



**Cairns Regional Council
Local Law No. 13 (Bathing Reserves and Foreshores) 2016**

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Cairns Regional Council

Local Law No. 13 (Bathing Reserves and Foreshores) 2016

Contents

Part 1 Preliminary.....	1
1 Short title.....	1
2 Purpose.....	1
3 Relationship with other laws.....	1
4 Area of application	1
Part 2 Bathing reserves, foreshore reserves and bathing areas	2
5 Signs indicating existence of reserve.....	2
6 Bathing areas.....	2
7 Flags to inform bathers about prevailing conditions	2
8 Closure of bathing reserve	3
Part 3 Reservation for training, competitions and special occasions.....	3
9 Reservation for life-saving training.....	3
Part 4 Exclusive use activity.....	4
10 Prescribed activity.....	4
11 Activities that do not require permit.....	4
12 Additional criteria for the granting of permit	4
13 Conditions that must be imposed on a permit.....	4
Part 5 Use of aquatic equipment in reserves.....	5
14 Prohibition of use of aquatic equipment in bathing areas.....	5
15 Prohibition and restrictions on use of aquatic equipment in reserves	6
16 Reservation of areas for use of aquatic equipment.....	6
Part 6 Behaviour in reserves	7
17 Dangerous objects.....	7
18 Prohibited equipment.....	7
19 Dangerous conduct.....	7
20 Emergency evacuation alarm	7
21 False alarms	8
Part 7 Life-saving clubs and authorised persons.....	8

22	Recognised life-saving clubs	8
23	Enclosure for life-saving patrols	8
24	Distinctive clothing	8
25	Power to remove or reduce danger.....	8
26	Power to stop dangerous and antisocial conduct.....	9
27	Power to require bathers to leave water	9
28	Seizure and detention of dangerous objects and prohibited equipment.....	9
Part 8 Miscellaneous		10
29	Compliance with Australian standards	10
30	Obstruction of authorised persons and life-savers	10
31	Interference with flags and life-saving equipment	10
32	Subordinate local laws	10

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 13 (Bathing Reserves and Foreshores) 2016*.

2 Purpose

- (1) The purpose of this local law is to enhance the public safety and convenience of bathing reserves and foreshores placed under the local government's control 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 foreshores;
 - (b) the regulation of conduct and the use of aquatic equipment within bathing reserves and foreshores;
 - (c) the assignment of responsibility to life-saving clubs for managing, patrolling and supervising bathing reserves and foreshores; and
 - (d) the appointment and powers of authorised persons to manage and enforce the regulation of conduct within bathing reserves and foreshores.

3 Relationship with other laws

This local law is:

- (a) to be read in conjunction with *Local Law No. 1 (Administration) 2016* which contains provisions and definitions that apply to all local laws;
- (b) made under Chapter 3 of the LGA; and
- (c) otherwise in addition to, and does not derogate from, laws regulating land use planning.

4 Area of application

The area of application is identified in Schedule 1 of *Subordinate Local Law No. 13 (Bathing Reserves and Foreshores) 2016*.

Part 2 Bathing reserves, foreshore reserves and bathing areas

5 Signs indicating existence of reserve

- (1) In areas where the local government proposes to regulate the use of a 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 reserve.
- (2) Reserve signs must be erected at the lateral boundaries of the area to be regulated.
- (3) The signs must face both seawards and shoreward.

6 Bathing areas

- (1) An authorised person may mark out an area (a bathing area) within a reserve.
- (2) The area selected as a bathing area must be the part of the 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;
 - (b) lateral boundaries extending seaward from each patrol flag at right angles from the imaginary line;
 - (c) an outer boundary parallel to, and 200 meters to the seaward side of, the imaginary line and the seaward distance from the seashore identified in each bathing reserve for the particular area; and
 - (d) where the boundary of the reserve is less than 200 meters 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 reserve.
- (5) An authorised person may, in view of prevailing conditions, change the boundaries of a bathing area by changing the position of the patrol flags.
- (6) Patrol flags must not be exhibited if the bathing area is not under surveillance by a life-saving patrol.

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 reserve or part of a reserve to bathing by erecting a red flag in a prominent position on or adjacent to the foreshore.

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 reserve or a part of the reserve in which the bathing area is situated.
- (3) A person must not bathe in a reserve or part of a reserve while the reserve or the relevant part of the reserve is closed to bathing.

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

- (4) Where a permit for a prescribed activity permits restrictions on access to any part of a 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 reserve.
- (5) A person must not contravene a restriction on access imposed under subsection (4).

Maximum penalty for subsection (5)—20 penalty units.

Part 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 reserve for life-saving training; and
 - (b) impose restrictions on access to the area set apart.
- (2) An authorised person may not set apart any part of a reserve for life-saving training exclusively, without a prescribed activity permit under this local law.
- (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 reserve.

Part 4 Exclusive use activity

10 Prescribed activity

- (1) It is a category 1 prescribed activity to:
 - (a) set apart a reserve or a part of a reserve or foreshore for life-saving training on an exclusive basis; or
 - (b) use any part of a reserve or foreshore for the conduct of a surfing competition, a life-saving competition or another aquatic activity
- (2) To obtain a permit an application must be made to Council on the approved form required under *Local Law No. 1 (Administration) 2016* and this local law.

11 Activities that do not require permit

Nil.

12 Additional criteria for the granting of permit

The local government will only grant a permit if:

- (a) the activity is appropriate in the reserve for foreshore; and
- (b) the facilities in the reserve or foreshore are adequate for the activity proposed in the application.

13 Conditions that must be imposed on a permit

The following type of conditions must be imposed on a permit:

- (a) prior to commencing the activity, the permit holder must:
 - (i) sign and return to local government a deed in a form prescribed by the local government indemnifying the local government in respect of any loss, damage, actions, claims or demands which may be incurred by the local government directly or indirectly through the granting of this permit or carrying out of the permitted activity;
 - (ii) take out and maintain a current public liability insurance policy in the name of the permit holder, noting the local government as an interested party, in the amount of \$20,000,000.00 per any one claim or such sum as determined by the local government from time to time and otherwise in a form satisfactory to the local government; and
 - (iii) ensure that the public liability insurance policy covers claims which may arise against the local government or the permit holder for personal injury and property damage resulting from the conduct of the activity; and that the policy is submitted to the local government for its prior consent.

- (b) where applicable a Certificate of Company Registration must be submitted to local government within 14 days from the date the permit is granted;
- (c) the activity must:
 - (i) only be carried out in the location specified in the permit;
 - (ii) adhere to safety standards;
- (d) the permit holder must:
 - (i) adopt best practice management for the activity; and
 - (ii) comply with all reasonable directions of an authorised person in the time specified by the authorised person;
- (e) ensure that all areas used are left in a clean and tidy condition and litter is collected and lawfully disposed at a local government waste transfer station;
- (f) the permit does not provide the permit holder with any ongoing exclusive rights to undertake the activity at the approved sites;
- (g) the activity must only be conducted during the hours specified in the permit;
- (h) only approved equipment is to be used with the activity;
- (i) all reasonable and practicable steps are to be used to ensure that staff and customers access the permitted activity area by the designated access and egress points; and
- (j) the permit holder must comply with all reasonable directions given by the local government or an authorised person regarding the use of any roads, jetties, foreshores or other means of accessing the permitted activity area.

Part 5 Use of aquatic equipment in reserves

14 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 reserve is authorised under another 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;
 - (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, with any such

conditions relating to the safe use of the aquatic equipment, and the purpose for which the aquatic equipment is required; 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.

15 Prohibition and restrictions on use of aquatic equipment in reserves

- (1) The aquatic equipment identified in Column 2 of Schedule 2 of *Subordinate Local Law No. 13 (Bathing Reserves and Foreshores) 2016* is prohibited within a reserve or a particular part of a reserve identified in Column 1 of Schedule 2.
- (2) Notice of a prohibition imposed under subsection (1) must be included on the reserve signs or on notices adjacent to the reserve signs.
- (3) The aquatic equipment identified in Column 2 of Schedule 3 of *Subordinate Local Law No. 13 (Bathing Reserves and Foreshores) 2016* is restricted within a reserve or a particular part of a reserve to the extent indicated in Column 3 of Schedule 3 in the area identified in Column 1 of Schedule 3.
- (4) Notice of a restriction imposed under subsection (3) must be included on the reserve signs or on notices adjacent to the reserve signs.
- (5) 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 16, or authorised under another law.

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

16 Reservation of areas for use of aquatic equipment

- (1) An authorised person may temporarily set apart a particular part of a reserve or foreshore for the use of aquatic equipment of a particular type.
- (2) A part of the reserve or foreshore 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 reserve or foreshore 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 reserve or foreshore outside the part of the reserve or foreshore set apart for its use; or
 - (b) use aquatic equipment, in the relevant part of the reserve or foreshore, 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 6 Behaviour in reserves

17 Dangerous objects

- (1) A person must not bring an item of aquatic equipment or other object into a reserve or foreshore, or use aquatic equipment or anything else in a 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 reserve or to assist bathers in distress.

18 Prohibited equipment

- (1) A person must not have prohibited equipment in a reserve or foreshore.

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

- (2) In this section:

prohibited equipment means:

- (a) a spear gun;
- (b) a fishing spear;
- (c) a vehicle; or
- (d) glassware.

19 Dangerous conduct

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

Maximum penalty—20 penalty units.

20 Emergency evacuation alarm

- (1) If an emergency evacuation alarm is given, a person within a 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.

21 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 for subsection 21 - 50 penalty units.

Part 7 Life-saving clubs and authorised persons

22 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 reserve foreshore or a particular part of a 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.

23 Enclosure for life-saving patrols

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

24 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.

25 Power to remove or reduce danger

- (1) If a person brings a dangerous object or dangerous item of aquatic equipment onto a reserve or foreshore, 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.

26 Power to stop dangerous and antisocial conduct

- (1) If a person behaves in a 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.

27 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 reserve or foreshore or the relevant part of the reserve or foreshore, is closed to bathing;
- (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.

28 Seizure and detention of dangerous objects and prohibited equipment

- (1) This section applies if, in a reserve or foreshore, a person:

- (a) possesses, uses or has used a dangerous object or dangerous item of aquatic equipment;
- (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;
- (b) stating the date and time of seizure;
- (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) 2016*, section 50.

Part 8 Miscellaneous

29 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.

30 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.

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

32 Subordinate local laws

The local government may make subordinate local laws:

- (a) to identify the bathing reserves and foreshore reserves to which this local law applies; and

- (b) to prohibit or restrict the use of aquatic equipment in bathing reserves and foreshore reserves

CERTIFICATION

This and the preceding 11 pages bearing my initials is a certified copy of Cairns Regional Council *Local Law No. 13 (Bathing Reserves and Foreshores) 2016* made in accordance with the provisions of the *Local Government Act 2009*, by Cairns Regional Council by resolution dated 27 January 2016.

Peter Tabulo
Chief Executive Officer
Cairns Regional Council