

# **Local Law No. 10**

## **(Bathing Reserves) 2004**

**Consolidated version**

**Reprint No. 3**

This and the following 52 pages is a certified copy of  
the CONSOLIDATED VERSION of *Local Law No. 10 (Bathing Reserves) 2004*  
made in accordance with the provisions of the *Local Government Act 2009*  
by the Council of the City of Gold Coast by resolution dated 25 July 2017.

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Joe McCabe  
Acting Chief Executive Officer

**Council of the City of Gold Coast  
Local Law No. 10  
(Bathing Reserves) 2004**

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# **Council of the City of Gold Coast Local Law No. 10 (Bathing Reserves) 2004**

## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as *Local Law No. 10 (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; and
- (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 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 commercial activities in bathing reserves to activities which are of economic significance to the area and meets the objectives of the local government's commercial activities on ocean beaches management plan or surf management plan (as amended from time to time), in recognition of the need to—

- (i) prevent or minimise environmental harm in bathing reserves; and
- (ii) preserve and enhance public safety and amenity in bathing reserves.

### **3 Definitions—the dictionary**

The dictionary in the Schedule (Dictionary) 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.

#### **5 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.

### **Division 2 Bathing areas**

#### **6 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 two 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 two flags; and
  - (b) lateral boundaries extending seaward from each flag at right angles from the imaginary line; and
  - (c) an outer boundary 400m seaward of the low water mark at ordinary spring tides.
- (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.

## **7 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.

## **8 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.<sup>1</sup>
- (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.

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<sup>1</sup> 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.

## **Division 3          Reservation for training**

### **9          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)(a), and the restrictions applying to access, must be clearly indicated by signs erected in prominent positions on the bathing reserve.

## **Part 3          Regulation of bathing reserves**

### **10          Regulation of business**

- (1) A person (other than the local government) must not carry on a business or associated activity on an excluded bathing reserve, unless the business is—
  - (a) a permitted business that is not a prohibited permitted business; and
  - (b) authorised by a permit.

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

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

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

### **11          Designation of excluded bathing reserves**

- (1) The local government may, by subordinate local law—
  - (a) designate the whole or any part of a bathing reserve as an excluded bathing reserve (an *excluded bathing reserve*); and
  - (b) designate the whole or any part of an excluded bathing reserve as an area where a person is prohibited from carrying on a permitted

business or a permitted business of a specified type (a *prohibited permitted business*)—

- (i) at all times; or
  - (ii) on specified days; or
  - (iii) during specified hours on specified days; and
- (c) designate the whole or any part of an excluded bathing reserve as an area where a person is prohibited from carrying on a regulated activity, other than a permitted business, of a specified type (a *prohibited regulated activity*) —
- (i) at all times; or
  - (ii) on specified days; or
  - (iii) during specified hours on specified days.
- (2) For the avoidance of doubt, the local government may, from time to time, by subordinate local law, repeal or amend a designation under subsection (1).
- (3) Each designation of an excluded bathing reserve under subsection (1) must include a description of the area designated as the excluded bathing reserve and, where required for identification purposes, the real property description of the land on which the excluded bathing reserve is located or some other description sufficient to identify the excluded bathing reserve with certainty.

## **12 Prescribing bathing reserve as excluded bathing reserve**

- (1) If the local government makes a designation under section 11(1)(a) by subordinate local law, the subordinate local law must include the information specified in section 11(3).
- (2) If the local government makes a designation under section 11(1)(b) by subordinate local law, the subordinate local law must specify, for the designation—
- (a) the permitted business, or specified type of permitted business, that must not be carried on in the excluded bathing reserve; and
  - (b) the times or days during which a permitted business, or specified type of permitted business, must not be carried on in the excluded bathing reserve.
- (3) If the local government makes a designation under section 11(1)(c) by subordinate local law, the subordinate local law must specify, for the designation—
- (a) the regulated activity or activities that must not be carried on in the excluded bathing reserve; and

- (b) the times or days during which the regulated activity or activities must not be carried on in the excluded bathing reserve.

### **13 Prohibited conduct**

- (1) Whilst in a bathing reserve a person must not—
  - (a) light or maintain 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 Emergency Services Act 1990*; or
  - (b) remove turf, sand, clay, soil or other material from a bathing reserve; or
  - (c) remove, interfere or damage any infrastructure, facility or equipment in a bathing reserve; or
  - (d) bring an object which is dangerous or has the potential to be dangerous (including dangerous aquatic equipment) into a bathing reserve within 15 metres of a bathing area unless authorised under another section of this local law; or
  - (e) have prohibited equipment in a bathing reserve; or
  - (f) discharge or carry a firearm or other weapon or any kind of explosive device; or
  - (g) throw a stone, projectile or other missile; or
  - (h) use offensive or indecent language or behaviour; or
  - (i) hit a golf ball; or
  - (j) enter that part of a public convenience in a bathing reserve 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
  - (k) carry out any activity or behave in a manner reasonably likely to offend another person; or
  - (l) interfere with a plant; or
  - (m) 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

- (n) interfere with a sign or notice; or
- (o) dispose of any rubbish of any kind other than in a waste container provided for that purpose; or
- (p) deposit, store or abandon any goods; or
- (q) otherwise do any act or omit to do any act which pollutes, fouls, litters or interferes with a bathing reserve or a facility; or
- (r) carry out an activity specified in a subordinate local law as a prohibited activity.

*Examples of subsection (d) dangerous objects—*

- A performance kite that may plummet suddenly into the sand.
- equipment with projections liable to cause injury to bathers.

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

- (2) Whilst in a bathing reserve 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 for subsection (2)—25 penalty units.

- (3) Whilst in a bathing reserve 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) carry out an activity prohibited in a subordinate local law.

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

- (4) Subsection (1) has effect subject to—
  - (a) the *Peaceful Assembly Act 1992*; and
  - (b) the *Police Powers and Responsibilities Act 2000*.
- (5) Subsection (1)(d) 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.

- (6) Subsection (1)(e) 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.
- (7) A person (other than the local government) must not, without the prior written consent of the local government, carry out development, including erecting a facility in, on, across or over a bathing reserve.

Maximum penalty for subsection (7) – 400 penalty units.

#### **14 Regulated conduct**

- (1) A person must not, unless authorised by a permit, a sign exhibited in the bathing reserve or a subordinate local law, use a bathing reserve for the purpose of—
- (a) camping; or
  - (b) occupying or remaining overnight in a bathing reserve; or
  - (c) operating a drone or 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) using, storing or possessing fireworks; or
  - (g) using any megaphone, sound amplifier, radio, loud speaker or any other means of mechanically, electrically or artificially increasing or reproducing sound; or
  - (h) undertaking scientific research on a plant or animal; or
  - (i) exhibiting a sign; or
  - (j) conducting aircraft operations; or
  - (k) using electric power from a power point; or
  - (l) conducting a social gathering of more than 50 people (other than a marriage ceremony); or

- (m) conducting a meeting (including a religious service) of more than 50 people; or
- (n) conducting a club training activity involving more than 50 people; or
- (o) erecting or installing a facility, other than erecting a facility that is carrying out development under the *Sustainable Planning Act 2009* chapter 6, in, on, across or over a bathing reserve; or
- (p) conducting or taking part in an organised sporting activity of local, State, regional or national significance; or
- (q) 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 bathing reserve in contravention of subsection (1)(o), the facility becomes the property of the local government.
- (3) Notwithstanding subsection (2), if an approval, granted by the local government under this local law or another law, makes other provisions about ownership of a facility erected or installed under the approval, the provisions of the approval prevail.

## **15 Shark alarms**

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

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

- (2) A shark alarm is given by the prolonged sounding of a siren and the all-clear is given by a short sounding of the siren or use of the public address system.
- (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.

## **16 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.

**17 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 for subsection (1)—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 for subsection (2)—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 for subsection (3)—50 penalty units.

**Part 4 Aquatic equipment, land yachts, vessels and wind powered craft**

**18 Prohibition on use of aquatic equipment, vessels and wind powered craft in bathing areas**

- (1) A person must not use aquatic equipment, a vessel or wind powered craft in a bathing area.

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

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

Maximum penalty for subsection (2)—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 equipment may be used in a bathing area; and
- (c) an authorised person may authorise the use of aquatic equipment in a bathing area if the use is necessary at the time of the authorisation; and

*Example—*

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

- (d) if an authorised person authorises the use of aquatic equipment or a vessel in a bathing area in accordance with subsection 3(c), 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
- (e) 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 lifeguard.
- (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 for subsection (5)—50 penalty units.

**19 Restrictions on use of aquatic equipment, land yachts, vessels and wind powered craft 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 15m of a bathing area.  
  
Maximum penalty for subsection (2)—50 penalty units.
- (3) A person must not use a land yacht in a bathing reserve.  
  
Maximum penalty for subsection (3)—50 penalty units.
- (4) Subject to subsection (5), a person must not use a vessel in that part of a bathing reserve which is less than 400m seawards of low water mark at ordinary spring tides.  
  
Maximum penalty for subsection (4)—50 penalty units.
- (5) Subject to subsection (7), a person must not use a vessel for tow-in surfing or power assisted surfing in a bathing reserve if the vessel is operated within—
  - (a) 400m seaward of the low water mark at ordinary spring tides; or
  - (b) 200m of a swimmer or a person using aquatic equipment or a wind powered craft.

Maximum penalty for subsection (5)—50 penalty units.

- (6) A person must not use wind powered craft in a bathing reserve within 150m of the lateral boundaries of the bathing area or 200m seaward of the low water mark of a bathing area.

Maximum penalty for subsection (6)—50 penalty units.

- (7) However this section does not prevent the use in a bathing reserve of—
- (a) aquatic equipment, a land yacht, a vessel or wind powered craft if its use is—
    - (i) authorised or required in the performance of an express duty, express power, or approval under some other law; or
    - (ii) authorised by a permit granted under part 5 of this local law; or
    - (iii) authorised under a subordinate local law; or
    - (iv) authorised under another section of this 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 vessel if it is being used to provide the service for which it is designed or ordinarily used; or
  - (d) a vessel if—
    - (i) it is being used by the holder of a licence, permit or authority issued under the *Fisheries Regulation 2008* in the exercise of the rights of the holder under the licence, permit or authority, as the case may be; or
    - (ii) it is being used for tow-in surfing or power assisted surfing when the beach is closed due to extreme weather conditions and it is not operated within 200m of any aquatic equipment, wind powered craft or swimmers.
- (8) Notice of the prohibitions and restrictions imposed under subsections (2), (3), (4), (5) and (6) must be included on—
- (a) reserve signs or on notices adjacent to the reserve signs; and
  - (b) signs erected adjacent to each public marine facility in the area.

- (9) 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); or
  - (d) a vessel for tow-in surfing or power assisted surfing if the person uses the vessel in a bathing reserve contrary to subsection (5); or
  - (e) a wind powered craft if the person uses the wind powered craft in a bathing reserve contrary to subsection (6).
- (10) A person must not fail to comply with a direction given under subsection (9).
- Maximum penalty for subsection (10)—50 penalty units.

## **20 Reservation of areas for use of aquatic equipment**

- (1) Subject to section 19(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.

## **Part 5 Permits**

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

- (1) A person, other than the local government, must not use a bathing reserve or any part of a bathing reserve for a regulated activity unless authorised by—
- (a) this local law; or
  - (b) a permit granted pursuant to section 23 (Grant of a permit) 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 an approval by 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 under the *Sustainable Planning Act 2009* does not require a permit under this local law. A permit under this local law does not authorise an activity that requires a development permit under the *Sustainable Planning Act 2009*.

- (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.

## **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 which may include—
      - (A) plans and specifications unless otherwise required by the local government; and
      - (B) details of any adverse environmental impact the regulated activity is likely to have on the bathing reserve; and
      - (C) details of any adverse impact the regulated activity 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 regulated activity; and
  - (E) details of how the regulated activity 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 in respect of the regulated activity; and
  - (G) details of the commencement and duration of the regulated activity; and
- (iv) such other information and materials as are requested by the local government or specified in a subordinate local law.
- (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 authorising the use of a bathing reserve or a particular part of a bathing reserve for a regulated activity 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 result in the unsafe movement or obstruction of traffic or the unsafe use of a road; 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) will be consistent with the objects of this local law; and

- (j) is appropriate in the bathing reserve; and
  - (k) can adequately be catered for by the facilities in the bathing reserve; and
  - (l) will allow sufficient time between (before and after) the undertaking of another regulated activity —
    - (i) for the maintenance, repair or rehabilitation of the bathing reserve and any areas adjacent to the bathing reserve; and
    - (ii) such that it does not adversely impact on the surrounding community and meets the objectives of the local government's commercial activities on ocean beaches management plan or surf management plan.
- (2) 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.
- (3) 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.
- (4) A subordinate local law may specify criteria with which the regulated activity must comply, or will ordinarily be expected to comply.

## **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) If a time is not specified on the permit under subsection (1), the permit expires at the end of the day of the term specified in subsection (1) of this local law.

**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 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 resulting 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 the unsafe movement or obstruction of traffic or the unsafe use of a road; 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) regulate the specified hours and specified days during which the regulated activity must be undertaken or operated; and
  - (e) specify the standards with which the undertaking of the regulated activity must comply; and

- (f) require the holder of the permit to give the local government a specified indemnity and to take out specified insurance; and
- (g) 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
- (h) produce evidence of the existence and currency of any insurance taken out after receipt of a written request from an authorised person; 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, if the holder of the permit is a minor, to be accompanied by a person who is concerned with the care or welfare of the minor, such as a parent or legal guardian; and
- (k) 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
- (l) 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
- (m) require the giving of a security or bond to secure compliance with the permit and the provisions of this local law; and
- (n) require records to be kept at a place and for a time specified in the permit or a subordinate local law; and
- (o) 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
- (p) require that the number of persons involved in the undertaking of the regulated activity is not to exceed a number specified by the local government; and
- (q) require the holder of the permit to define the area the subject of the permit by signs, flags and floating buoys or in some other way that clearly indicates the area the subject of the permit and the use for which it is set apart; and
- (r) require the holder of the permit to properly maintain all equipment and facilities used by the holder of the permit within the area the subject of the permit; and
- (s) require the holder of the permit, where the holder of the permit is granted the right to use a bathing reserve or a particular part of a

bathing reserve on a nonexclusive basis, to make facilities installed under the permit available for use by the public at specified times or over specified periods; and

- (t) require the holder of the permit, where the holder of the permit 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, to make facilities installed under the permit available for use by patrons of the event at specified times or over specified periods; and
  - (u) require the holder of the permit to provide temporary toilet facilities at a rate of one toilet per 80 people who attend the area the subject of the permit for the regulated activity; and
  - (v) require the holder of the permit to remove any barrier or other structure placed or erected on the bathing reserve at the conclusion of the regulated activity; and
  - (w) require the holder of the permit to collect and properly dispose of all waste and rubbish at the conclusion of the regulated activity.
- (3) The local government may specify by 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 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) the unsafe movement or obstruction of traffic or the unsafe use of a road; or
  - (c) the change is necessary to ensure that the undertaking of the regulated activity complies with the prescribed criteria.

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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*).

- (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.
- (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.

## **27 Amendment, renewal or transfer of a permit**

- (1) 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) 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.
- (3) The local government may renew or transfer a permit—
- (a) if 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.
- (4) The local government may amend a permit—
- (a) if 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.
- (5) The local government must not amend a permit that has been granted for a specific location if the amendment is to the location of where the regulated activity is to be undertaken.
- (6) For the purposes of determining whether the criteria specified in subsections (3) and (4) 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.

## **28 Renewal of a permit**

- (1) The local government is taken to have requested the holder of a permit to renew the permit by giving to the holder of the permit a written notice.
- (2) The holder of a permit is taken to have made an application to the local government to renew the permit—
- (a) if the written notice requires the payment of a prescribed fee, upon the payment of the prescribed fee; or
  - (b) if the written notice does not require the payment of a prescribed fee, if the local government is not otherwise notified by the holder of the permit within 30 days of the issue of the written notice.

- (3) The local government may renew a permit—
- (a) if the undertaking of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
  - (b) if satisfied that any requirement specified in the written notice given by the local government pursuant to subsection (1) has been complied with; and
  - (c) subject to the conditions of the permit unless otherwise determined by the local government; and
  - (d) subject to such conditions as the local government considers appropriate.
- (4) For the purposes of determining whether the criteria specified in subsection (3)(a) have been satisfied, the local government is not obliged to look beyond—
- (a) any information or material submitted to the local government in respect of the renewal of the permit; and
  - (b) any other information held by the local government which is relevant to the renewal of the permit.
- (5) If the local government renews a permit subject to conditions pursuant to subsections 3(c) or 3(d), the local government must—
- (a) when giving the holder of the permit a written notice pursuant to subsection (1), give the holder of the permit a written notice stating—
    - (i) the proposed conditions of the permit; and
    - (ii) that the holder of the permit may make written representations to the local government about the proposed conditions of the permit; 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; and
  - (c) after considering any written representations made by the holder of the permit, give to the holder of the permit—
    - (i) if the local government is satisfied the condition is not necessary – a written notice stating that it has decided not to impose the conditions; or

- (ii) if the local government is satisfied that the condition is necessary – a written notice stating that it has decided to impose the conditions.

## **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 holder of the permit contravenes—
    - (i) this local law; or
    - (ii) a condition of a permit; or
  - (c) 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
  - (d) the permit was granted on the basis of false, misleading or incomplete information; or
  - (e) changes in circumstances 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 written 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) When 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 Suspension or cancellation of permit 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 permit granted under this local law in accordance with the permit.
- (2) An authorised person may direct the holder of the permit 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 permit.

*Example—*

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

- (3) The direction may be given orally, but must be confirmed by written notice (a *prohibition notice*) given to the holder of the permit as soon as practicable.
- (4) A person must comply with the direction or prohibition notice.  
Maximum penalty for subsection (4)—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) that 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 permit 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.
- (7) The local government may cancel a permit if the cancellation is urgently necessary to prevent—
  - (a) harm to human health or safety or personal injury; or
  - (b) property damage; or
  - (c) environmental harm or environmental nuisance; or
  - (d) the unsafe use of a bathing reserve or part of the bathing reserve.

**31 Direction to leave area the subject of permit**

- (1) This section applies if—
  - (a) a permit is granted by the local government; and
  - (b) the permit sets apart for the exclusive use of the holder of the permit, a bathing reserve or a particular part of a bathing reserve; and
  - (c) the permit allows the holder of the permit 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 permit; and

- (d) the bathing reserve or the particular part of the bathing reserve, as the case may be, is set apart for the exclusive use of the holder of the permit and the restrictions applying to access are clearly indicated by signs erected in prominent positions on the bathing reserve or the particular part of the bathing reserve, as the case may be.
- (2) Subject to subsection (1), if a person enters 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 permit, an authorised person may direct the person to leave the bathing reserve or the particular part of the bathing reserve, as the case may be.
- (3) A person must comply with a direction under subsection (2).

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

### **32 General compliance provision**

- (1) The holder of an approval must ensure that the conditions of the approval are complied with.  
  
Maximum penalty for subsection (1)—50 penalty units.
- (2) The holder of an approval 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; and
  - (c) does not result in environmental harm or environmental nuisance; and
  - (d) does not result in a nuisance; and
  - (e) does not result in the unsafe use of a bathing reserve; and
  - (f) complies with the prescribed criteria.

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

## **Part 6 Enforcement**

### **33 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.

### **34 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      Life-saving clubs**

### **35      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.
  
- (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 of 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.

### **36      Facilities for life-saving patrols**

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

- (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.

### **37      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.

## **Part 8      Authorised persons**

### **Division 1      Authorised persons**

#### **38      Conflict with *Local Law No. 3 (Administration) 2008***

Where there is an inconsistency between Part 4 (Powers of council officers) of *Local Law No. 3 (Administration) 2008* of the local government and this part of this local law, the latter will apply.

#### **39      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; and
  - (b)      a lifeguard while he or she holds that position; and
  - (c)      a person who is an authorised person under a subordinate local law; and
  - (d)      a person appointed as an authorised person for this local law under this section.

*Example of 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; and
  - (b)      other persons who are eligible for appointment as authorised persons under Chapter 6 (Administration), Part 6 (Authorised persons) of the *Local Government Act 2009*.
- (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.

#### 40 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.

#### 41 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 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 (*main office*).
- (3) However, an authorised person may not resign from the office of authorised person (*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.

#### 42 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) (***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 for subsection (6)—40 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.

### **43 Impersonation of an authorised person**

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

Maximum penalty—50 penalty units.

**44 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 for subsection (1)—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 for subsection (2)—25 penalty units.

**45 Protection from liability**

- (1) This section applies to—
- (a) the local government; and
  - (b) an authorised person; and
  - (c) a person acting under the direction of or assisting an authorised person.
- (2) Civil liability is not incurred for an act done or omission made honestly and without negligence under this local law.
- (3) However, subsection (2) does not apply—
- (a) if any injury, loss or damage was wilfully or negligently caused by a party mentioned in subsection (1); or
  - (b) if any injury occurred because the party mentioned in subsection (1) wilfully or negligently contravened section 50 (Powers of authorised persons on seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft).

## **Division 2            Powers of authorised persons**

### **46            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.

### **47            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 person, 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.

### **48            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.

### **Division 3            Seizure and disposal of property**

#### **49    Seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft**

- (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 18(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 19(2); and
  - (b) fails to comply with a direction given under section 19(9)(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 19(3); and
  - (b) fails to comply with a direction given under section 19(9)(b).
- (5) An authorised person may seize a vessel if-
- (a) A person-
    - (i) uses the vessel in that part of a bathing reserve which is less than 400m seaward of the low water mark at ordinary spring tides contrary to section 19(4); and
    - (ii) fails to comply with a direction given under section 19(9)(c);  
or
  - (b) A person-
    - (i) uses the vessel for tow-in surfing or power assisted surfing in a bathing reserve contrary to section 19(5); and
    - (ii) fails to comply with a direction given under section 19(9)(d).

- (6) An authorised person may seize a wind powered craft if a person—
  - (a) uses the wind powered craft in a bathing reserve contrary to section 19(6); and
  - (b) fails to comply with a direction given under section 19(9)(e).

**50 Powers of authorised persons on seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft**

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 49(1); or
- (b) aquatic equipment under section 49(2) or (3); or
- (c) a land yacht under section 49(4); or
- (d) a vessel under section 49(5); or
- (e) wind powered craft under section 49(6).

**51 Procedure on seizure of property**

- (1) If an authorised person seizes an object, an item of aquatic equipment, a land yacht, a vessel or a wind powered craft under section 49 (Seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft), the authorised person must give the person from whom the object, item of aquatic equipment, land yacht, vessel or wind powered craft, as the case may be, is taken, a receipt stating—
  - (a) the nature of the object, item of aquatic equipment, land yacht, vessel or wind powered craft, as the case may be; and
  - (b) the date and time of seizure; and
  - (c) a period (which must be at least one hour and not more than six months) for which the object, item of aquatic equipment, land yacht, vessel or wind powered craft, as the case may be, is to be detained; and
  - (d) a place where the object, item of aquatic equipment, land yacht, vessel or wind powered craft, 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 one hour and not more than six months; and
  - (b) where the authorised person is a person other than a lifeguard – at least one hour and not more than 10 hours.

- (3) The object, item of aquatic equipment, land yacht, vessel or wind powered craft, 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, land yacht, vessel or wind powered craft, as the case may be, must be returned to the owner if the owner of the object, item of aquatic equipment, land yacht, vessel or wind powered craft, as the case may be—
  - (a) reclaims the object, item of aquatic equipment, land yacht, vessel or wind powered craft, as the case may be, by written application made to the local government after, but not more than six months after, the end of the period fixed for its detention; and
  - (b) provides appropriate proof of ownership; and
  - (c) pays the prescribed release fee.<sup>3</sup>
- (5) An authorised person must, as soon as practicable after seizing an object, item of aquatic equipment, land yacht, vessel or wind powered craft, 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—
  - (a) returned to its former owner; or
  - (b) otherwise disposed of under this part.

## **52 Procedure for disposal of property**

- (1) This section applies where property is seized under section 49 (Seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft); and
- (2) If the property is not reclaimed under section 51(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 property; or

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<sup>3</sup> See section 19 (Recovery of costs of investigation) of *Local Law No. 3 (Administration) 2008*.

- (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 contract.<sup>4</sup>
- (4) An amount realised on the sale of property must be applied in the order specified in section 38A of the *Local Government Act 2009*.

### **53 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 law.<sup>5</sup>
- (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.

### **54 Seized property register**

- (1) The local government must keep a register of all property seized under section 49 (Seizure of dangerous objects, aquatic equipment, land yachts, vessels and wind powered craft) (*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 51 (Procedure on seizure of property); and

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<sup>4</sup> The application of this provision is subject to Chapter 6 (Contracting), Part 3 (Default contracting procedures), Division 2 (Entering into particular contracts) of the *Local Government Regulation 2012*.

<sup>5</sup> In terms of *Local Law No. 3 (Administration) 2008*, 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.

- (v) details of disposal of the property in the event that the property was not released in accordance with section 51 (Procedure on seizure of property).

## **Part 9 Subordinate local laws**

### **55 Subordinate local laws**

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

- (a) a type of business which may be permitted in a bathing reserve pursuant to section 10 and the definition of ‘permitted business’ of this local law; and
- (b) a bathing reserve or part of a bathing reserve as an excluded bathing reserve pursuant to section 11(1)(a) of this local law; and
- (c) a permitted business as a prohibited permitted business pursuant to section 11(1)(b) of this local law; and
- (d) a regulated activity as a prohibited regulated activity pursuant to section 11(1)(c) of this local law; and
- (e) a prohibited activity pursuant to section 13(1)(r) of this local law; and
- (f) other circumstances excluded from the application of section 13 (Prohibited Conduct) of this local law pursuant to section 13(6)(c) of this local law; and
- (g) aquatic equipment, a land yacht, a vessel or wind powered craft authorised to be used in a bathing reserve pursuant to section 19(7)(a)(iii) of this local law; and
- (h) when a permit is not required in respect of the undertaking of the regulated activity pursuant to section 21(2)(a) of this local law; and
- (i) such other information and materials required to accompany an application for a permit pursuant to section 22(1)(c)(iv) of this local law; and
- (j) the circumstances whereby 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
- (k) the criteria with which the regulated activity must comply, or will ordinarily be expected to comply pursuant to section 23(4) of this local law; and
- (l) the term for which a permit is granted pursuant to section 24(1)(b) of this local law; and

- (m) the records to be kept and the length of time the records are to be kept pursuant to section 25(2)(n) of this local law; and
- (n) the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit for the undertaking of the regulated activity pursuant to section 25(3) of this local law; and
- (o) the changes in circumstances since a permit was granted that makes the continued operation of the permit inappropriate pursuant to section 29(2) of this local law; and
- (p) the records that are required to be kept pursuant to section 33 (Records to be kept) of this local law; and
- (q) the terms of a periodic inspection, monitoring or management program in respect of the operation of the regulated activity pursuant to section 34 (Inspection, monitoring or management program) of this local law; and
- (r) authorised persons pursuant to section 39(1)(c) of this local law; and
- (s) the limits of an authorised person's powers pursuant to section 40 (Limitation on authorised person's powers) of this local law; and
- (t) the conditions on which an authorised person holds office pursuant to section 41(1) of this local law; and
- (u) equipment as aquatic equipment pursuant to the Schedule (Dictionary) of this local law; and
- (v) equipment as beach equipment pursuant to the Schedule (Dictionary) of this local law; and
- (w) an entity that has the care or control of an essential services vehicle pursuant to the Schedule (Dictionary) of this local law; and
- (x) an entity that has the care or control of an essential services vessel pursuant to the Schedule (Dictionary) of this local law; and
- (y) an activity as a regulated activity pursuant to the Schedule (Dictionary) of this local law; and
- (z) an object classified as prohibited equipment pursuant to the Schedule (Dictionary) of this local law; and
- (aa) a craft as a wind powered craft pursuant to the Schedule (Dictionary) of this local law; and
- (bb) prescribed criteria pursuant to the Schedule (Dictionary) of this local law

## **Part 10                      Application of Local Law No. 3 (Administration) 2008**

### **56            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 10A                      Application of Local Law No. 21 (Major City Events) 2017**

### **56A        Application of Local Law No. 21 (Major City Events) 2017 to this local law**

(1)        This section applies if there is an inconsistency between a provision of this local law (a *standard provision*) and a provision of *Local Law No. 21 (Major City Events) 2017* (a *major city event provision*).

(2)        If there is an inconsistency between a standard provision and a major city event provision, the major city event provision prevails to the extent of the inconsistency, but only if the inconsistency arises as a result of the application of the standard provision—

- (a)        wholly or partly within a restricted access area; and
- (b)        during the whole or any part of a restricted access period.

(3)        In this section—

*restricted access area* has the meaning given in *Local Law No. 21 (Major City Events) 2017*;

*restricted access period* has the meaning given in *Local Law No. 21 (Major City Events) 2017*.

## **Part 11                      Transitional provisions**

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

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

## 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 (Keeping and Control of Animals) 2007*.

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

**aquatic equipment** means—

- (a) an inflatable device or rubber or foam float or board that is not bathing equipment; 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) another device specified by subordinate local law.

**assessment criteria** means the criteria for deciding an application for a permit for the undertaking of a regulated activity.

**authorised person** means a person who is authorised by the local government under this local law to exercise the powers of an authorised person under this local law.<sup>6</sup>

**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 6 (Bathing areas) of this local law.

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

- (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 .

**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 62 (Bathing reserves) of the *Local Government Regulation 2012*.<sup>7</sup>

**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.

**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>6</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.

<sup>7</sup> Section 62(1) (Bathing reserves) of the *Local Government Regulation 2012* 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 that is adjacent to the 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 the part of a seashore and land.

- (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 bathing reserve and ***camping*** has the corresponding meaning.

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

*Example—*

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

***club training activity—***

- (a) means a training session organised and conducted by—
  - (i) an incorporated sports club or educational establishment; or
  - (ii) a club participating in a local, regional, State or national sporting competition; and
- (b) does not include life-saving training organised and conducted by a life-saving club.

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

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

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

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

- (a) the Queensland Ambulance Service; or
- (b) Queensland Fire and Emergency Services; or
- (c) a fuel gas distributor authorised under the *Gas Supply Act 2003*; 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 Transport and Main Roads); or
- (h) a carrier or service provider licensed under the *Telecommunications Act 1997* (Cth); 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 Service; or
- (b) the police force; or
- (c) the State Emergency Service; or
- (d) Road Transport Construction Services (Department of Transport and Main Roads); or
- (e) the local government; or
- (f) an Australian Volunteer Coastguard Organisation or a Volunteer Marine Rescue Organisation which is the holder of a current accreditation issued by the Queensland Fire and 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) Queensland Fire and Emergency Services; or
- (i) another entity specified by subordinate local law.

***excluded bathing reserve*** see section 11(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.

***identity card register*** see section 42(4) of this local law.

***land yacht*** means a device with wheels and one 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; and
- a bowsprit.

*Example 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—
  - (i) the necessary expertise or experience to provide life-saving services; or
  - (ii) 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) SLSQ; or
  - (ii) the Head Centre of the Royal Life Saving Society; and
- (b) accredited by the Queensland Fire and 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.

***Local Government Acts*** has the meaning given in the *Local Government Act 2009* and includes approvals granted pursuant to the Local Government Acts.

***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.

***numbered identity card*** see section 42(4) of this local law.

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

***permitted business*** has the meaning given in *Subordinate Local Law No. 10.1 (Bathing Reserves) 2005*.

***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.

***prohibited permitted business*** see section 11(1)(b) of this local law.

***prohibited regulated activity*** see section 11(1)(c) of this local law.

***power assisted surfing*** means a surfing technique in which a surfer is propelled onto a breaking wave by a vessel.

***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.

***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 30(3) 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 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.<sup>8</sup>

***regulated activity*** means an activity the undertaking of which

- (a) requires a permit under this local law; or
- (b) is specified in a subordinate local law as an activity for which a permit is not required.

***reserve sign*** means a sign indicating the existence of a bathing reserve.<sup>9</sup>

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

***sale*** includes—

- (a) to sell; or

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<sup>8</sup> See section 35 (Recognised life-saving clubs) of this local law.

<sup>9</sup> See section 4 (Signs indicating existence of bathing reserves) of this local law.

- (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.

***seized property register*** see section 54(1) of this local law.

***sign*** means—

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

***SLSQ*** means Surf Life Saving Queensland Inc.

***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.

***surf management plan*** means the plan as adopted and amended by Council from time to time

***surveillance*** means the visual supervision of an area.

***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.

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

**tow-in surfing** means a surfing technique in which a surfer is towed into a breaking wave by a partner driving a vessel with an attached tow-line.

**vehicle** has the meaning given in the *Transport Operations (Road Use Management Act) 1995*.

**vessel** means—

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

**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 nonreactive with the intended contents; and
- (e) is leakproof; and
- (f) minimises the loss of material into the environment.

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

**wind powered craft** means—

- (a) a sail board; or
- (b) a kite surf craft; or
- (c) a windsurfer; or
- (d) 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 or from the device; or
- (e) another device specified by subordinate local law.