (q) erecting or installing a facility, other than erecting or installing a facility which is carrying out development under the *Sustainable Planning Act 2009* chapter 6, in, on, across or over a park; or
- (r) conducting or taking part in an organised sporting activity of local, State, regional or national significance; or
- (s) any other activity specified in a subordinate local law.

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

- (2) If a facility is erected or installed in, on, across or over a park in contravention of subsection (1)(q), the facility becomes the property of the local government.
- (3) Notwithstanding subsection (2), if an approval makes other provisions about ownership of a facility erected or installed under that approval, the provisions of the approval prevail.

### **13 Prohibited conduct**

- (1) Whilst in a park a person must not—
  - (a) discharge or carry a firearm or other weapon or any kind of explosive device; or
  - (b) throw a stone, projectile or other missile; or
  - (c) use a trap or snare; or
  - (d) use offensive or indecent language or behaviour; or
  - (e) hit a golf ball; or
  - (f) enter that part of a public convenience in a park set aside for use by persons of the opposite gender unless that person is responsible for a

child of that gender using that part of the public convenience at that time;  
or

- (g) carry out any activity or behave in a manner reasonably likely to offend another person; or
- (h) interfere with a plant; or
- (i) interfere with any turf, sand, clay, soil or other material; or
- (j) interfere with a facility or equipment; or
- (k) interfere with or feed an animal, which is not a domestic animal, other than in the course of lawful fishing or removing an injured animal to a place of lawful sanctuary; or
- (l) interfere with a sign or notice; or
- (m) dispose of any rubbish of any kind other than in a waste container provided for that purpose; or
- (n) deposit, store or abandon any goods; or
- (o) insert an object (other than a coin of the correct denomination or a token of the correct specification) in a meter receptacle installed for any purpose in a park; or
- (p) bathe in an ornamental pond or ornamental lake; or
- (q) use a boat, canoe, craft, surf ski, surfboard or other recreational floating device in an ornamental pond or ornamental lake; or
- (r) otherwise do any act or omit to do any act which pollutes, fouls, litters or interferes with a park or a facility; or
- (s) carry out an activity prohibited in a subordinate local law.

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

(2) Whilst in a park a person must not—

- (a) cause, permit or allow a water tap to run water to waste; or
- (b) remove any timber or wood provided by the local government for use as firewood.

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

(3) Whilst in a park a person must not—

- (a) behave in a riotous, disorderly, indecent, offensive, threatening or insulting manner; or

- (b) carry out any activity or behave in a manner reasonably likely to injure, endanger, obstruct, inconvenience or cause fear or excessive annoyance to another person; or
- (c) take water from a lake specified in a subordinate local law; or
- (d) carry out an activity prohibited in a subordinate local law.

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

#### **14 Regulation of business**

- (1) A person (other than the local government) must not carry on business on an excluded park unless—
  - (a) the business is—
    - (i) a council endorsed activity; or
    - (ii) a permitted business that is not a prohibited permitted business; and
  - (b) authorised by a permit.

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

- (2) A person (other than the local government) must not carry on business on a park or reserve, which is not an excluded park or reserve, unless—
  - (a) the business is—
    - (i) a council endorsed activity; or
    - (ii) a permitted business; and
  - (b) authorised by a permit.

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

#### **15 Designation of excluded parks and reserves**

- (1) The local government may, by subordinate local law or resolution—
  - (a) designate the whole or any part of a park or reserve as an excluded park (an *excluded park*); or
  - (b) designate the whole or any part of an excluded park as an area where a person is prohibited from carrying on a permitted business or a permitted business of a specified type (a *prohibited permitted business*)—
    - (i) at all times; or
    - (ii) on specified days; or

- (iii) during specified hours on specified days.
  - (c) designate a council endorsed activity that may be carried on in an excluded park—
    - (i) at all times; or
    - (ii) on specified days; or
    - (iii) during specified hours on specified days.
  - (d) designate the whole or any part of an excluded park as an area where a person is prohibited from carrying on a regulated activity, other than a permitted business, of a specified type (a *prohibited regulated activity*)—
    - (i) at all times; or
    - (ii) on specified days; or
    - (iii) during specified hours on specified days.
- (2) The local government must decide its own process for making a resolution about a designation under subsection (1) provided the process is consistent with this section.
- (3) The process must require the local government to—
  - (a) consult with the public about the proposed designation for at least 21 days; and
  - (b) consider every submission properly made to it about the proposed designation.
- (4) A designation under subsection (1) is not effective for the purposes of this local law until the designation is recorded in the register required to be kept under section 16 of this local law.
- (5) For the avoidance of doubt, the local government may, from time to time, by resolution, repeal or amend a resolution about a designation under subsection (1).
- (6) Each designation of an excluded park under subsection (1) must include a description of the area designated as the excluded park and, where required for identification purposes, the real property description of the land on which the excluded park is located or some other description sufficient to identify the excluded park with certainty.

## **16 Register of excluded parks and reserves**

- (1) The local government must establish and maintain a register of excluded parks (the *excluded parks register*) which must be kept available for public inspection.

- (2) If the local government makes a resolution about a designation under section 15(1)(a), the excluded parks register must include the information specified in section 15(6).
- (3) If the local government makes a resolution about a designation under section 15(1)(b), the excluded parks register must specify, for the designation—
  - (a) the permitted business that must not be carried out in the excluded park; and
  - (b) the times or days during which a permitted business, or specified permitted business must not be carried out in the excluded park.
- (4) If the local government makes a resolution about a designation under section 15(1)(d), the excluded parks register must specify, for the designation—
  - (a) the regulated activity or activities that must not be carried out in the excluded park; and
  - (b) the times or days during which the regulated activity or activities must not be carried out in the excluded park.

## **17 Regulation of photographic equipment in a park or reserve**

- (1) The local government may, by a subordinate local law or a sign exhibited in a park or reserve, regulate the exclusion and use of photographic equipment in the park or reserve.
- (2) A person must not contravene a restriction imposed pursuant to subsection (1) unless authorised by—
  - (a) a permit; or
  - (b) the prior written approval of the local government or a direction of an authorised person if a subordinate local law specifies the requirement for the prior written approval of the local government or a direction of an authorised person.

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

- (3) A person must not use photographic equipment to take a photograph or other image in an amenity building such as a toilet block, shower block or change room in a park or reserve unless authorised by a permit.

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

- (4) Notwithstanding subsections (2) and (3), nothing in this section affects the ability of a council officer to carry or use photographic equipment in a park or reserve if the council officer is lawfully exercising the authority of a council officer.

## **Division 3            Protection of parks**

### **18            Protected areas**

- (1)        The local government may, by an enclosure, a sign exhibited in a park or a subordinate local law, designate a park or any part thereof as a protected area for the cultivation of a plant or environmental protection.
- (2)        The local government may, by a sign exhibited in the park or a subordinate local law specify—
  - (a)        restrictions on entry to a protected area; and
  - (b)        restrictions on activities in a protected area.
- (3)        A person must not, unless authorised by a permit—
  - (a)        enter a protected area designated pursuant to subsection (1); or
  - (b)        contravene a restriction imposed pursuant to subsection (2).

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

## **Division 4            Local government to exhibit a sign**

### **19            Local government to exhibit a sign**

- (1)        The local government may, by a sign exhibited in a park or a subordinate local law, denote the limits of a park.
- (2)        The local government must, subject to subsection (3), exhibit a sign at the entrance of each park to which a subordinate local law applies, specifying the subject matter of the subordinate local law if the local government makes a subordinate local law pursuant to the following provisions of this local law—
  - (a)        section 7 (Access by public); or
  - (b)        section 8 (Access by vehicles); or
  - (c)        section 10 (Regulation of use); or
  - (d)        section 12 (Regulated conduct); or
  - (e)        section 13 (Prohibited conduct); or
  - (f)        Section 17 (Regulation of photographic equipment in a park or reserve);  
or
  - (g)        section 18 (Protected areas).

- (3) Subsection (2) does not apply if the local government determines by resolution that a sign should not be exhibited.

*Example—*

The local government may determine not to erect a sign if the local government is of the opinion that—

- the sign would cause a visual nuisance; or
- the sign would encourage vandalism; or
- the sign would be contrary to the purpose for which the park is to be used; or
- the sign would not be cost effective; or
- the park does not have a designated entrance.

## **Part 4                      Regulation of public places and reserves other than parks**

### **20            Application of Part 3 (Regulation of parks) to other public places and reserves**

- (1) The local government may, by a subordinate local law, specify what provisions of Part 3 (Regulation of parks) of this local law apply to—
- (a) a reserve as if the reserve were a park; or
  - (b) a public place as if the public place were a park.
- (2) If the local government has made a subordinate local law pursuant to subsection (1), the remaining provisions of this local law are to apply to the public place or reserve as if the public place or reserve were a park.
- (3) Notwithstanding subsection (1), the local government cannot regulate a matter on a State-controlled road without the written approval of the chief executive of the department which administers Chapter 6 of the *Transport Infrastructure Act 1994*.
- (4) Notwithstanding subsection (1), the local government may only exercise its powers under this local law over trust land if the proposed exercise of power is consistent with the provisions of the *Land Act 1994* and the terms and conditions of the trust.

## **Part 5                      Permits**

### **21            Requirement for a permit**

- (1) A person, other than the local government, must not undertake a regulated activity unless authorised by—
- (a) this local law; or

(b) a permit granted pursuant to section 23 of this local law.

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

- (2) Notwithstanding subsection (1), a permit is not required under this local law if—
- (a) a subordinate local law specifies that a permit is not required in respect of the undertaking of the regulated activity; or
  - (b) the operation of the regulated activity is authorised by a written approval given by the local government under a Local Government Act or required by a Local Government Act in the performance of an express duty or the discharge of an express power.

*Example—*

A regulated activity which is development for which a development permit has been issued by the local government under the *Sustainable Planning Act 2009* does not require a permit under this local law.

- (3) Notwithstanding subsection (1), the holder of the permit must not undertake the regulated activity until all approvals required under legislation in respect of the regulated activity have been obtained.
- (4) A person must not, in any manner or by any means, represent to the public that a permit under this local law is evidence of a person's qualifications to carry out the activity.

*Example—*

A person that holds a permit for a commercial fitness activity must not represent that the permit is evidence of an industry endorsed qualification such as a certificate III or IV in fitness.

Maximum penalty for subsection (4)—50 penalty units.

## **22 Application for a permit**

- (1) An application for a permit must be—
- (a) made by the person who will be undertaking the regulated activity; and
  - (b) made in the prescribed form; and
  - (c) accompanied by—
    - (i) the prescribed fee; and
    - (ii) evidence that all approvals under the Local Government Acts required for undertaking the regulated activity have been obtained; and
    - (iii) full details of the undertaking of the regulated activity including plans and specifications unless otherwise required by the local government; and



- (iv) such other information and materials as are requested by the local government or specified in a subordinate local law; and
  - (d) in the case of a permit to operate a commercial fitness activity, made by a person who is an individual and not a corporation<sup>1</sup>.
- (2) The local government may waive the requirements of subsection (1)—
- (a) in an emergency; or
  - (b) if there are special reasons for dispensing with the requirement; or
  - (c) in the circumstances specified in a subordinate local law.

### **23 Grant of a permit**

- (1) The local government may grant a permit if satisfied that the undertaking of the regulated activity —
- (a) will not result in harm to human health or safety or personal injury; and
  - (b) will not result in property damage or a loss of amenity; and
  - (c) will not result in environmental harm or environmental nuisance; and
  - (d) will not result in a nuisance; and
  - (e) will not have an adverse effect on the surrounding community; and
  - (f) complies with the provisions of the Local Government Acts that regulate the undertaking of the regulated activity; and
  - (g) complies with the assessment criteria; and
  - (h) complies with the prescribed criteria; and
  - (i) in the case of an application to use a park or a facility pursuant to section 11(1) of this local law, is to be carried out by or on behalf of an organisation which is community based and non-profit and which draws the majority of its members from the local government area.
- (2) The local government may only grant a permit to operate a commercial fitness activity to a person who is an individual and not a corporation.
- (3) The local government must not grant a permit if it would result in a person being permitted to camp in the same public camping area for more than 12 weeks in any 6 month period.

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<sup>1</sup> ‘corporation’ is defined in the Schedule (Dictionary) of *Local Law No. 3 (Administration) 2008*.

- (4) Before the local government decides an application for a permit, an authorised person may—
  - (a) inspect any premises, vehicle, equipment, animal, plant or thing to be involved in the undertaking of the regulated activity; and
  - (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected; and
  - (c) request any further information or material which is required to assess the application.
  
- (5) For the purposes of determining whether the criteria specified in subsection (1) have been satisfied—
  - (a) the local government may have regard to the results of any periodic inspection, testing or monitoring program undertaken in respect of the undertaking of the regulated activity; and
  - (b) the local government may have regard to the applicant's antecedents in terms of compliance or otherwise with this local law; and
  - (c) the local government is not obliged to look beyond—
    - (i) any information or materials submitted to the local government in respect of the application; and
    - (ii) any other information held by the local government which is relevant to the application.

## **24 Term of a permit**

- (1) A permit granted by the local government is for a term—
  - (a) specified in the permit; or
  - (b) otherwise specified in a subordinate local law.
  
- (2) A permit expires at the end of the day specified in subsection (1).

## **25 Conditions of a permit**

- (1) A permit may be granted by the local government on conditions the local government considers appropriate.
  
- (2) The conditions of a permit may—
  - (a) require the holder of the permit to take specified measures to—
    - (i) prevent harm to the human health or safety of persons who may be involved in or affected by the undertaking of the regulated activity; and

- (ii) prevent personal injury, property damage or a loss of amenity from the undertaking of the regulated activity; and
- (iii) ensure that the undertaking of the regulated activity does not cause environmental harm or environmental nuisance; and
- (iv) ensure that the undertaking of the regulated activity does not cause a nuisance; and
- (v) ensure that the undertaking of the regulated activity does not cause an adverse effect on the surrounding community; and
- (vi) ensure that there is compliance with the provisions of the Local Government Acts that regulate the undertaking of the regulated activity; and
- (vii) ensure that the undertaking of the regulated activity complies with the assessment criteria; and
- (viii) ensure that the undertaking of the regulated activity complies with the prescribed criteria; and
- (b) require compliance with specified safety requirements; and
- (c) require the holder of the permit to carry out specified work; and
- (d) require the holder of the permit to make any facilities available for public use at a specified time or for a specified period; and
- (e) regulate the time within which the regulated activity must be undertaken; and
- (f) specify the standards to which the undertaking of the regulated activity must comply; and
- (g) require the holder of the permit to give the local government a specified indemnity and to take out specified insurance; and
- (h) require the holder of the permit to take out specified insurance indemnifying a person who may suffer personal injury, loss or damage, as a result of the undertaking of the regulated activity; and
- (i) require the holder of the permit to exhibit a specified sign containing a warning notice and to take other specified precautions; and
- (j) require the holder of the permit to notify the local government within a period specified in the permit that the holder of the permit is no longer undertaking the regulated activity or is undertaking the regulated activity other than in accordance with the permit; and

- (k) require the certification by a person specified by the local government of a vehicle, equipment, animal, plant, or thing involved in the undertaking of the regulated activity; and
  - (l) require the giving of a security or bond to secure compliance with the permit and the provisions of this local law; and
  - (m) require records to be kept at a place and for a time specified in the permit or a subordinate local law; and
  - (n) require the holder of the permit to prepare, provide, undertake or comply with a periodic inspection, monitoring or management program in respect of the undertaking of the regulated activity; and
  - (o) require the number of persons involved in the undertaking of the regulated activity is not to exceed the number specified by the local government.
- (3) The local government may specify in a subordinate local law, the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit for the undertaking of a regulated activity.

## **26 Provision and return of security or bond**

- (1) If a local government requires the payment of a security or bond in a condition imposed on a permit pursuant to section 25(2)(l) of this local law, the payment must be made to the local government by the holder of the permit within 14 days of the date that the permit was granted by the local government in the manner specified by the local government.
- Maximum penalty for subsection (1)—50 penalty units.
- (2) If a bond or security has been paid by a permit holder in accordance with subsection (1), and the holder of the permit is considered by the local government to have contravened a condition of the permit or a provision of this local law the local government may retain all or part of the security or bond.
- (3) The local government must within 90 days of the expiry of the term of the permit return to the permit holder—
- (a) all of the security or bond paid to the local government pursuant to subsection (1); or
  - (b) any part of the security or bond not retained by the local government pursuant to subsection (2).

**27 Power to change the conditions of a permit**

- (1) The local government may change a condition of a permit if<sup>2</sup>—
  - (a) the holder of the permit agrees to the proposed change; or
  - (b) the change is urgently necessary to prevent—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or
    - (iii) environmental harm or environmental nuisance; or
    - (iv) a nuisance; or
    - (v) an adverse effect on the surrounding community; or
  - (c) the change is necessary to ensure that the undertaking of the regulated activity complies with the prescribed criteria.
  
- (2) If the local government is satisfied it is necessary to change a condition of a permit, the local government must—
  - (a) give the holder of the permit a written notice stating—
    - (i) the proposed change and the reason for the change; and
    - (ii) that the holder of the permit may make written representations to the local government about the proposed change; and
    - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which the written representations may be made; and
  - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
  
- (3) After considering any written representations made by the holder of the permit, the local government must give to the holder of the permit—
  - (a) if the local government is not satisfied the change is necessary, a written notice stating that it has decided not to change the condition; or
  - (b) if the local government is satisfied that the change is necessary, a written notice stating that it has decided to change the condition including details of the changed condition.

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<sup>2</sup> A change to a condition of a permit includes a change by omission, substitution or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).

- (4) The changed condition takes effect from the day the written notice was given to the holder of the permit—
  - (a) under subsection (2)(a) if no written representations are made by the holder of the permit within the time stated in the written notice; or
  - (b) under subsection (3)(b) if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the change is necessary.

**28 Amendment, renewal or transfer of a permit**

- (1) Subject to subsection (2), the holder of a permit may make an application to the local government to—
  - (a) amend the permit; or
  - (b) renew the permit; or
  - (c) transfer the permit to another person.
- (2) A person who holds a permit to operate a permitted business which is a commercial fitness activity must not apply to transfer the permit to another person.
- (3) An application to amend, renew or transfer a permit must be—
  - (a) made by the holder of the permit; and
  - (b) made in the prescribed form; and
  - (c) accompanied by the prescribed fee and such other information as is requested by the local government; and
  - (d) accompanied by, in the case of a transfer of the permit, the consent of the person to whom the permit will be transferred.
- (4) The local government may renew or transfer a permit—
  - (a) when the undertaking of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
  - (b) subject to such conditions the local government considers appropriate.
- (5) The local government may amend a permit—
  - (a) when the undertaking of the regulated activity complies with the criteria specified in section 23(1) of this local law; and
  - (b) subject to such conditions as the local government considers appropriate.

- (6) For the purposes of determining whether the provisions specified in subsections (4) and (5) have been satisfied, the local government is not obliged to look beyond—
  - (a) any information or materials submitted to the local government in respect of the application; and
  - (b) any other information held by the local government which is relevant to the application.
- (7) The local government must not—
  - (a) amend a permit that has been granted for a specific location if the amendment is to the location where the regulated activity is to be undertaken; or
  - (b) transfer a permit for a permitted business that is a commercial fitness activity.

## **29 Cancellation of a permit**

- (1) The local government may cancel a permit if—
  - (a) the holder of the permit agrees to the cancellation; or
  - (b) the cancellation is urgently necessary to prevent—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or
    - (iii) environmental harm or environmental nuisance; or
    - (iv) a nuisance; or
    - (v) an adverse effect on the surrounding community; or
  - (c) the holder of the permit contravenes—
    - (i) this local law; or
    - (ii) a condition of a permit; or
    - (iii) a requirement of a compliance notice or a stop order; or
  - (d) the undertaking of the regulated activity does not comply with—
    - (i) the provisions of the Local Government Acts that regulate the undertaking of the regulated activity; or
    - (ii) the prescribed criteria; or

- (e) the permit was granted on the basis of false, misleading or incomplete information; or
  - (f) changes in circumstances as specified in a subordinate local law since the permit was granted make the continued operation of the permit inappropriate.
- (2) The local government may specify by subordinate local law, the changes in circumstances since a permit was granted that makes the continued operation of the permit inappropriate.
- (3) If the local government is satisfied it is necessary to cancel a permit, the local government must—
- (a) give the holder of the permit a written notice stating—
    - (i) the reason for the proposed cancellation; and
    - (ii) that the holder of the permit may make written representations to the local government about the proposed cancellation; and
    - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which written representations may be made; and
  - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (4) After considering any written representations made by the holder of the permit the local government must give to the holder of the permit—
- (a) if the local government is not satisfied that the cancellation is necessary, a written notice stating it has decided not to cancel the permit; or
  - (b) if the local government is satisfied that the cancellation is necessary, a written notice stating it has decided to cancel the permit.
- (5) Before the local government cancels a permit under subsection (4), the local government must consider the impact of the cancellation of the permit, other than a financial impact on the holder of the permit, on those persons who would be affected by the regulated activity ceasing to be undertaken.
- (6) The cancellation of the permit takes effect from the day the written notice was given to the holder of the permit—
- (a) under subsection (3)(a), if no written representations are made by the holder of the permit within the time stated in the notice; or
  - (b) under subsection (4)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the cancellation is necessary.



- (7) If the local government has cancelled a permit, the holder of the permit must cease to undertake the regulated activity immediately.

Maximum penalty for subsection (7)—50 penalty units.

### **30 General compliance provision**

- (1) The holder of a permit must ensure that the conditions of the permit are complied with.

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

- (2) The holder of a permit and any person undertaking a regulated activity must ensure that the undertaking of the regulated activity—

- (a) does not result in harm to human health or safety or personal injury; and
- (b) does not result in property damage or a loss of amenity; and
- (c) does not result in environmental harm or environmental nuisance; and
- (d) does not result in a nuisance; and
- (e) does not have an adverse effect on the surrounding community; and
- (f) complies with the prescribed criteria.

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

## **Part 6 Enforcement**

### **31 Records to be kept**

A subordinate local law may specify any records that are required to be kept for the undertaking of the regulated activity.

### **32 Inspection, monitoring or management program**

A subordinate local law may specify any inspection, monitoring or management program required to be kept for the undertaking of the regulated activity.

## **Part 7 Subordinate local laws**

### **33 Subordinate local laws**

The local government may, in a subordinate local law, specify—

- (a) the assessment criteria for deciding an application for a permit pursuant to the Schedule (Dictionary) of this local law; and
- (b) land as a park pursuant to the Schedule (Dictionary) of this local law; and

- (c) land as a reserve pursuant to the Schedule (Dictionary) of this local law; and
- (d) a vehicle as a motor vehicle pursuant to the Schedule (Dictionary) of this local law; and
- (e) the prescribed criteria with which a regulated activity must comply pursuant to the Schedule (Dictionary) of this local law; and
- (f) a mall, square, court or other public place under the local government's control as a local government road pursuant to the Schedule (Dictionary) of this local law; and
- (g) a thing as a vehicle pursuant to the Schedule (Dictionary) of this local law; and
- (h) a thing as a structure pursuant to the Schedule (Dictionary) of this local law; and
- (i) a thing as prohibited equipment pursuant to the Schedule (Dictionary) of this local law; and
- (j) premises as a public place pursuant to the Schedule (Dictionary) of this local law; and
- (k) the rights and obligations in respect of a park authority pursuant to section 5(1) of this local law; and
- (l) restrictions in respect of the access to a park by the public pursuant to section 7(1) of this local law; and
- (m) restrictions in respect of the access to a park by a vehicle pursuant to section 8(1) of this local law; and
- (n) restrictions in respect of the use of a park or a facility by the public pursuant to section 10(1) of this local law; and
- (o) the purposes for which a park may be used pursuant to section 12 of this local law; and
- (p) an activity for which a park must not be used unless authorised by a permit pursuant to section 12(1)(s) of this local law; and
- (q) an activity which is prohibited in a park pursuant to section 13(1)(s) of this local law; and
- (r) a lake which a person must not take water from pursuant to section 13(3)(c) of this local law; and
- (s) an activity which is prohibited in a park pursuant to section 13(3)(d) of this local law; and

- (t) a type of business which may be permitted in a park pursuant to section 14 and the definition of ‘permitted business’ of this local law; and
- (u) a park or reserve or part of a park or reserve as an excluded park pursuant to section 15(1)(a) of this local law; and
- (v) a permitted business as a prohibited permitted business pursuant to section 15(1)(b) of this local law; and
- (w) a business as a council endorsed activity pursuant to section 15(1)(c) of this local law; and
- (x) a regulated activity as a prohibited regulated activity pursuant to section 15(1)(d) of this local law; and
- (y) restrictions in respect of a protected area pursuant to section 18(2) of this local law; and
- (z) the limits of a park pursuant to section 19(1) of this local law; and
- (aa) what provisions of Part 3 (Regulation of parks) of this local law apply to a reserve pursuant to section 20(1)(a) of this local law; and
- (ab) what provisions of Part 3 (Regulation of parks) of this local law apply to a public place which is not a park pursuant to section 20(1)(b) of this local law; and
- (ac) a regulated activity in respect of the undertaking of which a person is not required to hold a permit pursuant to section 21(2)(a) of this local law; and
- (ad) the information that must accompany an application for a permit pursuant to section 22(1)(c)(iv) of this local law; and
- (ae) the circumstances in which the local government may waive the requirements of section 22(1) of this local law pursuant to section 22(2)(c) of this local law; and
- (af) the term of the permit pursuant to section 24(1)(b) of this local law; and
- (ag) the records that must be kept, the place at which those records must be kept and the time for which those records must be kept pursuant to section 25(2)(m) of this local law; and
- (ah) the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit pursuant to section 25(3) of this local law; and
- (ai) the changes in circumstances since a permit was granted that make the continued operation of the permit inappropriate pursuant to section 29(1)(f) of this local law; and

- (aj) the records that are required to be kept pursuant to section 31 of this local law; and
- (ak) the terms of a periodic inspection, monitoring or management program in respect of the undertaking of a prescribed activity pursuant to section 32 of this local law; and
- (al) such other matters as are provided for in this local law.

## **Part 8                      Application of Local Law No. 3 (Administration) 2008**

### **34            Application of Local Law No. 3 (Administration) 2008 to this local law**

- (1) To avoid any doubt, the provisions of *Local Law No. 3 (Administration) 2008* apply to this local law, including (but not limited to) the following parts of *Local Law No. 3 (Administration) 2008*—
  - (a) Part 7 (Enforcement); and
  - (b) Part 8 (Administration).

*Note—*

Part 7 (Enforcement) of *Local Law No. 3 (Administration) 2008* sets out the powers of the local government to deal with a contravention of a local law (including this local law) and the steps that the local government may take to remedy any non-compliance.

Part 8 (Administration) of *Local Law No. 3 (Administration) 2008* contains a number of provisions which clarify the liability of persons for actions taken contrary to a local law (including this local law).

This local law must be read with any relevant provisions of *Local Law No. 3 (Administration) 2008*.

- (2) If there is a conflict between a provision of this local law and *Local Law No. 3 (Administration) 2008*, the provision in this local law will prevail to the extent of any inconsistency.

## **Part 9                      Transitional provisions**

### **35            Transitional provisions for the regulation of commercial fitness activities**

- (1) For the purposes of section 21(1)(a) of this local law, a permit is not required in respect of the undertaking of a permitted business that is a commercial fitness activity in a park or reserve at the beginning of the commencement day until the later of the following—
  - (a) 3 months after the commencement day; or
  - (b) if the person has made an application for a permit for the permitted business that is a commercial fitness activity within 3 months of the commencement day – the date the application by the person for a permit

to carry out the commercial fitness activity is decided by the local government.

- (2) A person operating a permitted business that is a commercial fitness activity pursuant to subsection (1)—
  - (a) must comply with section 30(2) of this local law including the prescribed criteria (other than to the extent that the prescribed criteria require the identification of the permit holder's permit number on a sign); and
  - (b) must not operate the commercial fitness activity in an excluded park in which a commercial fitness activity is a prohibited permitted business.
- (3) This section expires 9 months after the commencement day.
- (4) In this section, *commencement day* means the day on which this section commences.

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

- (1) If a permitted business becomes a prohibited permitted business on or after the commencement of this section, from the date the designation of the prohibited permitted business takes effect an existing approval under this local law authorising a permitted business is of no effect to the extent the permitted business has become a prohibited permitted business.
- (2) If a regulated activity becomes a prohibited regulated activity on or after the commencement of this section, from the date the designation of the prohibited regulated activity takes effect an existing approval under this local law authorising a permitted business is of no effect to the extent the regulated activity has become a prohibited regulated activity.
- (3) If an application for a permit for a permitted business is approved after the date a designation for a prohibited permitted business takes effect, the permit does not authorise a person to carry out the prohibited permitted business.
- (4) If an application for a permit for a regulated activity is approved after the date a designation for a prohibited regulated activity takes effect, the permit does not authorise a person to carry out the prohibited regulated activity.
- (5) If a permitted business ceases to be a prohibited permitted business, a permit for the permitted business may authorise the permitted business that was formerly a prohibited permitted business subject to any conditions in the permit.
- (6) If a regulated activity ceases to be a prohibited regulated activity, a permit for the regulated activity may authorise the regulated activity that was formerly a prohibited regulated activity subject to any conditions in the permit.

## Schedule            Dictionary

### section 3

**advertisement** has the meaning given in *Local Law No. 16 (Licensing) 2008*.

**advertising** includes the use of any fixed or moveable device, design, writing, structure, erection, publication, placard, signboard or sign of any kind whatsoever for the sale or exposing for sale of a good, a service or a vehicle.

**aircraft** includes any form of fixed wing aircraft or aeroplane, helicopter, ultra light, glider, hang-glider, dirigible, airship, hot air balloon, or any form of craft capable of carrying at least one person whilst sustaining itself off the ground.

**aircraft operations** means arrival, departure or movement of an aircraft designed or intended to carry a person.

**animal** has the meaning given in *Local Law No. 12 (Animal Management) 2013*.

**approval** means a consent, permit, licence, authorisation, registration, membership or approval under a Local Government Act or a local law and includes all the conditions of a consent, permit, licence, authorisation, registration, membership or approval.

**assessment criteria** means the criteria specified in a subordinate local law for deciding an application for a permit for the undertaking of a regulated activity.

**authorised person** means a person authorised by the local government pursuant to *Local Law No. 3 (Administration) 2008* to exercise the powers of an authorised person under this local law<sup>3</sup>.

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

**business** means the supply of goods or services and includes—

- (a) the display of a good; or
- (b) the sale of a good or service; or

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<sup>3</sup> Section 21 (Appointment) of *Local Law No. 3 (Administration) 2008* provides for the local government to appoint a person to a position provided for under a local law and authorises a person appointed by the local government to a position provided for under a local law to exercise the powers attaching to that position under the local law unless otherwise stated in the appointment.

- (c) engaging in any trade or business; or
- (d) distributing a business advertising publication; or
- (e) touting; or
- (f) advertising a good or service; or
- (g) a fete, market or stall; or
- (h) the exhibition of an advertisement; or
- (i) the exhibition of a sign.

***business advertising publication*** has the meaning given in *Local Law No. 5 (Distribution of Business Advertising Publications and Touting) 2008*.

***camp*** means to occupy or to sleep in or to attempt to sleep in a tent or motor vehicle, or otherwise in, on or under a facility, or on the ground of a park and ***camping*** has the corresponding meaning.

***commercial fitness activity*** has the meaning given in *Subordinate Local Law No. 9.1 (Parks and Reserves) 2008*.

***council endorsed activity*** means a business designated as a council endorsed activity by subordinate local law or resolution of the local government.

***designated access*** means a gateway, opening, entrance or other means of ingress to or egress from a park.

***designated vehicle*** means a vehicle which may be driven, led, stood, wheeled or parked in a park that is specified by a sign exhibited in the park or a subordinate local law pursuant to section 8(1) of this local law.

***designated vehicle area*** means the area in a park which may be used for the purpose of driving, leading, standing, wheeling or parking a vehicle that is specified by a sign exhibited in the park or a subordinate local law pursuant to section 8(1) of this local law.

***device*** means a design, writing, drawing, depiction, structure, erection, placard, banner, notice, signboard, notice of sign, publication or sign of any kind.

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

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

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

**excluded park** see section 15(1)(a) of this local law.

**exhibit** includes in relation to a sign the painting, writing, drawing, depiction, making, erection, affixing, putting up, operation or transport of a sign.

**facility** means any building, structure, carparking area, pedestrian access, vehicle access, fence, picnic shelter, toilet block, playground equipment, park bench, pond, waterfall, fountain, monument, amenities or grounds or any other fixture or fitting and includes an electric power point.

**fence** includes a fence constructed of rope, cable, wire or another similar material.

**fireworks** means a substance or thing containing a substance manufactured or used for the purpose of producing a pyrotechnic effect.

**good** includes an animal, a plant and a vehicle.

**individual** has the meaning given in the *Acts Interpretation Act 1954*.

**interference** includes damage, destruction, tampering, removal, alteration, defacing, disturbance, change or inappropriate use and **interfere** has the corresponding meaning.

**land** has the meaning given in the *Sustainable Planning Act 2009*.

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

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

**local government road** means—

- (a) a road under the *Local Government Act 2009*; or
- (b) a mall, square, court or other public place under the local government's control that is specified in a subordinate local law to be subject to this local law; or
- (c) light rail land designated to be used as a road under section 359 of the *Transport Infrastructure Act 1994*.

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

**motor vehicle** has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes a motor vehicle as specified in a subordinate local law.

**newspaper** has the meaning given in the *Printing and Newspapers Act 1981*.



**nuisance** has the meaning given in *Local Law No. 8 (Public Health, Safety and Amenity) 2008*.

**official traffic sign** has the meaning given in *Local Law No. 11 (Roads and Malls) 2008*.

**ornamental lake** includes any reticulated creek system flowing into or out of the ornamental lake.

*Examples—*

The lake in the Gold Coast Regional Botanic Gardens, Ashmore.

The lake and reticulated creek system in the Macintosh Island Park, Surfers Paradise.

**ornamental pond** includes any reticulated creek system flowing into or out of the ornamental pond.

**park** means land in the local government area which is—

- (a) a public place which the local government has resolved to be set apart for recreational or environmental purposes and includes land designated as a park in the local government's planning scheme; or
- (b) land which is declared to be a park in a subordinate local law.

**park authority** means the park authority established by the local government pursuant to section 5 (Park authority) of this local law.

**permit** means a permit which has been granted pursuant to section 23 of this local law or amended, renewed or transferred pursuant to section 28 of this local law which—

- (a) has not expired pursuant to section 24(2) of this local law; or
- (b) has not been cancelled pursuant to section 29 of this local law.

**permitted business** has the meaning given in *Subordinate Local Law No 9.1 (Parks and Reserves) 2008*.

**photographic equipment** means an apparatus or equipment which is capable of taking a photograph or otherwise recording an image.

*Examples—*

Camera, digital camera, mobile phone and video recorder.

**planning scheme** has the meaning given in the *Sustainable Planning Act 2009*.

**plant** means any tree, bush, shrub, grass, fungi, algae or other thing terrestrial or aquatic including all natural parts of it or things naturally produced of, by or from it.

**premises** means any land, building or structure and includes any part thereof.

**prescribed criteria** means the criteria specified in a subordinate local law with which the undertaking of the regulated activity must comply.

**prescribed fee** means the fee prescribed by the local government.

**prescribed form** means the form prescribed by the local government.

**protected area** means a park or any part thereof designated as a protected area pursuant to section 18 of this local law.

**prohibited equipment** means—

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

**prohibited permitted business** see section 15(1)(b) of this local law.

**prohibited regulated activity** see section 15(1)(d) of this local law.

**publication** means any printed matter or written matter and includes a book, pamphlet, leaflet, circular, handbill, notice, ticket, voucher, pass, advertisement, poster, magazine or other periodical publication but does not include a newspaper.

**publicise** means to draw to the attention of, make known, advertise or promote and **publicises** has the corresponding meaning.

**public place** means—

- (a) a road; or
- (b) trust land; or
- (c) a park or reserve as defined in *Local Law No. 9 (Parks and Reserves) 2008*; or
- (d) a bathing reserve as defined in *Local Law No. 10 (Bathing Reserves) 2011*; or
- (e) premises of which the local government is the owner or occupier; or

- (f) premises which are managed or controlled by the local government;  
or
- (g) premises specified in a subordinate local law.

**recreation** means a pastime, amusement or occupation that refreshes or enlivens the mind, the spirits or the person.

**recreational activity** means an activity that involves the assembly of a person or persons for recreation or social purposes or for the purposes of conducting a meeting.

**recreational fisher** has the meaning given in the *Fisheries Regulation 2008*.

**recreational fishing** has the meaning given in the *Fisheries Regulation 2008*.

**regulated activity** means an activity the undertaking of which requires a permit under this local law.

**reserve** means land which is placed under the control of the local government pursuant to legislation, and includes land specified as a reserve in a subordinate local law but does not include a bathing reserve as defined in *Local Law No. 10 (Bathing Reserves) 2004*.

*Example—*

This would include a stock route placed under the control of the local government as well as a protected area placed under the control of the local government pursuant to the *Nature Conservation Act 1992*.

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

**rubbish** includes vegetation, garden clippings, tree prunings, building materials, fill and spoil.

**sale** includes—

- (a) to sell; or
- (b) sell for resale; or
- (c) intend for sale; or
- (d) offer or expose for sale; or
- (e) agree or attempt to sell; or
- (f) receive, keep or have in possession for sale; or
- (g) cause or permit to be sold or offered or exposed for sale; or
- (h) send, forward for sale or deliver for sale; or

- (i) provide a sample; or
- (j) barter; or
- (k) auction; or
- (l) supply or have available for supply; or
- (m) already sold or supplied; or
- (n) provide for analysis; or
- (o) authorise, direct, cause, suffer or permit any of the above acts.

**sign** means—

- (a) a device that publicises a matter; or
- (b) if the sign is regulating traffic an official traffic sign.

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

**structure** has the meaning given in the *Local Government Act 2009* and includes a structure as defined in the *Building Act 1975* and any other thing specified in a subordinate local law.

**tent** means a structure or erection constructed or covered wholly or in part with canvas, calico or other material and includes a shelter used or capable of being used as a temporary abode or sleeping place.

**tout** has the meaning given in *Local Law No. 5 (Distribution of Business Advertising Publications and Touting) 2008*.

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

**vehicle** has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes anything specified as a vehicle in a subordinate local law.

**waste** has the meaning in *Local Law No. 8 (Public Health, Safety and Amenity) 2008*.

**waste container** means a weatherproof container for the storage of waste that—

- (a) is vermin proof; and
- (b) can be readily cleaned; and

- (c) is constructed of durable material; and
- (d) is non-reactive with the intended contents; and
- (e) is leakproof; and
- (f) minimises the loss of material into the environment.