

Parks and Reserves (Amendment)

Subordinate Local Law (No. 1) 2015

This and the following 17 pages is a certified copy of *Parks and Reserves (Amendment) Subordinate Local Law (No.1) 2015* made in accordance with the provisions of the *Local Government Act 2009* by the Council of the City of Gold Coast by resolution dated [INSERT]

Dale Dickson
Chief Executive Office

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

Contents

	Page	
Part 1	Preliminary	2
1	Short title.....	2
2	Object	2
3	Commencement	2
Part 2	Amendment of Subordinate Local Law No. 9.1 (Parks and Reserves) 2008	3
4	Subordinate local law amended	3
5	Omission of section 11 (Permitted business)	3
6	Renumbering of sections 12 to 15.....	3
7	Amendment of section 11 (Public places other than a park).....	3
8	Amendment of section 12 (Requirement for a permit)	4
9	Amendment of section 13 (Application for a permit for a permitted business).....	4
10	Amendment of section 14 (Assessment criteria for a permitted business)	5
11	Insertion of a new section 15 (Prescribed criteria for a permitted business)	6
12	Amendment of section 16 (Term of a permit).....	12
13	Amendment of section 17 (Conditions of a permit)	12
14	Amendment of Schedule 2 (Dictionary).....	13
Part 3	Amendment of Subordinate Local Law No. 9.2 (Public Camping Areas) 2008	16
15	Amendment of subordinate local laws.....	16
16	Amendment of page 1 heading	16
17	Amendment of section 5 (Public camping areas).....	16
18	Amendment of section 8 (Term of a permit).....	17
19	Amendment of section 9 (Conditions of a permit)	17
20	Amendment of Schedule 2 (Dictionary).....	17

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

Part 1 Preliminary

1 Short title

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

2 Object

The object of this subordinate local law is to amend—

(a) *Subordinate Local Law No. 9.1 (Parks and Reserves) 2008* to—

- (i) assist in implementation of the regime for the effective regulation of commercial fitness activities in parks and reserves contained in the amended *Local Law No. 9 (Parks and Reserves) 2008*; and
- (ii) identify the prescribed criteria applicable to a permit for the operation of a commercial fitness activity; and
- (iii) make minor changes to amend references to legislation;
- (iv) insert and amend definitions of terms that are necessary for the implementation of the provisions of the subordinate local law; and
- (v) 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.

(b) *Subordinate Local Law No. 9.2 (Public Camping Areas) 2008* to—

- (i) ensure consistency with the provisions of the amended *Local Law No. 9 (Parks and Reserves) 2008* by updating references to provisions in that local law.
- (ii) 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) Subordinate Local Law (No. 1) 2015* in the gazette.

Part 2 Amendment of Subordinate Local Law No. 9.1 (Parks and Reserves) 2008

4 Subordinate local law amended

This part amends *Subordinate Local Law No. 9.1 (Parks and Reserves) 2008*.

5 Omission of section 11 (Permitted business)

Section 11—

omit.

6 Renumbering of sections 12 to 15

Sections 12, 13, 14 and 15—

renumber as sections 11, 12, 13 and 14.

7 Amendment of section 11 (Public places other than a park)

(1) Section 11—

renumber as section 11(1).

(2) Section 11(1), ‘18’—

omit, insert—

‘20’.

(3) Section 11(1)(a)(ii), ‘other than a designated bathing reserve’—

omit.

(4) Section 11(1)(b), ‘a park.’—

omit, insert—

‘—

(i) a park; or

(ii) a bathing reserve as defined in *Local Law No. 10 (Bathing Reserves) 2004*; or

(iii) a road (other than a footpath or an unconstructed road); or

(iv) council property as defined in *Local Law No. 7 (Council Property) 2008*; or

- (v) a cemetery or a council cemetery as defined in *Local Law No. 13 (Cemeteries) 2008*.

- (5) Section 11, after subsection (1)—

insert—

- ‘(2) This section does not apply to a permitted business which is a commercial fitness activity.’.

8 Amendment of section 12 (Requirement for a permit)

- (1) Section 12, ‘19’—

omit, insert—

‘21’.

- (2) Section 12, Example, first paragraph, ‘house’—

omit, insert—

‘premises’.

- (3) Section 12, Example, second paragraph—

omit.

9 Amendment of section 13 (Application for a permit for a permitted business)

- (1) Section 13, ‘20’—

omit, insert—

‘22’.

- (2) Section 13(b), after ‘carried’—

insert—

‘on’.

- (3) Section 13(e), before ‘a plan’—

insert—

‘for a permitted business other than a commercial fitness activity,’.

- (4) Section 13(f), ‘suitability notice under the *Commission for Children and Young People and Child Guardian Act 2000*’—

omit, insert—

‘current prescribed notice (which is a positive notice) under the *Working with Children (Risk Management and Screening) Act 2000*’.

- (5) Section 13(g)—

renumber as section 13(h).

- (6) Section 13, after paragraph (f)—

insert—

‘(g) a copy of all current public liability insurance policies held by the applicant relating to the operation of the regulated activity; and’.

10 Amendment of section 14 (Assessment criteria for a permitted business)

- (1) Section 14, ‘21’—

omit, insert—

‘23’.

- (2) Section 14, after the first instance of ‘permitted business’—

insert—

‘which is not a council endorsed activity’.

- (3) Section 14(c), after ‘physical or mental well-being’—

insert—

‘(excluding a permitted business in paragraphs (a) to (k) of the definition of ‘permitted business’)’.

- (4) Section 14(g), ‘will’—

omit.

- (5) Section 14(g)(i), before ‘not have an adverse impact’—

insert—

‘will’.

- (6) Section 14(g)(ii), ‘provide a significant’—
omit, insert—
‘will provide an’.
- (7) Section 14(h), after ‘permitted business’—
insert—
‘(excluding a commercial fitness activity)’.
- (8) Section 14(i), ‘holds a positive suitability notice under the *Commission for Children and Young People and Child Guardian Act 2000*’—
omit, insert—
‘must hold a current prescribed notice (which is a positive notice) under the *Working with Children (Risk Management and Screening) Act 2000*’.
- (9) Section 14(j), after ‘permitted business’—
insert—
‘(excluding a commercial fitness activity)’.
- (10) Sections 14(k) and (l)—
renumber as sections 14(l) and (m).
- (11) Section 14, after paragraph (j)—
insert—
‘(k) the applicant for a permit for a permitted business must hold a current broadform public liability insurance policy for not less than \$10,000,000 which names the local government as an insured party and which is otherwise on those terms and conditions as regulated by the local government from time to time.’.

11 Insertion of a new section 15 (Prescribed criteria for a permitted business)

After section 14—

insert—

‘15 Prescribed criteria for a permitted business

- (1) For the purposes of the Schedule (Dictionary) and section 23(1)(h) of *Local Law No. 9 (Parks and Reserves) 2008*, a regulated activity which is a commercial fitness activity must comply with the following prescribed criteria—
- (a) the commercial fitness activity must not be carried out—
- (i) within—
- (A) an off leash dog exercise area; or
- (B) a car park; or
- (C) a sports playing field or facility (unless with the prior approval of the local government); or
- (D) an environmentally sensitive area including bushland, sand dunes, creek or river banks or an area which is undergoing rehabilitation or revegetation; or
- (E) a protected area; or
- (F) an area which is closed for works, maintenance or any other purpose; or
- (G) an area in which the carrying out of the commercial fitness activity is likely to injure, endanger, obstruct, inconvenience or annoy other users of the park or reserve; or
- (ii) within 20 metres of—
- (A) a playground; or
- (B) an amenity building such as a toilet block, shower block or change room; or
- (C) a memorial, picnic shelter, park bench or other park furniture (excluding equipment designed and intended to be used solely for fitness training purposes); or
- (iii) within 50 metres of—
- (A) another commercial fitness activity which is being conducted at the time the commercial fitness activity commences; or

- (B) any other users of the park or reserve who are stationary or settled prior to the commencement of the commercial fitness activity; or
 - (C) an area set aside by the local government (under an approval, a booking process or otherwise) for a group of people for a birthday party, wedding, corporate event, youth program or other similar event; or
 - (D) a person using a park or facility pursuant to a permit issued under section 11 (Public use) of *Local Law No. 9 (Parks and Reserves) 2008*; or
- (iv) within—
- (A) 100 metres of a noise sensitive place between 7:00pm and 5:30am on any day; or
 - (B) 50 metres of a noise sensitive place at any other time; or
- (v) within an area that is predominantly used for pedestrian or vehicle movement including stairways, footpaths, bicycle paths and roads.
- (b) A person conducting a commercial fitness activity under a permit and any person taking part in a commercial fitness activity must not —
- (i) use a megaphone, sound amplifier, radio, loud speaker, whistle or any other means of amplifying sound; or
 - (ii) behave in a riotous, disorderly, indecent, offensive, threatening, intimidating, aggressive or insulting manner; or
 - (iii) engage in conduct which in an authorised officer's opinion interferes or is likely to interfere with the ordinary and reasonable use and enjoyment by another person of the park or reserve; or
 - (iv) use metal bars, benches, logs, tyres, sledge hammers, heavy ropes, weight training machines or rowing machines or any other large load bearing or large resistance training equipment; or
 - (v) suspend, or attach any equipment, including, for example, punching bags, kickboxing bags, ropes or resistance training equipment, to a tree, shrub or facility within a park

- or reserve (excluding equipment designed and intended to be used solely for fitness training purposes); or
- (vi) engage in conduct which is prohibited conduct under section 13 of *Local Law No. 9 (Parks and Reserves) 2008*; or
 - (vii) mark out an area which implies or is intended to imply, in an authorised persons opinion, a right to exclusive use of an area in the park or reserve; or
 - (viii) erect or install a facility in, on, across or over a park without the prior written consent of the local government.
- (c) At all times that the commercial fitness activity is being conducted, the permit holder must—
- (i) display a portable, freestanding “A” frame sign with a maximum single face area of 0.60 m² which—
 - (A) must identify the permit holder’s permit number under *Local Law No. 9 (Parks and Reserves) 2008* in bold type black lettering of not less than 150 mm in height; and
 - (B) must display the permit holder’s name, business name, and contact information; and
 - (C) must not contain any advertisement for any person other than the permit holder or any product or service other than the commercial fitness activity, with the exception of local government programs or activities; and
 - (D) must not state or imply that a part of a park or reserve has been set aside for the exclusive use of the permit holder; and
 - (ii) ensure that the following documentation (or a certified copy) is available for immediate inspection upon the request of an authorised person—
 - (A) all current public liability insurance policies held by the applicant relating to the operation of the commercial fitness activity; and
 - (B) the first aid qualification of a person appropriately qualified to provide first aid who is required to be present while the commercial fitness activity is being conducted; and

- (C) the positive prescribed notices under the *Working with Children (Risk Management and Screening) Act 2000* of any person conducting the commercial fitness activity; and
 - (D) photographic proof of identity of any person conducting the commercial fitness activity.
 - (iii) be present at the place the commercial fitness activity is being conducted; and
 - (iv) take the principal role in directing and coordinating the activities being conducted as part of the commercial fitness activity.
- (d) A person authorised by permit to conduct a commercial fitness activity and any person involved in the provision of the commercial fitness activity under a permit—
 - (i) must not conduct or assist in the conducting of more than three commercial fitness activity training sessions in the same park in one day irrespective of the length of each session; and
 - (ii) must not conduct a commercial fitness activity for a continuous period that exceeds one hour and thirty minutes in duration including the time to set up and remove any equipment used in carrying out the commercial fitness activity irrespective of whether the activity comprises separate sessions with different customers; and
 - (iii) must ensure that a suitable first aid kit is available for persons involved in the activity at all times while the commercial fitness activity is being carried on; and
 - (iv) must be appropriately qualified in first aid or ensure that a person that is appropriately qualified to provide first aid is present at all times while a commercial fitness activity is being carried on; and
 - (v) must hold a prescribed notice (which is a positive notice) under the *Working with Children (Risk Management and Screening) Act 2000*; and
 - (vi) must not—
 - (A) display an advertisement (except as required under section 15(1)(c)(i) of this subordinate local law or the conditions of a permit); or
 - (B) distribute a business advertising publication; or

- (C) tout; or
 - (D) operate a business which is not the commercial fitness activity; and
- (vii) must not state or imply to any person in a park or reserve that a part of a park or reserve has been set aside for their exclusive use.

Examples of subsection (c)(vii)—

- (a) informing other users of a park that they are required to vacate a particular area of the park so the commercial fitness activity can be conducted; or
 - (b) informing another commercial fitness activity operator that the permit holder has a right to use a part of a park in precedence to the other commercial fitness activity operator; or
 - (c) installing stakes, cones, line markings, or other devices to mark out an area of a park for the operation of the commercial fitness activity.
- (e) A commercial fitness activity must not involve more than 30 people, including any person involved in the provision of the commercial fitness activity, unless the conditions of a permit provide otherwise.
- (f) The holder of the permit for the commercial fitness activity—
- (i) must hold a broadform public liability insurance policy for not less than \$10,000,000 which names the local government as an insured party and which is otherwise on those terms and conditions as regulated by the local government from time to time; and
 - (ii) must satisfy all requirements under an Act relating to the health and safety of workplaces.
- (g) Prior to conducting each commercial fitness activity session, the permit holder, or a person involved in the provision of the commercial fitness activity, must inspect the area on which the commercial fitness activity is to be conducted and ensure that the area—
- (i) is of appropriate dimensions to safely accommodate the conduct of the commercial fitness activity; and
 - (ii) is able to be accessed by an emergency vehicle; and
 - (iii) is suitable for the conduct of the commercial fitness activity including by reason of the condition of the ground; the existence of any facility, object or debris; the location of any tree, or other feature in the park or reserve and the

prevailing or forecast weather conditions at the times the commercial fitness activity is to be conducted.

- (2) If a requirement identified in a sign in a park or reserve is inconsistent with a requirement in subsection (1), the requirement identified in the sign will be taken to be the applicable prescribed criteria for the park or part of the park to which the sign applies for the purposes of this section, to the extent of any inconsistency.’.

12 Amendment of section 16 (Term of a permit)

- (1) Section 16, ‘22’—

omit, insert—

‘24’.

13 Amendment of section 17 (Conditions of a permit)

- (1) Section 17(1), ‘(23)’—

omit, insert—

‘25’.

- (2) Section 17(1), footnote, both instances of ‘23’—

omit, insert—

‘25’.

- (3) Section 17(1)(b)(i), ‘a good’—

omit, insert—

‘good’.

- (4) Section 17(2), ‘23’—

omit, insert—

‘25’.

- (5) Section 17(2), footnote, both instances of ‘23’—

omit, insert—

‘25’.

- (6) Section 17(2)(e), ‘Workplace Health and Safety Act 1995’—

omit, insert—

‘Work Health and Safety Act 2011’.

- (7) Section 17(3), ‘23’—

omit, insert—

‘25’.

- (8) Section 17(3), footnote, both instances of ‘23’—

omit, insert—

‘25’.

- (9) Section 17(3)(b), ‘positive suitability notice under the *Commission for Children and Young People and Child Guardian Act 2000*’—

omit, insert—

*‘prescribed notice (which is a positive notice) under the *Working with Children (Risk Management and Screening) Act 2000*’.*

- (10) Section 17, after subsection (3)—

insert—

- ‘(4) For the purposes of section 25(3) of *Local Law No. 9 (Parks and Reserves) 2008*, the conditions that will ordinarily be imposed on a permit for a commercial fitness activity are that—

- (a) the commercial fitness activity must comply with the prescribed criteria in section 15 of this subordinate local law; and
- (b) the commercial fitness activity must not be carried out in an excluded park including a park that becomes an excluded park after the date of the permit is issued; and
- (c) the commercial fitness activity must not be carried out in a sports playing field or a facility associated with a sports playing field.’

14 Amendment of Schedule 2 (Dictionary)

- (1) Schedule, before definition of *approved water source*—

insert—

*‘aircraft operations has the meaning given in *Local Law No. 16 (Licensing) 2008*’.*

(2) Schedule, after definition of **approved water source**—

insert—

‘**commercial fitness activity** has the meaning given in paragraphs (a) to (c) of this definition—

- (a) a commercial fitness activity means a business or commercial activity involving the supply of personal or group fitness training activities.
- (b) a commercial fitness activity includes the following activities—
 - (i) circuit training; and
 - (ii) resistance training; and
 - (iii) fitness training involving self-defence or the use of boxing gloves and boxing pads; and
 - (iv) organised aerobic activity, including group walking or running activities, whether or not involving a thing that is pushed, pulled or carried; and
 - (v) fitness activities involving yoga, tai chi, pilates, meditation or a similar activity; and
 - (vi) group fitness activities conducted by an individual instructor or multiple instructors involving the participation of individuals, or groups of persons in strength, resistance or cardiovascular based activities, whether or not involving the use of equipment; and
 - (vii) any combination of the activities mentioned in paragraphs (i) to (vi).’
- (c) a commercial fitness activity does not include a council endorsed activity.’

(3) Schedule, after definition of **emergency worker**—

insert—

‘**film production** has the meaning given in *Local Law No. 16 (Licensing) 2008*.’

(4) Schedule, after definition of **hazardous substance**—

insert—

‘**life-saving club** has the meaning given in *Local Law No. 10 (Bathing Reserves) 2004*.’

(5) Schedule, after definition of *motorbike*—

insert—

‘*noise sensitive place* includes—

- (a) a residential property; and
- (b) a sensitive receptor listed in Schedule 1 of the *Environmental Protection (Noise) Policy 2008*, other than a park.

off leash dog exercise area has the meaning given in *Local Law No. 12 (Animal Management) 2013*.’.

(6) Schedule, definition of *permitted business*—

omit, insert—

‘*permitted business* means the following businesses or commercial activities—

- (a) a commercial fitness activity; and
- (b) an entertainment or promotional event which—
 - (i) is of economic significance to the local government area; or
 - (ii) complies with the local government’s events strategy (as amended from time to time); and
- (c) a product launch; and
- (d) a sporting event of local, State, regional or national significance (including a life-saving competition); and
- (e) film production; and
- (f) a temporary broadcast of a radio or television program; and
- (g) still photography undertaken for a commercial purpose; and
- (h) the sale of food or drink (or both) from a mobile or temporary premises or a vehicle; and
- (i) aircraft operations; and
- (j) an advertisement that is related to—
 - (i) an activity permitted under the local law; or
 - (ii) a short term event such as a fete, fair, activity or other event to be held at a location other than the park; or

- (iii) an activity otherwise approved by the local government;
and
 - (k) an advertisement that is displayed on land being used by a sporting club.
 - (l) a business or commercial activity which, in the opinion of the local government, promotes health, including physical or mental well-being (other than a commercial or business activity mentioned in paragraphs (a) to (k)).’.
- (7) Schedule, after definition of *power assisted cycle*—
insert—
‘*residential property* means a building or property of a type that would ordinarily be used, or intended to be used, as a place of residence or mainly as a place of residence.’.
- (8) Schedule, after definition of *scheduled poison*—
insert—
‘*sensitive receptor* has the meaning given in the *Environmental Protection (Noise) Policy 2008*.

sports playing field means a park that is designed to cater for a variety of formal sporting activities through the provision of training or competition facilities.’.

Part 3 Amendment of Subordinate Local Law No. 9.2 (Public Camping Areas) 2008

15 Amendment of subordinate local laws

This part amends *Subordinate Local Law No. 9.2 (Public Camping Areas) 2008*.

16 Amendment of page 1 heading

Page 1, heading, ‘**camping areas**’—

omit, insert—

‘**Camping Areas**’.

17 Amendment of section 5 (Public camping areas)

Section 5, ‘18’—

omit, insert—

‘20’.

18 Amendment of section 8 (Term of a permit)

Section 8, ‘22’—

omit, insert—

‘24’.

19 Amendment of section 9 (Conditions of a permit)

(1) Section 9, ‘23’—

omit, insert—

‘25’.

(2) Section 9, footnote, both instances of ‘23’—

omit, insert—

‘25’.

20 Amendment of Schedule 2 (Dictionary)

Schedule 2, definition of *camping permit*, ‘21’—

omit, insert—

‘23’.