

# **Parks and Reserves (Amendment)**

## **Local Law (No. 1) 2015**

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Dale Dickson  
Chief Executive Office

# Council of the City of Gold Coast Parks and Reserves (Amendment) Local Law (No. 1) 2015

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# **Council of the City of Gold Coast Parks and Reserves (Amendment) Local Law (No. 1) 2015**

## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as *Parks and Reserves (Amendment) Local Law (No. 1) 2015*.

### **2 Object**

The object of this local law is to amend *Local Law No. 9 (Parks and Reserves) 2008* to—

- (a) provide the local government with appropriate powers to effectively regulate the carrying out of commercial fitness activities in parks and reserves;
- (b) make minor changes to amend references to legislation;
- (c) insert and amend definitions of terms that are necessary for the implementation of the provisions of the local law; and
- (d) ensure consistency with State legislation, the local government's administrative procedures and the local government's other local laws and correct grammatical or typographical errors and other inconsistencies.

### **3 Commencement**

This local law commences upon publication of the notice of the making of *Parks and Reserves (Amendment) Local Law (No. 1) 2015* in the gazette.

## **Part 2 Amendment of Local Law No. 9 (Parks and Reserves) 2008**

### **4 Local law amended**

This part amends *Local Law No. 9 (Parks and Reserves) 2008*.

### **5 Amendment of section 13 (Prohibited conduct)**

Section 13(1)(o), after 'denomination'—

*omit, insert—*

'or a token of the correct specification) in a meter receptacle installed for any purpose in a park; or'.

**6 Amendment of section 14 (Regulation of business)**

(1) Section 14—

*renumber* as section 14(1).

(2) Section 14(1), after ‘must not’—

*omit, insert*—

‘carry on business on an excluded park unless—

(a) the business is—

(i) a council endorsed activity; or

(ii) 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 business on a park or reserve, which is not an excluded park or reserve, unless—

(a) the business is—

(i) a council endorsed activity; or

(ii) a permitted business; and

(b) authorised by a permit.

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

**7 Renumbering of sections 15 to 32**

Sections 15 to 32—

*renumber* as sections 17 to 34.

**8 Insertion of new sections 15 and 16**

After section 14—

*insert*—

**‘15 Designation of excluded parks and reserves**

(1) The local government may, by subordinate local law or resolution—

- (a) designate the whole or any part of a park or reserve as an excluded park (an *excluded park*); or
  - (b) designate the whole or any part of an excluded park 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.
  - (c) designate a council endorsed activity that may be carried on in an excluded park—
    - (i) at all times; or
    - (ii) on specified days; or
    - (iii) during specified hours on specified days.
  - (d) designate the whole or any part of an excluded park 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) The local government must decide its own process for making a resolution about a designation under subsection (1) provided the process is consistent with this section.
- (3) The process must require the local government to—
- (a) consult with the public about the proposed designation for at least 21 days; and
  - (b) consider every submission properly made to it about the proposed designation.
- (4) A designation under subsection (1) is not effective for the purposes of this local law until the designation is recorded in the register required to be kept under section 16 of this local law.
- (5) For the avoidance of doubt, the local government may, from time to time, by resolution, repeal or amend a resolution about a designation under subsection (1).

- (6) Each designation of an excluded park under subsection (1) must include a description of the area designated as the excluded park and, where required for identification purposes, the real property description of the land on which the excluded park is located or some other description sufficient to identify the excluded park with certainty.

## **16 Register of excluded parks and reserves**

- (1) The local government must establish and maintain a register of excluded parks (the *excluded parks register*) which must be kept available for public inspection.
- (2) If the local government makes a resolution about a designation under section 15(1)(a), the excluded parks register must include the information specified in section 15(6).
- (3) If the local government makes a resolution about a designation under section 15(1)(b), the excluded parks register must specify, for the designation—
- (a) the permitted business that must not be carried out in the excluded park; and
  - (b) the times or days during which a permitted business, or specified permitted business must not be carried out in the excluded park.
- (4) If the local government makes a resolution about a designation under section 15(1)(d), the excluded parks register must specify, for the designation—
- (a) the regulated activity or activities that must not be carried out in the excluded park; and
  - (b) the times or days during which the regulated activity or activities must not be carried out in the excluded park.?

## **9 Amendment of section 19 (Local government to exhibit a sign)**

- (1) Section 19(2)(f)—  
*omit.*
- (2) Sections 19(2)(g) and (h)—  
*renumber* as sections 19(2)(f) and (g).
- (3) Section 19(2)(f), ‘15’—  
*omit, insert—*  
‘17’.
- (4) Section 19(2)(g), ‘16’—

*omit, insert—*

‘18’.

## **10 Amendment of Section 21 (Requirement for a permit)**

- (1) Section 21(1)(b), ‘21 (Grant of a permit)’—

*omit, insert—*

‘23’.

- (2) Section 21(2)(b), ‘an approval by’—

*omit, insert—*

‘a written approval given by the local government under’.

- (3) Section 21(2), Example, after ‘has been issued’—

*insert—*

‘by the local government’.

- (4) Section 21, after subsection (3)—

*insert—*

- ‘(4) A person must not, in any manner or by any means, represent to the public that a permit under this local law is evidence of a person’s qualifications to carry out the activity.

*Example—*

A person that holds a permit for a commercial fitness activity must not represent that the permit is evidence of an industry endorsed qualification such as a certificate III or IV in fitness.

Maximum penalty for subsection (4)—50 penalty units.’.

## **11 Amendment of section 22 (Application for a permit)**

- (1) Section 22(1)(c)(iv), ‘.’—

*omit, insert—*

‘; and’.

- (2) Section 22, after subsection (1)(c)—

*insert—*

‘(d) in the case of a permit to operate a commercial fitness activity, made by a person who is an individual and not a corporation<sup>1</sup>.’.

(3) Section 22(1)(d), footnote—

*insert—*

<sup>1</sup> ‘corporation’ is defined in the Schedule (Dictionary) of *Local Law No. 3 (Administration) 2008*.’.

## **12 Amendment of section 23 (Grant of a permit)**

(1) Sections 23(2), (3) and (4)—

*renumber* as sections 23(3), (4) and (5).

(2) Section 23, after subsection (1)—

*insert—*

‘(2) The local government may only grant a permit to operate a commercial fitness activity to a person who is an individual and not a corporation.’.

## **13 Amendment of section 26 (Provision and return of security or bond)**

Section 26(1), ‘23’—

*omit, insert—*

‘25’.

## **14 Amendment of section 28 (Amendment, renewal or transfer of a permit)**

(1) Section 28(1), ‘The’—

*omit, insert—*

‘Subject to subsection (2), the’.

(2) Sections 28(2) to (6)—

*renumber* as sections 28(3) to (7).

(3) Section 28, after subsection (1)—

*insert—*

‘(2) A person who holds a permit to operate a permitted business which is a commercial fitness activity must not apply to transfer the permit to another person.’.

(4) Section 28(5)(a), ‘21’—



*omit, insert—*

‘23’.

- (5) Section 28(6), ‘(3) and (4)’—

*omit, insert—*

‘(4) and (5)’.

- (6) Section 28(7), after ‘must not’—

*omit, insert—*

‘—

- (a) amend a permit that has been granted for a specific location if the amendment is to the location where the regulated activity is to be undertaken; or
- (b) transfer a permit for a permitted business that is a commercial fitness activity.’.

**15 Amendment of section 30 (General compliance provision)**

Section 30(2)(e), ‘; or’—

*omit, insert—*

‘; and’.

**16 Amendment of section 33 (Subordinate local laws)**

- (1) Section 33(o), ‘(Regulated conduct)’—

*omit.*

- (2) Section 33(t), ‘14(a)’—

*omit, insert—*

‘14 and the definition of ‘permitted business’.’.

- (3) Section 33, paragraphs (u) to (ah)—

*renumber* as paragraphs (y) to (al).

- (4) Section 33, after paragraph (t)—

*insert—*

- '(u) a park or reserve or part of a park or reserve as an excluded park pursuant to section 15(1)(a) of this local law; and
  - (v) a permitted business as a prohibited permitted business pursuant to section 15(1)(b) of this local law; and
  - (w) a business as a council endorsed activity pursuant to section 15(1)(c) of this local law; and
  - (x) a regulated activity as a prohibited regulated activity pursuant to section 15(1)(d) of this local law; and'.
- (5) Section 33(y), '16'—  
*omit, insert—*  
'18'.
- (6) Section 33(z), '17'—  
*omit, insert—*  
'19'.
- (7) Section 33(aa), '18'—  
*omit, insert—*  
'20'.
- (8) Section 33(ab), '18'—  
*omit, insert—*  
'20'.
- (9) Section 33(ac), '19'—  
*omit, insert—*  
'21'.
- (10) Section 33(ad), '20'—  
*omit, insert—*  
'22'.
- (11) Section 33(ae), both instances of '20'—

*omit, insert—*

‘22’.

- (12) Section 33(af), ‘22’—

*omit, insert—*

‘24’.

- (13) Section 33(ag), ‘23’—

*omit, insert—*

‘25’.

- (14) Section 33(ah), ‘23’—

*omit, insert—*

‘25’.

- (15) Section 33(ai), ‘27’—

*omit, insert—*

‘29’.

- (16) Section 33(aj), ‘29 (Records to be kept)’—

*omit, insert—*

‘31’.

- (17) Section 33(ak), ‘30 (Inspection, monitoring or management program)’—

*omit, insert—*

‘32’.

**17 Insertion of new Part 9 (Transitional provisions)**

- (1) After section 34—

*insert—*

**‘Part 9 Transitional provisions**

**35 Transitional provisions for the regulation of commercial fitness activities**

- (1) For the purposes of section 21(1)(a) of this local law, a permit is not required in respect of the undertaking of a permitted business that is a commercial fitness activity in a park or reserve at the beginning of the commencement day until the later of the following—
  - (a) 3 months after the commencement day; or
  - (b) if the person has made an application for a permit for the permitted business that is a commercial fitness activity within 3 months of the commencement day – the date the application by the person for a permit to carry out the commercial fitness activity is decided by the local government.
- (2) A person operating a permitted business that is a commercial fitness activity pursuant to subsection (1)—
  - (a) must comply with section 30(2) of this local law including the prescribed criteria (other than to the extent that the prescribed criteria require the identification of the permit holder’s permit number on a sign); and
  - (b) must not operate the commercial fitness activity in an excluded park in which a commercial fitness activity is a prohibited permitted business.
- (3) This section expires 9 months after the commencement day.
- (4) In this section, *commencement day* means the day on which this section commences.

**36 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.’.

## 18 Amendment of Schedule (Dictionary)

- (1) Schedule, after definition of *assessment criteria*—

*insert—*

‘*authorised person* means a person authorised by the local government pursuant to *Local Law No. 3 (Administration) 2008* to exercise the powers of an authorised person under this local law<sup>3</sup>.’.

- (2) Schedule, definition of *authorised person*, footnote—

*insert—*

<sup>3</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.’.

- (3) Schedule, after definition of *camp*—

*insert—*

‘*commercial fitness activity* has the meaning given in *Subordinate Local Law No. 9.1 (Parks and Reserves) 2008*.

*council endorsed activity* means a business designated as a council endorsed activity by subordinate local law or resolution of the local government.’.

- (4) Schedule, after definition of *environmental nuisance*—

*insert—*

‘*excluded park* see section 15(1)(a) of this local law.’.

- (5) Schedule, after definition of *good*—

*insert—*

‘*individual* has the meaning given in the *Acts Interpretation Act 1954*.’.

- (6) Schedule, definition of **permit**, ‘21 (Grant of a permit)’—  
*omit, insert—*  
‘23’.
- (7) Schedule, definition of **permit**, ‘26 (Amendment, renewal or transfer of a permit)’—  
*omit, insert—*  
‘28’.
- (8) Schedule, definition of **permit**, paragraph (a), ‘22’—  
*omit, insert—*  
‘24’.
- (9) Schedule, definition of **permit**, paragraph (b), ‘27 (Cancellation of a permit)’—  
*omit, insert—*  
‘29’.
- (10) Schedule, after definition of **permit**—  
*insert—*  
‘**permitted business** has the meaning given in *Subordinate Local Law No 9.1 (Parks and Reserves) 2008*.’.
- (11) Schedule, definition of **protected area**, ‘16 (Protected areas)’—  
*omit, insert—*  
‘18’.
- (12) Schedule, after definition of **prohibited equipment**—  
*insert—*  
‘**prohibited permitted business** see section 15(1)(b) of this local law.  
**prohibited regulated activity** see section 15(1)(d) of this local law.’.