Gympie Regional Council

Local Law No. 6 (Bathing Reserves) 2011

Contents

Part 1 Preliminary 3

1 Short title 3
2 Purpose and how it is to be achieved 3
3 Definitions—the dictionary 3
4 Relationship with other laws 3

Part 2 Bathing reserves 3

Division 1 Designation of bathing reserves 3

5 Signs indicating existence of bathing reserve 3

Division 2 Bathing areas 4

6 Bathing areas 4
7 Flags to inform bathers about prevailing conditions 4
8 Closure of bathing reserve 4

Division 3 Reservation for training, competitions and special occasions 5

9 Reservation for life-saving training 5
10 Reservation for competitions and special occasions 5

Part 3 Use of aquatic equipment in bathing reserves 5

11 Prohibition of use of aquatic equipment in bathing areas 5
12 Restrictions on use of aquatic equipment in bathing reserves 6
13 Reservation of areas for use of aquatic equipment 6

Part 4 Behaviour in bathing reserves 6

14 Dangerous objects 6
15 Prohibited equipment 7
16 Dangerous conduct 7
17 Emergency evacuation alarm 7
18 False alarms 7

Part 5 Life-saving clubs and powers of authorised persons 8

Division 1 Life-saving clubs and patrols 8

19 Recognised life-saving clubs 8
20 Enclosure for life-saving patrols 8

21 Distinctive clothing 8

Division 2 Powers of authorised persons 8

22 Power to remove or reduce danger 8

23 Power to stop dangerous and antisocial conduct 8

24 Power to require bathers to leave water 8

25 Seizure and detention of dangerous objects and prohibited equipment 9

Part 6 Authorised persons 9

26 Who are authorised persons 9

27 Limitation on authorised person's powers 10

28 Authorised person's appointment conditions 10

29 Authorised person's identity card 11

30 Production of identity card 11

31 Offence 11

32 Protection from liability 11

Part 7 Miscellaneous 12

33 Compliance with Australian standards 12

34 Obstruction of authorised persons and life-savers 12

35 Interference with flags and life-saving equipment 12

36 Subordinate local laws 12

Schedule Dictionary 13

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 6 (Bathing Reserves) 2011*.

2 Purpose and how it is to be achieved

(1) The purpose of this local law is to enhance the public safety and convenience of bathing reserves placed under the local government's control[1] through orderly management and regulation of activities within these reserves.

(2) The purpose is achieved by providing for—

(a) the designation and management of safe, supervised bathing areas within bathing reserves; and

(b) the regulation of conduct and the use of aquatic equipment within bathing reserves; and

(c) the assignment of responsibility to life-saving clubs for managing, patrolling and supervising bathing reserves; and

(d) the appointment and powers of authorised persons to manage and enforce the regulation of conduct within bathing reserves.

3 Definitions—the dictionary

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

4 Relationship with other laws[2]

(1) This local law is to be read with *Local Law No. 1 (Administration) 2011*.

(2) However, a reference to an authorised person in *Local Law No. 1 (Administration) 2011* does not include an authorised person appointed under this local law.

Part 2 Bathing reserves

Division 1 Designation of bathing reserves

5 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 (***reserve signs***) in prominent positions on or adjacent to the foreshore to indicate the existence of the bathing reserve.

(2) Reserve 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.

---

[1] As declared by gazette notice under the Act.

[2] This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

Division 2 Bathing areas

6 Bathing areas

(1) An authorised person may mark out an area (a ***bathing area***) within a bathing reserve.

(2) The area selected as a bathing area must be the part of the bathing reserve that is, in the authorised person's opinion, the safest and most suitable for bathing in view of the prevailing conditions.

(3) The bathing area is marked out by placing 2 patrol flags at different points on or adjacent to the foreshore.

(4) The bathing area consists of the area defined by—

(a) an imaginary line between the 2 patrol flags; and

(b) lateral boundaries extending seaward from each patrol flag at right angles from the imaginary line; and

(c) an outer boundary parallel to, and 200 metres to the seaward side of, the imaginary line.

(5) Where the boundary of the bathing reserve is less than 200 metres to the seaward side of an imaginary line between the 2 patrol flags, then the boundary of the bathing area shall be the outer boundary of the bathing reserve.

(6) An authorised person may, in view of prevailing conditions, change the boundaries of a bathing area by changing the position of the patrol flags.

(7) 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) This section applies if—

(a) an authorised person has marked out a bathing area under section 6; and

(b) in the authorised person's opinion, there are potentially hazardous conditions prevailing within the bathing area.

(2) The authorised person must exhibit in a prominent position on or adjacent to the foreshore a yellow flag warning bathers of the potentially hazardous conditions.

8 Closure of bathing reserve

(1) An authorised person may close a bathing reserve or part of a bathing reserve to bathing by erecting a red flag in a prominent position on or adjacent to the foreshore.[3]

Example—

The authorised person may close the bathing reserve if the prevailing conditions pose a risk to the lives of members of the public bathing in the reserve.

(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] 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.

(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)—20 penalty units.

Division 3 Reservation for training, competitions and special occasions

9 Reservation for life-saving 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 this section, and the restrictions applying to access, must be clearly indicated by signs erected in prominent positions on the bathing reserve.

10 Reservation for competitions and special occasions

(1) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), it is a prescribed activity[4] to—

(a) set apart a bathing reserve or a part of a bathing reserve for life-saving training on an exclusive basis; or

(b) use any part of a bathing reserve for the conduct of a surfing competition, a life-saving competition or another aquatic activity.

(2) Where an approval for an activity mentioned in subsection (1) permits restrictions on access to any part of a bathing reserve, the area set apart for the activity and the restrictions applying to access must be clearly indicated by signs erected in prominent positions on the bathing reserve.

(3) A person must not contravene a restriction on access imposed under this section.

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

Part 3 Use of aquatic equipment in bathing reserves

11 Prohibition of use of aquatic equipment in bathing areas

(1) A person must not use aquatic equipment in a bathing area.

Maximum penalty for subsection (1)—20 penalty units.

(2) However—

(a) this section does not prevent the use of aquatic equipment if its use at a place within a bathing reserve is authorised under another law; and

---

[4] *Local Law No.1 (Administration) 2011*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

(b) a rubber float or board that does not give rise to risk of injury to other bathers may be used in a bathing area; and

(c) if an authorised person authorises the use of other aquatic equipment in a bathing area, the equipment may be used subject to conditions fixed by the authorised person when giving the authorisation; and

(d) life-saving equipment may be used in a bathing area by members of a life-saving patrol for surveillance of the bathing area or to assist bathers in distress.

12 Restrictions on use of aquatic equipment in bathing reserves

(1) The local government may, by subordinate local law, prohibit or restrict the use of aquatic equipment or a specified class of aquatic equipment within a bathing reserve or a particular part of a bathing reserve.

(2) Notice of a prohibition or restriction imposed under this section must be included on the reserve signs or on notices adjacent to the reserve signs.

(3) A person must not use aquatic equipment in contravention of a prohibition or restriction imposed under this section unless authorised to do so by an authorised person under section 13, or authorised under another law.

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

13 Reservation of areas for use of aquatic equipment

(1) 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—

(a) use aquatic equipment of the relevant type in the bathing reserve outside the part of the reserve set apart for its use; or

(b) 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)—20 penalty units.

Part 4 Behaviour in bathing reserves

14 Dangerous objects

(1) A person must not bring an item of aquatic equipment or other object into a bathing reserve, or use aquatic equipment or anything else in a bathing reserve, if the item or object is dangerous.

Maximum penalty for subsection (1)—20 penalty units.

(2) This section does not apply to life-saving equipment used by members of a life-saving patrol for surveillance of the bathing reserve or to assist bathers in distress.

15 Prohibited equipment

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

Maximum penalty for subsection (1)—20 penalty units.

(2) However, this section does not apply in circumstances excluded under a subordinate local law from the application of this section.

(3) In this section—

prohibited equipment means—

(a) a spear gun; or

(b) a fishing spear; or

(c) another object classified as prohibited equipment under a subordinate local law for this paragraph.

16 Dangerous conduct

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

Maximum penalty—20 penalty units.

17 Emergency evacuation alarm

(1) If an emergency evacuation alarm is given, a person within a bathing reserve—

(a) must leave the water as soon as practicable; and

(b) must not enter or re-enter the water until the all-clear is given.

Maximum penalty for subsection (1)—20 penalty units.

(2) An emergency evacuation alarm is given by—

(a) the prolonged ringing of a bell or sounding of a siren; and

(b) the exhibition of a red flag.

(3) The all-clear is given by—

(a) a short ringing of the bell or sounding of the siren; and

(b) the replacement of the red flag by a yellow flag.

(4) An emergency evacuation and the all-clear may also be given in ways recognised by SLSQ.

Example—

The emergency evacuation 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.

18 False alarms

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

(a) give an emergency evacuation alarm or do anything likely to be reasonably interpreted as an emergency evacuation alarm; or

(b) give the all-clear after an emergency evacuation alarm or do anything likely to be reasonably interpreted as the all-clear after an emergency evacuation alarm.

Maximum penalty—50 penalty units.

Part 5 Life-saving clubs and powers of authorised persons

Division 1 Life-saving clubs and patrols

19 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 assigned.

20 Enclosure for life-saving patrols

A recognised life-saving club may, with the local government's written approval, enclose a part of a bathing reserve for the exclusive use of members of life-saving patrols.

21 Distinctive clothing

A member of a life-saving patrol must wear a distinctive uniform appropriate to the member's rank in a design approved by SLSQ.

Division 2 Powers of authorised persons

22 Power to remove or reduce danger

(1) If a person brings a dangerous object or dangerous item of aquatic equipment onto a bathing reserve, an authorised person may direct the person to take specified action to remove or reduce the danger posed by the object or item.

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.

23 Power to stop dangerous and antisocial conduct

(1) If a person behaves in a bathing reserve in a way that endangers the safety of the person or someone else, or causes a nuisance to someone else, an authorised person may direct the person to stop the behaviour.

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

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

24 Power to require bathers to leave water

(1) An authorised person may give a direction to 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) an emergency evacuation 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)—20 penalty units.

25 Seizure and detention of dangerous objects and prohibited equipment

(1) This section applies if, in a bathing reserve, a person—

(a) possesses, uses or has used a dangerous object or dangerous item of aquatic equipment; or

(b) uses or has used an object in a dangerous way; or

(c) has prohibited equipment.

(2) An authorised person may seize the object, item or equipment (the ***seized thing***).

(3) The authorised person must give the person from whom the seized thing is taken a receipt—

(a) stating the nature of the seized thing; and

(b) stating the date and time of seizure; and

(c) stating a period (which must be at least 1 hour and not more than 6 months) for which the seized thing is to be detained; and

(d) stating a place where the seized thing may be reclaimed.

(4) The seized thing must, if not reclaimed on the day on which it was seized, be delivered into the custody of the local government or the life-saving club of which the authorised person is a member.

(5) The local government or the relevant life-saving club must take all reasonable measures to ensure the safe custody of the seized thing.

(6) At the conclusion of the period fixed for its detention under subsection (3)(c), if the seized thing is in the custody of a life-saving club it must be delivered into the custody of the local government.

(7) At the conclusion of the period fixed for its detention under subsection (3)(c), the seized thing must be dealt with by the local government as an impounded item under *Local Law No.1 (Administration) 2011*, section 37.

Part 6 Authorised persons

26 Who are authorised persons

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

(a) a person who is an authorised person under a subordinate local law for this paragraph;

(b) a person appointed as an authorised person for this local law under this section.

Example for paragraph (a)—

- The subordinate local laws might provide that a person who holds a particular rank in a life-saving patrol is an authorised person.
- The subordinate local laws might provide that a life guard or a beach inspector is, while he or she holds that position, an authorised person.

(2) A local government may appoint any of the following persons as authorised persons for this local law—

(a) employees of the local government;

(b) other persons who are eligible for appointment as authorised persons under the Act.[5]

(3) An appointment of a person as an authorised person under this section must state the provisions of this local law for which the person is appointed as an authorised person.

(4) A local government may appoint a person 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.

27 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 for this section.

28 Authorised person's appointment conditions

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

(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 under section 26(1)(b)—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 (the ***main office***).

(3) However, an authorised person may not resign from the office of authorised person (the ***secondary office***) under subsection (2)(b) if a condition of the authorised person's employment in the main office requires the authorised person to hold the secondary office.

---

[5] See the Act, chapter 6, part 6.

29 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; and

(b) be signed by the authorised person; and

(c) identify the person as an authorised person for the life-saving club; and

(d) include an expiry date.

(4) 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 (4)—10 penalty units.

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

30 Production of identity card

(1) An authorised person may exercise a power in relation to someone else (the ***other person***) only if the authorised person—

(a) first produces his or her identity card for the other person's inspection; or

(b) has the identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

31 Offence

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

Maximum penalty—50 penalty units.

32 Protection from liability

(1) This section applies to—

(a) an authorised person; and

(b) a person acting under the direction of an authorised person.

(2) The person does not incur civil liability for an act done or omission made honestly and without negligence under this local law.

(3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

Part 7 Miscellaneous

33 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.

34 Obstruction of authorised persons and life-savers

(1) A person must not obstruct an authorised person or a member of a life-saving patrol in the conduct of their duties.

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

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

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

35 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.

36 Subordinate local laws

The local government may make subordinate local laws about—

(a) prohibiting or restricting the use of aquatic equipment;[6] or

(b) the classification of objects as prohibited equipment;[7] or

(c) the circumstances in which a person may have prohibited equipment in a bathing reserve;[8] or

(d) the appointment of authorised persons for this local law;[9] or

(e) the limitation of an authorised person's powers;[10] or

(f) conditions of office for authorised persons.[11]

---

[6] See section 12(1).

[7] See section 15(3).

[8] See section 15(2).

[9] See section 26(1)(a).

[10] See section 27.

[11] See section 28(1).

Schedule Dictionary

Section 3

aquatic equipment means—

(a) a boat or vessel; or

(b) a surf ski; or

(c) a jet ski; or

(d) a surf board; or

(e) a sail board; or

(f) a body board; or

(g) another device (whether motorised or not) for use on or in water to carry a person or thing across or through water or for recreational use in water.

authorised person means a person who is an authorised person for this local law under part 6.

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

bathing area see section 6.

bathing reserve means a part of the seashore, adjacent land under the sea, and sea placed under the control of the local government as a bathing reserve under the Act.

dangerous item of aquatic equipment means an item of aquatic equipment that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.

Examples of dangerous items of aquatic equipment—

- A surfboard with sharp or broken edges.
- A boat with projections liable to cause injury to bathers.

dangerous object means an object that is of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered.

life-saving club means a body—

(a) affiliated with—

(i) Surf Life Saving Queensland Inc (SLSQ); or

(ii) the Head Centre of the Royal Life Saving Society; and

(b) accredited by the Department of Community Safety.

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

life-saving patrol means the members 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.

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

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.[12]

---

[12] See section 19.

reserve sign see section 5(1).

SLSQ means Surf Life Saving Queensland Inc.

surveillance means the visual supervision of an area.

the Act means the *Local Government Act 2009*.