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# **REDLAND SHIRE COUNCIL LOCAL LAW NO.22 (BATHING RESERVES)**

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## **PART 1—PRELIMINARY**

### **Citation**

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1. This model local law may be cited as Local Law No.22 (Bathing Reserves).

### **Objects**

2. 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 the use of bathing reserves and equipment in bathing reserves; and
- (d) enhance public safety and convenience in bathing reserves.

### **Definitions**

3. In this local law—

**"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"** see section 28.

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

**"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 935 of the Act<sup>1</sup>.

**"life-saving club"** means a body—

- (a) affiliated with—
  - (i) Surf Life Saving Queensland Inc (SLSQ); or
  - (ii) affiliated with the Head Centre of the Royal Life Saving Society; and
- (b) accredited by the Department of Emergency Services.

**"life-saving equipment"** means equipment for use in surveillance, 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.

**"prohibited equipment"** means—

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<sup>1</sup>Section 935(2) of the Act 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 adjacent to that 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 that part of the seashore and land.

- (a) a spear gun; or
- (b) a fishing spear; or
- (c) another object classified under a local law policy as prohibited equipment.

**"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>2</sup>

**"reserve sign"** means a sign indicating the existence of a bathing reserve.<sup>3</sup>

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

**"surveillance"** means the provision of supervision of an area by visual observation either from the beach or life-saving equipment.

**"the Act"** means the *Local Government Act 1993*.

**"white water area"** means a bathing reserve, or a part of a bathing reserve, which is directly exposed to the open sea and is commonly used for surfing or bathing.

## **PART 2—BATHING RESERVES**

### **Division 1—Designation of bathing reserves**

#### **Signs indicating existence of bathing reserve**

**4. (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.

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<sup>2</sup>See section 25.

<sup>3</sup>See section 4.

(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.

### **Division 2—Bathing areas**

#### **Bathing areas**

5. (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 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 flags; and
- (b) lateral boundaries extending seaward from each flag at right angles from the imaginary line; and
- (c) the outer boundary of the bathing 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.

#### **Flags to inform bathers about prevailing conditions**

6. (1) If an authorised person marks out a bathing area, the authorised person must 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.

### **Closure of bathing reserve**

7. (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>4</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—10 penalty units.

### **Division 3—Reservation for competitions and special occasions**

#### **Reservation for competitions etc.**

8. (1) An authorised person may, on the local government's specific authorisation—

- (a) temporarily set apart the whole or a part of a bathing reserve for—
  - (i) life-saving competitions or training; or

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<sup>4</sup>Although this local law does not require strict compliance with Australian Standard No 2416, that standard should, where practicable, be complied with. See section 35

- (ii) other aquatic activities; and
- (b) impose restrictions on access to the area set apart.

**(2)** 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.

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

Maximum penalty—10 penalty units.

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**PART 3—AQUATIC EQUIPMENT****Division 1—Use of aquatic equipment in bathing reserves****Prohibition of use of aquatic equipment in bathing areas**

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

Maximum penalty—20 penalty units.

**(2)** However—

- (a) 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
- (b) 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
- (c) 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.

**Restrictions on use of aquatic equipment**

**10. (1)** The local government may, under a local law policy, 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.

Maximum penalty—20 penalty units.

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

**11. (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—20 penalty units.

## **Division 2—Hiring out of aquatic equipment**

### **Requirement to hold a permit**

12. A person must not carry on the business of hiring out aquatic equipment in a bathing reserve, or for use in a bathing reserve, unless authorised by a permit under this Division.

Maximum penalty—50 penalty units.

### **Application for permit**

13. An application for a permit authorising a person to carry on the business of hiring out aquatic equipment in a bathing reserve or for use in a bathing reserve must include or be accompanied by—

- (a) details of where the business is to be carried on; and
- (b) details of the proposed trading hours; and
- (c) details of the nature of the aquatic equipment that is to be available for hire; and
- (d) other information required by the local government.

**Grant of permit**

**14. (1)** The local government may grant a permit authorising the applicant to carry on the relevant business if satisfied that—

- (a) the permit may be granted consistently with the objects of this local law and the criteria laid down by a local law policy; and
- (b) the business is appropriate to the relevant bathing reserve.

**(2)** A local law policy may specify criteria with which the business must comply.

**Term of permit**

**15. (1)** A permit is granted for a term specified in the permit.

**(2)** The local government may, from time to time, on application by the holder of the permit, renew the permit.

**(3)** The term for which a permit is granted or renewed is to be—

- (a) fixed as required by a relevant local law policy; or
- (b) in the absence of a relevant local law policy—decided by the local government when it grants the permit or the renewal.

**Conditions of permit**

**16. (1)** A permit is subject to—

- (a) conditions requiring the holder of the permit—
  - (i) to keep the equipment in a safe and seaworthy condition; and
  - (ii) to instruct people hiring the equipment in the use of appropriate safety precautions; and

- (iii) to tell people hiring the equipment about restrictions affecting the use of the equipment in the bathing reserve; and
- (b) other conditions the local government considers appropriate.

**(2)** The local government may, by local law policy, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

### **Compliance with conditions of permit**

**17.** The holder of a permit must ensure that the conditions of a permit are complied with.

Maximum penalty—50 penalty units.

### **Transfer of permit**

**18. (1)** The holder of a permit may, with the approval of the local government, transfer the permit to another person.

**(2)** The local government may impose conditions on the transfer of a permit.

**(3)** However, the local government cannot—

- (a) unreasonably refuse its approval of the transfer of a permit; or
- (b) impose unreasonable conditions on the transfer of a permit.

**Suspension or cancellation of permit**

**19. (1)** If the holder of a permit contravenes a condition of the permit, the local government may, by written notice given to the holder, suspend or cancel the permit.

**(2)** However, before suspending or cancelling a permit, the local government must—

- (a) give written notice to the holder of the permit of the proposed suspension or cancellation; and
- (b) allow the holder a period stated in the notice (which must be at least 1 month from when the notice is given) to make written representations to the local government about the proposed suspension or cancellation; and
- (c) consider representations made in response to the notice.

**PART 4—BEHAVIOUR IN BATHING RESERVES****Dangerous objects**

**20. (1)** A person must not bring aquatic equipment or anything else into a bathing reserve, or use aquatic equipment or anything else in a bathing reserve, if the equipment or thing is dangerous.

Maximum penalty—20 penalty units.

*Examples of dangerous objects—*

*A surfboard with sharp or broken edges.*

*A boat with projections liable to cause injury to bathers.*

**(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.

**Prohibited equipment**

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

Maximum penalty—20 penalty units.

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

### **Dangerous conduct**

**22.** 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.

### **Shark alarms**

**23. (1)** If a shark 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—10 penalty units.

**(2)** A shark alarm is given by the prolonged ringing of a bell or the prolonged sounding of a siren accompanied by the exhibition of a red flag and the all-clear is given by a short ringing of the bell or sounding of the siren accompanied by the replacement of the red flag by a yellow or green flag.

**(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.*

### **False alarms**

**24.** 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.

## **PART 5—LIFE-SAVING CLUBS AND AUTHORISED PERSONS**

### **Division 1—Life-saving clubs and patrols**

#### **Recognised life-saving clubs**

**25. (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.

**(3)** The local government may only assign responsibility for patrolling a white water area to a life-saving club affiliated with SLSQ.

#### **Enclosure for life-saving patrols**

**26.** 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.

#### **Distinctive uniform**

**27. (1)** A member of a life-saving patrol must wear a distinctive uniform appropriate to the member's rank.

(2) The uniform must consist of, or include, a hat or cap made to a design approved by SLSQ.

## **Division 2—Authorised persons**

### **Who are authorised persons**

**28.** The following persons are authorised persons for the purposes of this local law—

- (a) the captain of a life-saving patrol;
- (b) a person who is a lifeguard under a local law policy;
- (c) a person who is a beach inspector under a local law policy;
- (d) other persons authorised by the local government to exercise the powers of an authorised person under this local law.

### **Identity cards**

**29. (1)** The local government must issue an identity card to each person who is an authorised person under this local law.

**(2)** The identity card must—

- (a) contain a recent photograph of the authorised person; and
- (b) be signed by the authorised person.

**(3)** A person who stops being an authorised person must return the identity card to the local government as soon as practicable unless the person has a reasonable excuse for not returning it.

Maximum penalty—40 penalty units.

### **Production of identity card**

**30. (1)** An authorised person may exercise a power in relation to a person only if the authorised person displays the authorised person's identity card for inspection by the person.

**(2)** If, for any reason, it is not practicable to comply with subsection (1), the authorised person must produce the identity card for inspection by the person at the first reasonable opportunity.

### **Division 3—Powers of authorised persons**

#### **Seizure and detention of dangerous objects**

**31. (1)** If a person has a dangerous object in a bathing reserve, or uses or has used an object in a bathing reserve in a dangerous way, an authorised person may seize the object.

**(2)** If an authorised person seizes an object under this section the authorised person must give the person from whom the object is taken a receipt—

- (a) stating the nature of the object; 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 object is to be detained; and
- (d) stating a place where the object may be reclaimed.

**(3)** The object 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.

**(4)** If the owner of the object—

- (a) reclaims the object by written application made to the local government or the relevant life-saving club after, but not more than 6 months after, the end of the period fixed for its detention; and

- (b) provides appropriate proof of ownership;

the object must be returned to the owner.

### **Power to remove or reduce danger**

**32. (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—20 penalty units.

### **Power to stop dangerous and antisocial conduct**

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

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

Maximum penalty—20 penalty units.

### **Power to require bathers to leave water**

**34. (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—20 penalty units.

## **PART 6—MISCELLANEOUS**

### **Compliance with Australian standards**

**35. (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.

### **Obstruction of authorised persons and life-savers**

**36. (1)** A person must not obstruct an authorised person or a member of a life-saving patrol.

Maximum penalty—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—50 penalty units.

### **Impersonation**

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

Maximum penalty—50 penalty units.

### **Interference with flags and life-saving equipment**

**38. (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—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—50 penalty units.

**PART 7—LOCAL LAW POLICIES**

**Local law policies**

**39.** The local government may make local law policies about—

- (a) objects to be classified as prohibited equipment;<sup>5</sup> or
- (b) the prohibition or restriction of the use of aquatic equipment;<sup>6</sup> or
- (c) criteria with which business in a bathing reserve must comply;<sup>7</sup> or
- (d) the term for which a permit is to be granted or renewed;<sup>8</sup> or
- (e) conditions that must, or will ordinarily, be imposed in a permit;<sup>9</sup> or
- (f) circumstances when prohibited equipment may be taken onto a bathing reserve;<sup>10</sup> or
- (g) defining a lifeguard and beach inspector;<sup>11</sup> or
- (h) other matters about which this local law specifically provides for the making of local law policies.

***This and the preceding twenty (20) pages bearing my initials is a certified copy of Local Law No. 22 (Bathing Reserves) made, in accordance with the provisions of the Local Government Act 1993, by Redland Shire Council by resolution dated 12 May 1999.***

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**Chief Executive Officer**

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**Date**

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<sup>5</sup> See definition of “prohibited equipment” in section 3.  
<sup>6</sup> See section 10(1).  
<sup>7</sup> See section 14(2).  
<sup>8</sup> See section 15(3)(a).  
<sup>9</sup> See section 16(2).  
<sup>10</sup> See section 21(2).  
<sup>11</sup> See section 28.