

Subordinate Local Law No. 10.1

(Bathing Reserves) 2005

Consolidated version

Reprint No. 3

This and the following 10 pages is a certified copy of
the CONSOLIDATED VERSION of *Subordinate Local Law No. 10.1 (Bathing Reserves) 2005*
made in accordance with the provisions of the *Local Government Act 2009*
by the Council of the City of Gold Coast by resolution dated 29 January 2016

Dale Dickson
Chief Executive Officer

**Council of the City of Gold Coast
Subordinate Local Law No. 10.1
(Bathing Reserves) 2005**

Contents

	Page
Part 1	Preliminary 1
1	Short title.....1
2	Authorising local law1
3	Objects.....1
4	Definitions—the dictionary.....2
Part 2	Regulation of bathing reserves 2
5	Prohibited equipment.....2
6	Prohibited activities2
Part 3	Permits 2
7	Requirement for a permit.....2
8	Application for a permit.....3
9	Grant of a permit.....3
10	Conditions of a permit.....4
11	Prescribed criteria.....5
Part 4	Authorised persons..... 6
12	Limitation on powers6
13	Authorised person’s appointment conditions6
Schedule	Dictionary 7

Council of the City of Gold Coast Subordinate Local Law No. 10.1 (Bathing Reserves) 2005

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 10.1 (Bathing Reserves) 2005*.

2 Authorising local law

This subordinate local law is made pursuant to *Local Law No. 10 (Bathing Reserves) 2004*.

3 Objects

The object of this subordinate local law is to assist in the implementation of *Local Law No. 10 (Bathing Reserves) 2004* to establish a comprehensive legislative scheme 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—
 - (ii) the use of aquatic and other equipment in bathing reserves; and
 - (iii) the erection of notices, signs and structures generally in bathing reserves; and
- (d) restrict the economic scope of the conduct of business 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 meets the objectives of the local government's commercial activities on ocean beaches management plan or surf management plan (as amended from time to time); and

- (f) restrict the conduct of business activities in bathing reserves, to activities which are of economic benefit to the area and meets the objectives of the local government's commercial activities on ocean beaches management plan or surf management plan (as amended from time to time), in recognition of the need to—
 - (ii) prevent or minimise environmental harm in bathing reserves; and
 - (iii) preserve and enhance public safety and amenity in bathing reserves.

4 Definitions—the dictionary

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

Part 2 Regulation of bathing reserves

5 Prohibited equipment

For the purposes of section 13(1)(e) and Schedule (Dictionary) of *Local Law No. 10 (Bathing Reserves) 2004*, the following equipment is prohibited in a bathing reserve—

- (a) fitness equipment.

6 Prohibited activities

For the purposes of sections 10 and 13(1)(r) of *Local Law 10 (Bathing Reserves) 2004*, the following activities are prohibited in a bathing reserve—

- (a) a commercial fitness activity; and
- (b) conducting a busking performance.

Part 3 Permits

7 Requirement for a permit

- (1) For the purposes of section 21(2)(a) of *Local Law No. 10 (Bathing Reserves) 2004*, a permit is not required to operate the following businesses in a bathing reserve, provided the business complies with the prescribed criteria—
 - (a) the delivery to a person in a bathing reserve of beach equipment from a business located outside a bathing reserve; and
 - (b) the following businesses where they are solely associated with a marriage ceremony that has a permit under *Local Law No. 10 (Bathing Reserves) 2004*—

- (ii) conducting a marriage ceremony by a marriage celebrant; and
 - (i) photography undertaken for a commercial purpose.
- (2) For the purposes of section 14(1)(q) of Local Law No. 10 (Bathing Reserves) 2004, a regulated activity is—
- (a) filming for the purposes of a television commercial or a movie; or
 - (b) the setting apart of a bathing reserve or a part of a bathing reserve for life-saving training on an exclusive basis; or
 - (c) conducting a life-saving competition; or
 - (d) participating in a marriage ceremony as a bride or groom; or
 - (e) driving a vehicle in a bathing reserve, except where the vehicle is—
 - (i) an essential services vehicle which is used to provide the service for which it is designed or ordinarily used; or
 - (ii) a vehicle driven by a person registered as a surveyor under the Surveyors Act 2003 or a person authorised in writing by a surveyor which is used for the purpose of performing a survey or for any other purpose relating to a survey.

8 Application for a permit

For the purpose of section 22(1)(c)(iv) of *Local Law No. 10 (Bathing Reserves) 2004*, an application for the undertaking of a regulated activity that is driving a vehicle in a bathing reserve must be accompanied by—

- (a) details of the vehicle to be driven in the bathing reserve; and
- (b) details of the time and day on which the vehicle is to be driven in the bathing reserve; and
- (c) details of why it is necessary for the vehicle to be driven in the bathing reserve; and
- (d) details of the bathing reserve or the particular part of the bathing reserve, as the case may be, in which the vehicle is to be driven.

9 Grant of a permit

- (1) For the purpose of section 23(4) of *Local Law No. 10 (Bathing Reserves) 2004*, in respect of the undertaking of a regulated activity that is driving a vehicle in a bathing reserve, an authorised person may grant a permit if satisfied 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.

- (2) For the purpose of section 23(4) of *Local Law No. 10 (Bathing Reserves) 2004*, in respect of the undertaking of a regulated activity that is conducting a surf school to teach participants how to ride a surfboard in a bathing reserve, an authorised person may grant a permit if satisfied that—
- (a) the teaching does not involve stand up paddle surfing, kite surfing, windsurfing or teaching relating to other wind powered craft; and
 - (b) there is public demand for the surf school proposed by the applicant; and
 - (c) the current permits granted for the conduct of surf schools are not sufficient to meet public demand; and
 - (d) there are not any current permits granted by the local government to conduct a surf school in the part of the bathing reserve in which the applicant proposes to conduct the surf school.

10 Conditions of a permit

- (1) For the purpose of section 25(3) of *Local Law No. 10 (Bathing Reserves) 2004*, in respect of the undertaking of a regulated activity that is driving a vehicle in a bathing reserve, the local government may impose all or any of the following conditions on the permit—
- (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 (Careless driving of motor vehicles) of the *Transport Operations (Road Use Management) Act 1995*; 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—
 - (ii) in a bathing area, five kilometres per hour; and
 - (iii) 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 permit is concerned – ensure compliance with section 10 (Vehicles used on roads must be registered) of the *Transport Operations (Road Use Management – Vehicle Registration) Regulation 2010*; and
- (i) use only specified vehicles in the bathing reserve; and
- (j) carry a true copy of the permit and particulars of all conditions imposed in the permit in the vehicle at all times whilst the vehicle is in the bathing reserve; and
- (k) give way to all pedestrians in the bathing reserve.

11 Prescribed criteria

- (1) For the purposes of section 7(1) of this subordinate local law, a regulated activity must comply with the following prescribed criteria—
 - (a) for a regulated activity which is the delivery of beach equipment to a person in a bathing reserve under section 7(1)(b) of this subordinate local law—
 - (i) the business delivering the beach equipment must not be operated from a mobile or temporary premises or a vehicle; and
 - (ii) vehicles are not to be driven on the beach, dunes, parks or reserves; and
 - (iii) the beach equipment is to be removed from the bathing reserve immediately upon the expiry of the period for which the beach equipment has been hired (unless the next period of hire commences immediately after the preceding period of hire); and
 - (iv) the beach equipment is to be removed from the bathing reserve immediately upon—
 - (A) the issue of a severe weather warning which applies to the bathing reserve; or
 - (B) the direction of an authorised person; and
 - (v) The business operating the delivery of beach hire equipment must hold at all times a broadform public liability insurance policy for at least \$10 million or another amount specified by the local government that notes the interests of the Council of the City of Gold Coast in respect of the operation of the delivery of beach hire equipment. The policy must be held for presentation and produced on request to an authorised person.

Part 4 Authorised persons

12 Limitation on powers

For the purposes of section 40 (Limitation on authorised person's powers) of *Local Law No. 10 (Bathing Reserves) 2004* an authorised person who holds the rank of captain in a life-saving patrol may—

- (a) if a life-saving club or SLSQ has assigned to the life-saving patrol responsibility for patrolling a patrol area during a patrol period, only exercise the powers of an authorised person—
 - (i) in the patrol area; and
 - (ii) during the patrol period; and
- (b) only exercise the powers in sections 6(1) and (5), 7(1) and (2), 8(1), 9(1), 17 (Interference with flags and life-saving equipment), 18(3)(c), 18(4), 19(9), 20(1), 46(1), 47(1), 48(1), 49(1), (2), (3) and (4) and 51(1) of *Local Law No. 10 (Bathing Reserves) 2004*.

13 Authorised person's appointment conditions

For the purposes of section 41 (Authorised person's appointment conditions) of *Local Law No. 10 (Bathing Reserves) 2004*, if there is any conflict between an authorised person who is a lifeguard and an authorised person who holds the rank of captain in a life-saving patrol, regarding the way the powers of an authorised person should be exercised under *Local Law No. 10 (Bathing Reserves) 2004*, the powers shall be exercised as directed by the lifeguard.

Schedule Dictionary

section 4

commercial fitness activity—

- (a) commercial fitness activity means a business or commercial activity involving the supply of the following personal or group fitness training activities—
 - (i) circuit training;
 - (ii) resistance training;
 - (iii) fitness training involving self-defence or the use of boxing gloves and boxing pads;
 - (iv) organised aerobic activity, including group walking or running activities, whether or not involving a thing that is pushed, pulled or carried;
 - (v) fitness activities involving yoga, tai chi, pilates, meditation or a similar activity;
 - (vi) group fitness activities conducted by an individual instructor or multiple instructors involving the participation of individuals, or groups of persons in strength, resistance or cardiovascular based activities, whether or not involving the use of equipment; or
 - (vii) any combination of the activities mentioned in paragraphs (i) to (vi); and
- (b) commercial fitness activity does not include—
 - (i) a club training activity; or
 - (ii) a corporate event.

corporate event means an activity carried out as part of a temporary conference or convention.

fitness equipment—

- (a) fitness equipment means equipment used or intended to be used for fitness training purposes; and
- (b) fitness equipment includes metal bars, exercise weights, benches, logs, tyres, sledge hammers, heavy ropes, medicine balls, boxing gloves, punching bags, kickboxing bags, weight training machines or rowing machines or any other large load bearing or large resistance training equipment; and
- (c) fitness equipment does not include—

- (i) lifesaving equipment if it is being used for training, the surveillance of the bathing reserve or to assist bathers in distress by—
 - (A) members of a life-saving patrol; or
 - (B) a lifeguard; or
- (ii) marker flags or marker cones; or
- (iii) sports balls, including footballs, soccer balls, tennis balls or the like.

patrol area means the part of the bathing reserve assigned to a life-saving club to conduct life-saving patrols.

patrol period means the period during which life-savers are on duty conducting life-saving patrols.

permitted business means the following businesses or commercial activities—

- (a) conducting a surfing competition; and
- (b) conducting a surf school pursuant to section 9(2) of this subordinate local law; and
- (c) conducting an underwater recreational activity; and
- (d) the hiring of beach equipment by a life-saving club within the part of the bathing reserve which is located not more than one-hundred metres on either side of the life-saving club's clubhouse; and
- (e) conducting a marriage ceremony by a marriage celebrant; and
- (f) setting apart the bathing reserve, or part of the bathing reserve, commonly known as "North Kirra Beach" for use as a landing area for tandem skydivers; and
- (g) an entertainment or promotional event, product launch or corporate event, which—
 - (i) is of economic significance to the area; and
 - (ii) complies with the local government's ocean beaches management plan or surf management plan (as amended from time to time); and
- (h) film production; and
- (i) a temporary broadcast of a radio or television program; and
- (j) photography undertaken for a commercial purpose; and
- (k) the delivery of beach equipment to a person in a bathing reserve; and
- (l) a temporary business authorised by a resolution of the local government for a specific time period.

underwater recreational activity—

- (a) includes-
 - (ii) scuba diving;
 - (iii) snorkelling;
- (b) but does not include-
 - (ii) spear fishing.

#51052539