



**Cassowary Coast Regional Council
Local Law No. 1 (Administration) 2022**

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Schedule 1 Dictionary 31

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 1 (Administration) 2022*.

2 Purposes and how they are to be achieved

- (1) The purposes of this local law are to provide a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and specified regulatory powers under legislation, and to provide for miscellaneous administrative matters.
- (2) The purposes are to be achieved by providing for:
 - (a) consistent and comprehensive processes for the **Council** to grant and regulate **permits** to undertake **prescribed activities** and other **non-prescribed activities**;
 - (b) **authorised persons** for enforcing local laws;
 - (c) review of certain decisions made under local laws;
 - (d) enforcement of local laws;
 - (e) matters relating to legal proceedings; and
 - (f) miscellaneous administrative matters relating to meetings, fees, abandoned goods and seized and impounded items.

3 Definitions—the dictionary

- (1) The dictionary in Schedule 1 defines particular words used in all of the **Council's** local laws and subordinate local laws.
- (2) Throughout the local laws and the subordinate local laws the defined terms have been bolded for convenience and do not alter the meaning of the laws.

4 Relationship with other laws

This local law:

- (a) provides process for development, where specifically authorised by legislation, and development subject to the local laws is accepted development under the **planning scheme**;
- (b) applies to each of the **Council's** local laws and subordinate local laws subject to any specific provision in a local law or subordinate local law that expressly states otherwise and then only to the extent expressly stated;
- (c) is made under Chapter 3 of the **LGA**; and
- (d) is made under the **TORUM Act**.

Part 2 Applications and permits

5 Application

- (1) These provisions apply to all local law applications to be made to the **Council**.
- (2) The provisions of this Part 2 apply where an activity for which a Local Government Act authorises the **Council** to grant an **approval** or **permit** does not make sufficient provision about the process for the **Council** to accept, assess, grant or refuse the application, with or without conditions.

6 Permits

- (1) A **permit** is required for a **prescribed activity**.
- (2) There are 3 categories of **prescribed activity** which reflect the implications for the community in approving the activity and the care in which they need to be operated, and they are:
 - (a) **category 1 activities**, for the lower community implications;
 - (b) **category 2 activities**, for greater community implications: and
 - (c) **category 3 activities**, and for the most significant community implications.
- (3) Each **prescribed activity** is assigned a category.
- (4) A **permit** required for a **prescribed activity**, or other activities which are not **prescribed activities** under a local law, must be obtained under this part.
- (5) Each **permit** shall be given a unique identifying number.
- (6) The giving of a **permit** issued at a later date cancels any earlier **permit** with the same unique identifying number.

7 Applications

- (1) An application for a **permit** must be made on [Approved Form 1.7: Application Information \(What I want\)](#) to **Council** under this local law and will usually require at least one other **Approved Form** identified in the local laws to be attached.
- (2) Any other application dealing with a **permit** must be made on the relevant **Approved Form**.
- (3) Applications can be made in writing, or electronically where the **Council** provides that service.
- (4) When completing the **Approved Form** under this local law an applicant must identify each other **Approved Form** required to be completed to allow all aspects of the activity to be assessed in a single application.
- (5) The application must be accompanied by:
 - (a) materials and information identified in the **Approved Forms**;

(b) proof that the applicant currently holds any separate approval relating to the activity that is required under another law; and

(c) the **prescribed fee**.

Example for paragraph (a):

The local government may require an application to include site plans, management plans, relevant consents, evidence of public liability insurance etc.

Example for paragraph (b):

A prescribed activity may require approvals under another Act in relation to development, building, liquor, carriage of goods, business licensing etc.

(6) **Council** may, by written notice, request the applicant to provide further reasonable information or material or clarify information or material included in or attached to the **Approved Form**.

(7) The notice under subsection (6) must state:

(a) the grounds on which the request is made;

(b) an outline of the facts and circumstances forming the basis for the grounds;

(c) a detailed description of the information or material requested; and

(d) the date, not less than 7 days after the applicant receives the notice, by which the applicant must provide the information or material.

(8) If the applicant does not, without reasonable excuse, provide the further information or material by the stated date:

(a) the application lapses; and

(b) **Council** must give the applicant written notice stating that:

(i) under this section the application lapses; and

(ii) the applicant may make a new application.

(9) **Council** may extend the period for the applicant to provide the further information and material, even if an application has lapsed, and must give the applicant written notice of any such extension.

(10) A person must not give information or material, either orally or in writing, that the person knows is false or misleading in or in connection with an application.

Maximum penalty for subsection (9)—20 penalty units.

(11) **Council** need not accept an application from the same applicant for the same activity within 12 months after receiving an application that is finally decided.

8 General criteria for assessing and deciding applications

(1) **Council** must assess the application against the general criteria, where applicable.

- (2) The general criteria are:
- (a) if a separate approval under an Act, a law of the Commonwealth or the **planning scheme** is required, the separate approval has been granted and the conditions of the approval have been or will be complied with;
 - (b) the proposed operation and management of the activity is adequate to protect public health, safety and amenity and prevent environmental harm;
 - (c) the grant of the **permit** would be consistent with the purpose of any relevant local law;
 - (d) the proposed operation and management of the activity would be consistent with any additional criteria prescribed for the activity under a local law;
 - (e) the proposed operation and management of the activity would be consistent with **best practice management**;
 - (f) if the application relates to trust land, the grant of the **permit** would be consistent with the terms and conditions of the trust;
 - (g) if the application relates to a **prescribed activity**, the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Acts in relation to the approval or **permit**;
 - (h) the granting of the **permit** is beneficial for the good rule and governance of the local government area;
 - (i) the granting of the **permit** would not be detrimental to the good rule and governance of the local government area;
 - (j) whether the applicant and **responsible person** are **suitable persons**.
 - (k) whether the granting of the **permit** would be reasonable in the circumstances; and
 - (l) whether an approval for the same or similar activity was given under the **repealed local laws**.

Example for paragraph (a) and (f):

An application for commercial use of a local government controlled area that is held in trust by the local government under the Land Act 1994 may require registration of a trustee lease or issue of a trustee permit prior to the approval being granted for commercial use of the area.

- (3) **Council** may, by written notice to the applicant:
- (a) grant the **permit** unconditionally;
 - (b) grant the **permit** subject to conditions determined in accordance with section 9; or
 - (c) refuse to grant the **permit**.

Examples for paragraph (b):

If an application for which Council's permission is required may result in damage to property, Council may, as a condition of giving a permit, require the applicant to give reasonable security (which may include a deposit of money, a guarantee or an insurance bond) to ensure that the damage is made good.

Council may grant a permit subject to standard conditions pursuant to a local law

- (4) **Council** must decide the application within 28 days after:
 - (a) the application is received where **Council** has not requested further information under subsection 7(6); or
 - (b) after all of the further information requested is provided under subsection 7(7)(d).
- (5) **Council's** powers in deciding the application are subject to the provisions of any relevant local law.
- (6) **Council** must give the applicant an **information notice** if **Council**:
 - (a) refuses to grant a **permit** for a **prescribed activity**; or
 - (b) grants a **permit** for a **prescribed activity** subject to a **non-standard condition**.
- (7) A **permit** must be given on [Approved Form 1.8\(7\) Permit](#).
- (8) A refusal must be given on [Approved Form 1.8\(8\) Refusal](#).

9 **Conditions of a permit**

- (1) A **permit** may be granted on conditions **Council** considers appropriate.
- (2) The conditions must:
 - (a) indicate the activity cannot commence until such time as all other necessary approvals have been obtained;
 - (b) specify the **premises** at which the activity is to take place;
 - (c) be reasonably necessary to ensure that the operation and management of the activity will be adequate to protect public health, safety and amenity and prevent environmental harm;
 - (d) be consistent with the purpose of any relevant local law;
 - (e) if the **permit** is for a **prescribed activity**, be consistent with any requirements or criteria specified in the relevant **Local Government Acts** in relation to the **permit**;
 - (f) not conflict with the conditions of any other relevant **approval** issued under an **Act**;
 - (g) ensure the **permit** will benefit the good rule and governance of the local government area;
 - (h) ensure the **permit** will not be detrimental to the good rule and governance of the local government area; and

- (i) require the **permit holder** to notify **Council** in writing of a suspension or cancellation of a relevant **approval** necessary for the **prescribed activity** under an **Act** within 3 days of the relevant **approval** being suspended or cancelled.
- (3) Despite subsections (1) and (2) a local law may prescribe the type of conditions that must be imposed or that will ordinarily be imposed as **standard conditions**.
- (4) To remove any doubt, it is declared that a condition of a **permit** may authorise an act or omission that:
 - (a) contravenes a **noise standard**; or
 - (b) causes an **environmental nuisance**.

Example for paragraph (a):

A condition of a permit for operation of a temporary entertainment event may authorise the operation of an amplifier device at specified times that would otherwise be a contravention of the noise standard in the Environmental Protection Act 1994, section 440Y.

10 Term of permit

- (1) The normal term for a **permit** will be:
 - (a) the term provided for the activity on the **permit**; or
 - (b) 1 year for all other **permits**.
- (2) **Council** may, in its discretion, provide for a shorter or longer than the normal term for a **permit**, and in exercising this discretion **Council** must have regard to the matters mentioned in section 8.
- (3) Unless sooner cancelled or suspended, a **permit** remains in force for:
 - (a) the term provided on the **permit**; or
 - (b) if there is no term provided on the **permit**, one year from the date the **permit** is granted.

11 Renewal of a permit

- (1) A **permit holder** may, before the end of the term of the **permit**, apply to the **Council** to renew the term of the **permit** for:
 - (a) a further term provided for the activity under a local law; or
 - (b) if there is no term provided for under a local law, a further term equal to the current term of the **permit**.
- (2) However, a **permit holder** may not apply to renew the **permit** where the **Council** has given the **permit holder** reasonable written notice that the **permit** is one of a class of **permits** that the **Council** does not intend to renew.

Example:

The Council might give notice to the permit holder that, in order to prevent environmental harm to an endangered ecosystem, it does not intend to grant, renew any permits for the activity in a specified part

of the local government area.

- (3) The application under subsection (1) must be made on an [Approved Form 1.7: Application to Council \(What I Want\)](#) only, and section 7 applies to the application.
- (4) Subsections 7(6) to (8) apply to the notice under this section as if it was a notice under section 7(5).
- (5) **Council** may, by written notice to the applicant:
 - (a) grant the application on [Approved Form 1.8\(7\) Permit](#);
 - (b) grant the application and amend the conditions of the **permit** on [Approved Form 1.8\(7\) Permit](#); or
 - (c) refuse the application, on [Approved Form 1.8\(8\) Refusal](#).
- (6) In deciding under subsection (5), **Council** may have regard to:
 - (a) the matters mentioned in section 8; and
 - (b) whether the conditions of the **permit** are being complied with by the applicant.
- (7) **Council** must give the applicant for the renewal an **information notice** if **Council**:
 - (a) refuses an application in relation to a **prescribed activity**; or
 - (b) grants the **permit** in relation to a **prescribed activity** and amends the **permit** to include **non-standard conditions**.
- (8) **Council** may amend the conditions of the **permit** under subsection (5)(b) without following the procedure in section 15.
- (9) If a **permit holder** applies to renew the **permit**, the **permit** remains in force until:
 - (a) if the application is granted, with or without amendment of the conditions, the date the **permit** is renewed;
 - (b) if the application in relation to a **prescribed activity** is refused and the applicant applies for a review of the decision under Part 4, the date the applicant is given notice of the **review decision**;
 - (c) if the application in relation to a **prescribed activity** is refused and the applicant has not applied for a review of the decision under Part 4, 14 days after the date the applicant is given notice of the refusal; or
 - (d) if the application in relation to a **non-prescribed activity** is refused, 14 days after the date the applicant is given notice of the refusal.

12 Transfer of permit

- (1) The **permit holder** together with the proposed **permit holder** may apply to **Council** for transfer of the **permit** to the proposed **permit holder**.

- (2) However, a **permit** cannot be transferred under this section if it is of a category or type of **permit** is identified as non-transferable under a local law.
- (3) To transfer a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.12: Transfer of Permit](#), signed by the current **permit holder**; and
 - (b) [Approved Form 1.7: Application Information \(What I want\)](#), signed by the proposed **permit holder**.
- (4) **Council** may, by written notice, request the applicant to provide further reasonable information and material or clarification of information and material included in or attached to the application.
- (5) Subsections 7(6) to (8) apply to a notice under this section as if it was a notice under section 7(5).
- (6) **Council** may grant an application to transfer a **permit** following an assessment as to the suitability of the proposed **permit holder** and any proposed **responsible person**.
- (7) **Council** may, by written notice to the **permit holder** and the proposed **permit holder**:
 - (a) grant the application to transfer the **permit** on [Approved Form 1.8\(7\) Permit](#); or
 - (b) refuse the application to transfer the **permit** on [Approved Form 1.8\(8\) Refusal](#).
- (8) If **Council** decides to grant the application to transfer the **permit**, **Council** may amend the existing conditions of the **permit**.
- (9) **Council** may amend the conditions of the **permit** under subsection (8) without following the procedure in section 15.
- (10) **Council** must state, in the notice given under subsection (7)(a), any amendments to the conditions of the **permit** and the day that they take effect.
- (11) **Council** must give the **permit holder** and the proposed **permit holder** an **information notice** if **Council**:
 - (a) refuses an application in relation to a **prescribed activity**; or
 - (b) grants an application in relation to a **prescribed activity** and amends the **permit** to include **non-standard conditions**.

13 Amending conditions at request of permit holder

- (1) A **permit holder** may apply to **Council** to amend the conditions of a **permit**.
- (2) The application under subsection (1) must be made on [Approved Form 1.13: Request to Amend Conditions](#) only.
- (3) **Council** must consider and decide whether to grant or refuse the application.

- (4) If **Council** decides to amend the conditions as requested, **Council** must, within 14 days of the decision, give the **permit holder** **Approved Form 1.8(7) Permit** with the amended conditions and the day that they take effect.
- (5) If **Council** decides not to amend the conditions it must within 14 days of the date of the decision, give the **permit holder** **Approved Form 1.8(8) Refusal**.
- (6) **Council** may amend the conditions of the **permit** under this section without following the procedure in section 15.

14 **Grounds for amending, suspending or cancelling permit**

Each of the following is a ground for amending, suspending or cancelling a **permit**:

- (a) amendment, suspension or cancellation is necessary;
 - (i) for the protection of public health or safety;
 - (ii) to prevent environmental harm;
 - (iii) to prevent property damage or loss of amenity;
 - (iv) to allow for works on roads or **local government controlled areas**;
 - (v) to improve access to a **road**; or
 - (vi) to improve the efficiency of vehicle or pedestrian traffic.
- (b) another **permit** required for the prescribed activity under an Act has been suspended or cancelled;
- (c) in undertaking the activity, the **permit holder** has failed to comply with a local law, subordinate local law or an Act;
- (d) the **permit holder** has failed to comply with a condition of the **permit**;
- (e) the **permit holder** or **responsible person** is no longer a **suitable person**;
- (f) the **permit holder** has failed to comply with a notice under section 35 that relates to the conduct of the **prescribed activity** or has failed to comply with a stop order under section 32; or
- (g) the **permit** was granted because of a document or representation that was:
 - (i) false or misleading; or
 - (ii) obtained or made in another improper way.

15 **Show Cause Notice for amending, suspending or cancelling permit**

- (1) This section applies if **Council** considers there is a ground under section 14 to amend, suspend or cancel a **permit**.
- (2) Before amending, suspending or cancelling the **permit**, **Council** must give the **permit holder** **Approved Form 1.15: Show Cause Notice**, stating:

- (a) the proposed action to be taken;
 - (b) the grounds for requiring the proposed action;
 - (c) an outline of the facts and circumstances that are the basis of the grounds;
 - (d) if the proposed action is suspension of the **permit**, the proposed suspension period;
 - (e) if the proposed action is amending the **permit**, the proposed amendments;
 - (f) that the **permit holder** may make written submissions, within a stated reasonable time of at least 21 days after the notice is given, why the proposed action should not be taken; and
 - (g) the submissions should be signed, dated and reference the unique identifying number.
- (3) If, after considering all submissions made within the stated reasonable time, **Council** decides that a ground no longer exists to cancel, amend or suspend the **permit**, **Council** must only take action consistent with the grounds that do exist and give written notice to the **permit holder** about the decision.
- (4) If, after considering all submissions made, **Council** still considers there is a ground to take a proposed action, **Council** may:
- (a) amend the **permit**, on [Approved Form 1.8\(7\) Permit](#);
 - (b) suspend the **permit** or amend and suspend it with the suspension in each case being for no longer than the period stated in the notice, on [Approved Form 1.8\(7\) Permit](#); or
 - (c) if the proposed action was to cancel the **permit**, amend it, suspend it for a period, amend and suspend it on [Approved Form 1.8\(7\) Permit](#) or cancel it on [Approved Form 1.8\(8\) Refusal](#).
- (5) **Council** must advise the **permit holder** in writing of its decision.
- (6) If **Council** decides to amend, other than by inclusion of a **standard condition**, suspend or cancel a **permit** in relation to a **prescribed activity** **Council** must give the **permit holder** an **information notice**.
- (7) The decision takes effect on the day the written notice mentioned in subsection (5) is given to the **permit holder**, unless the **permit holder** exercises any right of review, in which case when a **review decision** is finally determined.

16 Procedure for immediate suspension of permit

- (1) Despite section 15, **Council** may immediately suspend a **permit** if an **authorised person** reasonably forms an opinion that continuation of the activity by the **permit holder** poses:
- (a) an urgent and serious threat to public health or safety; or

- (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (2) The suspension takes effect immediately upon the **authorised person** advising, whether verbally or in writing, persons conducting the permitted activity.
- (3) The **authorised person** must within 24 hours after advising the **permit holder** give an **Approved Form 1.15: Show Cause Notice** to the **permit holder**
- (4) The suspension continues to operate until the earliest of the following happens:
 - (a) **Council** cancels the suspension; or
 - (b) **Council** gives the **permit holder** notice under section 15(5) or (7) of its decision about the **show cause notice**.

Part 3 Authorised persons

17 Appointment

An **authorised person's** instrument of appointment must state the local laws, or the provisions of local laws, for which the person is appointed as an **authorised person**.

18 Threatening etc. an authorised person

A person must not threaten, insult or use abusive language to an **authorised person**.

Maximum penalty—20 penalty units.

Part 4 Review of decisions

19 Application for review

- (1) A person who is given, or is entitled to be given, an **information notice** for:
 - (a) a decision under a local law; or
 - (b) a **compliance notice** under section 30;
 may apply to the chief executive officer for an internal review of the decision under this part.
- (2) The application under subsection (1) must:
 - (a) be made in writing, be signed and dated and referencing the unique identifying number;
 - (b) set out the grounds, evidence and material on which the applicant seeks the review, and where applicable, stay of the decision; and

- (c) be supported by enough information to enable **Council** to decide the application.
- (3) The application must be made within 14 days of:
 - (a) if the person is given an **information notice** for the decision, the day the person is given the notice; or
 - (b) if paragraph (a) does not apply, the day the person otherwise becomes aware of the decision.
- (4) However, **Council** may, at any time, extend the time for making an application for review.
- (5) Only one application for review can be made for internal review.

20 Review decision

- (1) **Council** must review the decision or **compliance notice** within 28 days after receiving the application and make a decision to:
 - (a) confirm the decision or **compliance notice**;
 - (b) amend the decision or **compliance notice**; or
 - (c) substitute with another decision or **compliance notice**.
- (2) The **review decision** must not be dealt with by the person who made the decision or issued the **compliance notice**.
- (3) The **review decision** must not be dealt with by a person in a less senior office than the person who made the decision or issued the **compliance notice**, unless the decision was made by the chief executive officer.
- (4) **Council** must, within 10 days of making the **review decision**, give the applicant notice of the decision on [Approved Form 1.20: Review of Decision and Stay](#).
- (5) If the **review decision** is not the decision sought by the applicant, the review notice must also state the reasons for the **review decision**.
- (6) If **Council** does not give the review notice within the 10 days, **Council** is taken to have made a **review decision** confirming the decision.
- (7) If the review decision requires a change to an existing **permit** then the **Council** must issue a new [Approved Form 1.8\(7\) Permit](#) consistent with the review decision, but without an **information notice**.

21 Stay of operation of original decision or compliance notice

- (1) A review application does not stay the decision or **compliance notice** that is the subject of the application.
- (2) The person who will make the **review decision** may stay the decision or **compliance notice** to secure the effectiveness of the review on [Approved Form 1.20: Review of Decision and Stay](#).

- (3) A stay may be granted on conditions the person making the **review decision** considers appropriate, having considered the criteria against which the decision or **compliance notice** was made and the consequences of allowing a stay.

Part 5 Enforcement

22 Production of records

- (1) This section applies where an **authorised person** has entered a property under the **LGA** to find out whether the conditions of a **permit** have been complied with.
- (2) The **authorised person** may require the occupier of the property to produce for inspection records that are required by the conditions of a **permit**.
- (3) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

23 Enforceable undertakings

- (1) The **Council** may accept an **enforceable undertaking** made by a person in relation to a contravention or alleged contravention by the person of a local law or subordinate local law.
- (2) To obtain an **enforceable undertaking** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 1.23: Enforceable Undertaking](#).
- (3) The **Council** must give the person written notice of:
 - (a) the decision to accept or reject the **enforceable undertaking**; and
 - (b) the reasons for the decision.
- (4) The **Council** must not accept the **enforceable undertaking** unless the **Council** reasonably believes that the undertaking will:
 - (a) secure compliance with the local laws and Subordinate local laws; and
 - (b) achieve the purpose of the applicable local law.
- (5) If **Council** decides to accept the **enforceable undertaking**, the **Council** must publish a copy of the undertaking on the **Council's** website.
- (6) The **Council** may accept an **enforceable undertaking** in relation to a contravention or alleged contravention at any time before any proceedings in relation to the contravention ends.

- (7) If **Council** accepts an **enforceable undertaking** after proceedings in relation to the contravention have started, **Council** must take all reasonable steps to have the proceedings discontinued as soon as practicable.

24 Effect of enforceable undertaking

- (1) An **enforceable undertaking** takes effect when **Council** gives the person who made the undertaking notice of the decision to accept the undertaking.
- (2) No proceedings for a contravention or alleged contravention of the Local Laws or Subordinate Local laws may be taken against the person in relation to the contravention that is the subject of the undertaking if the person is complying, or has complied, with the undertaking.
- (3) The making of an **enforceable undertaking** does not constitute an admission of guilt by the person making the undertaking.

25 Withdrawal or variation of enforceable undertaking

- (1) A person who has made an **enforceable undertaking** may at any time, with the written agreement of **Council**:
- (a) withdraw the **enforceable undertaking**; or
 - (b) vary the **enforceable undertaking**.
- (2) However, the provisions of the undertaking may not be varied to provide for a different alleged contravention of the Local Laws or Subordinate Local laws.
- (3) **Council** must publish notice of the withdrawal or variation of an **enforceable undertaking** on the **Council's** website.

26 Amending enforceable undertaking—with agreement

Council may amend an **enforceable undertaking** with the written agreement of the person who made the undertaking.

27 Amending enforceable undertaking—clerical or formal errors

Council may amend an **enforceable undertaking** to correct a clerical or formal error if—

- (a) the amendment does not adversely affect the interests of the person who made the undertaking or anyone else; and
- (b) the person has been given written notice of the amendment.

28 Amending or suspending enforceable undertaking

- (1) **Council** may amend or suspend an **enforceable undertaking** if the **Council** is satisfied—
- (a) the undertaking was accepted relying on a representation or declaration, made either orally or in writing, that was false or misleading in a material particular; or
 - (b) the amendment or suspension is necessary or desirable because of a significant change in the way in which, or the extent to which, the

relevant activity is being carried out that affects the likelihood of the undertaking—

- (i) securing compliance with the Local law or Subordinate Local law; or
 - (ii) achieving the purpose of the Local Law or Subordinate Local law.
- (2) **Council** must give the person who made the undertaking an **information notice**.
- (3) If **Council** proposes to amend the **enforceable undertaking**, the **information notice** must be accompanied by a copy of the undertaking that shows the amendment.

29 Contravention of enforceable undertaking

- (1) A person must not contravene an **enforceable undertaking** made by that person that is in effect.
- Maximum penalty—
- (a) if the offence is committed willfully 500 penalty units; or
 - (b) otherwise—300 penalty units.
- (2) Regardless of whether the person is prosecuted for an offence against subsection (1), **Council** may apply to a Magistrates Court for an order if the person contravenes the **enforceable undertaking**.
- (3) If the court is satisfied that the person contravened the undertaking, the court, in addition to imposing any penalty, may make one or more of the following orders:
- (a) an order directing the person to comply with the **enforceable undertaking**;
 - (b) an order directing the person to take steps to rectify the reason for the enforcement action which caused the person to seek an **enforceable undertaking**; or
 - (c) an order discharging the **enforceable undertaking**.
- (4) Also, the court may make any other order that the court considers appropriate in the circumstances, including an order directing the person to pay to **Council**:
- (a) the costs of the proceedings; and
 - (b) the reasonable costs of the **Council** in monitoring compliance with the **enforceable undertaking** in the future.

30 Compliance notice

- (1) Under this section, a **compliance notice** may be issued:
- (a) where an offence provision provides for a penalty; or

- (b) where a section does not provide for a penalty but the section provides that a **compliance notice** may be issued;

IF:

- (c) an **authorised person** is satisfied on reasonable grounds that a person:
- (i) is contravening a local law or a condition of a **permit**; or
 - (ii) has contravened a local law or a condition of a **permit** in circumstances that make it likely the contravention will continue or be repeated; or
- (d) an **authorised person** forms an opinion that a **compliance notice** should be given in circumstances identified in another local law;

AND:

- (e) a matter relating to the contravention can be remedied; and
- (f) it is appropriate to give the person an opportunity to remedy the matter.

Examples for paragraph (b) of matters relating to a contravention that can be remedied:

If the contravention relates to a person's failure to take action that is required under a local law or a condition of a permit, then the matter can be remedied by the person taking that action.

If the contravention relates to a person taking action that is prohibited under a local law or a condition of a permit, then the matter can be remedied by the person stopping that action.

- (2) The **authorised person** may give **Approved Form 1.34: Compliance Notice** to a person requiring the person to take specified action.
- (3) The **compliance notice** must state the following:
- (a) the particular provision of the local law or condition of a **permit** the **authorised person** believes is being, or has been, contravened;
 - (b) briefly, the facts and circumstances upon which the **authorised person** formed the opinion or concluded there were reasonable grounds that the local law has been contravened or that a **compliance notice** should be given;
 - (c) the time by which the person must take the specified action;
 - (d) that it is an offence to fail to comply with the **compliance notice**; and
 - (e) the maximum penalty for failing to comply with the **compliance notice**.
- (4) The time under subsection (3)(c) must be reasonable having regard to:
- (a) the time required to take the specified action;
 - (b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm posed; and
 - (c) how long the person has been aware of the facts and circumstances.

- (5) The **compliance notice** must state the specific action the **authorised person** considers necessary to remedy the contravention or avoid further contravention or that is necessary under another local law.

Examples of reasonable steps to avoid further contravention:

The repetition of a specified action at stated intervals for a certain period.

Stopping taking an action that is prohibited by a local law or condition of a permit.

- (6) The person must comply with the **compliance notice**.
Maximum penalty for subsection (6)—50 penalty units.
- (7) Giving a **compliance notice** does not prevent **Council** from taking action under a provision that provides for a penalty.
- (8) **Council** must give the person an **information notice**.
- (9) In the event that the specified action identified in a **compliance notice** is not taken within the specified time **Council** may enter the **premises**, but not a home on the **premises**, and undertake works specified by the **compliance notice**.
- (10) In the event that **Council** exercises its power under subsection (9) it can seek to recover the reasonable costs of undertaking the work from the **responsible person** and the costs can be recovered as though they were a rate for the purpose of the **LGA**.
- (11) The undertaking of works does not prevent **Council** taking any other action in relation to any non-compliance with the **compliance notice**.

31 Power to seize and impound and cost recovery

- (1) This section applies where:
- (a) goods or materials have been deposited on a **local government controlled area** or **road** in contravention of a local law;
 - (b) an alteration or improvement has been erected or installed in, on, across, under or over a **local government controlled area** or **road** in contravention of a local law;
 - (c) a person has failed to comply with a **compliance notice** that required the removal of a structure, goods or materials within the time specified in the **compliance notice**;
 - (d) an **authorised person** considers on reasonable grounds that goods have been abandoned or found in circumstances that constitute an offence under the local laws or an Act; or
 - (e) an **authorised person** reasonably believes that a **vehicle** has been
 - (i) abandoned on a **road**;

- (ii) left on a **road** unattended whether temporarily or otherwise for a time or in a place, condition, way or circumstances where its presence is hazardous; or
 - (iii) found on a **road** in a place, condition, way or circumstances where its presence is hazardous;
and the driver of the **vehicle**;
 - (iv) cannot readily be located; or
 - (v) has failed to immediately remove the **vehicle** when required by an **authorised person** to do so.
- (2) An **authorised person** may seize, and dismantle if necessary, and impound the vehicle, structure, good or thing if its immediate removal is necessary or becomes necessary:
- (a) in the interests of public health or safety; or
 - (b) to prevent environmental harm, property damage or loss of amenity.
 - (c) Contrary to **Council** signage
- (3) Where subsection (2) does not apply, an **authorised person** may seize, and dismantle if necessary, and impound the vehicle, structure, good or thing if:
- (a) the owner, or person in possession, of the vehicle, structure, good or thing has not complied with a **compliance notice** requiring the owner or person to remove it and the time for internal review has passed; or
 - (b) The owner or person in possession of the vehicle, structure, good or thing has been prosecuted and found guilty of an offence against the Local Laws about the structure or thing.
- (4) **Council** may recover the cost of action taken under this section as a debt from the person responsible for the activity mentioned in subsection (1).
- (5) In this section:
thing does not include an animal.
- (6) For subsection (1)(d), the presence of a vehicle on a **road** is hazardous if it is causing, or is likely to cause, danger, hindrance or obstruction to traffic or is preventing, hindering or obstructing, or is likely to prevent, hinder or obstruct, the use of the **road** or a part of the **road** for a lawful purpose.
- (7) As soon as reasonably practicable after seizing a vehicle, structure, good or thing under this section an **authorised person** must give a seizure notice in **Approved Form 1.35 Seizure Notice** to the owner or **responsible person**, where known, of the vehicle, structure, good or thing.

32 Stop orders

- (1) An **authorised person** may immediately give a **responsible person** an order to immediately stop an activity regulated under a **permit** if the

authorised person reasonably forms an opinion that a continuation of the activity poses:

- (a) an urgent and serious threat to public health or safety; or
 - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (2) An order under this section:
- (a) may be given orally or on **Approved Form 1.36 Stop Order**; and
 - (b) operates until the earliest of the following happens:
 - (i) the expiry of the period, of no more than 3 days, specified by the **authorised person** when the order is given; or
 - (ii) **Council** immediately suspends the **permit** for the activity under section 16.
- (3) An **authorised person** must confirm an oral order, on **Approved Form 1.36 Stop Order**, by the next business day following the giving of the order;
- (4) A **responsible person** who receives an order under this section must comply with the order;

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

- (5) **Council** must give the person an **Information Notice**.
- (6) This section does not affect **Council's** powers under **Local Government Acts**.

33 Service of Documents

- (1) **Council** may give or serve a document to or upon:
- (a) a person by:
 - (i) delivering the document to the person;
 - (ii) leaving the document at the person's address for service;
 - (iii) forwarding the document by post in a prepaid letter addressed to the person at the person's postal box or other address recorded in the local government's database;
 - (iv) forwarding the document by post in a registered letter addressed to such person at the person's address for service;
 - (v) delivering a copy of the document to a person, other than a minor, who is in control of the premises at which the person ordinarily resides or is employed; or
 - (vi) fixing a copy of the document on some conspicuous part of the **premises** at which the person ordinarily resides or is employed if

- there is no person, other than a minor, in control of the **premises** to whom the document can be given or served.
- (b) a person in that person's capacity as the owner or **occupier** of **premises** by:
 - (i) delivering the document to the person;
 - (ii) delivering a copy of the document to some person, other than a minor, at the **premises**; or
 - (iii) fixing a copy of the document on some conspicuous part of the **premises** if there is no person, other than a minor, on the **premises** to whom the document can be given or served.
 - (c) a person in that person's capacity as the owner or **occupier** of property, including a vehicle, other than a **premises**, by:
 - (i) delivering the document to the person;
 - (ii) delivering a copy of the document to some person, other than a minor, in control of the property; or
 - (iii) fixing a copy of the document on some conspicuous part of the property if there is not person, other than a minor, in control of the property to whom the document can be given or served.
 - (d) a person as an owner of rateable land, in accordance with section 239 of the **LGA**.
- (2) If **Council** has given or served a document to or on a person pursuant to subsection (1), it is sufficient proof that the document has been given or served to or upon the person, for an officer of **Council** to:
- (a) in the case of a document given or served to or upon a person pursuant to subsection (1)(a)(iii):
 - (i) produce a copy of the document; and
 - (ii) testify that the document was properly stamped and addressed and put into the post.
 - (b) in the case of a document given or served to or upon a person pursuant to subsection (1)(a)(iv):
 - (i) produce a receipt purporting to be on the registered receipt of the registered letter; and
 - (ii) testify as to the contents of the registered letter.
 - (c) in all other cases –
 - (i) produce a copy of the document; and
 - (ii) testify as to the manner in which the document was given or served to or upon the person.

- (3) A document is taken to have been properly given or served to or upon the **responsible person of premises**, if:
- (a) the document is required to be given or served to or upon the **responsible person of the premises**;
 - (b) the name of the **responsible person of the premises** is not known;
 - (c) the document is addressed to the **responsible person of the premises** by the description of the “**owner**” or “**occupier**” of the **premises** in question, naming them, and without further name or description; and
 - (d) the document is given or served to or upon the **responsible person** in accordance with subsection (1).
- (4) A document forwarded by post in a prepaid letter is taken to have been given or served to or upon the **responsible person** at the last moment of the day of which the same ought to be delivered at its destination in the ordinary course of the post.

34 Rewards

- (1) **Council** may, by public notice, offer a reward for information leading to the conviction of a person for:
- (a) an offence involving damage to, or theft of, property of **Council** or under **Council’s** control; or
 - (b) an offence against a local law.
- (2) The amount of the reward, and the conditions on which it is payable, must be decided by resolution of **Council**.

35 Direction to leave a local government controlled area or road

- (1) If an **authorised person** forms an opinion that a person on a **local government controlled area or road** is contravening or has just contravened a provision of a local law the **authorised person** may direct the person to:
- (a) leave the **local government controlled area or road**:
 - (i) within a stated reasonable time; or
 - (ii) immediately if the **authorised person** believes on reasonable grounds the contravention is serious or is a flagrant disregard for the provision of a local law.
 - (b) not to re-enter the **local government controlled area or road** for a stated reasonable period of not more than 3 calendar days.
- (2) The person must comply with a direction given to the person under subsection (1), unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (2) – 50 penalty units

- (3) A person given a direction under sub section (1) to leave a **local government controlled area or road** must not re-enter the **local government controlled area or road** unless the person has a reasonable excuse for the re-entry with the period stated in the direction.

Maximum penalty for subsection (3) – 20 penalty units

- (4) A person who has been given a direction under sub section (1) may make a written request for permission from **Council** to re-enter the **local government controlled area or road**.
- (5) If **Council** receives a written request under sub section (4), **Council** must grant a permission where it reasonably believes that the person will not commit a further contravention of a local law.

36 Directions generally

- (1) An **authorised person** may direct a person committing a breach of a local law to:
- (a) cease any conduct or activity which constitutes a breach of the local law; or
 - (b) take such reasonable action determined by an **authorised person** to ensure that the person does not continue to commit a breach of a local law.
- (2) A person must comply with a direction of an **authorised person** made pursuant to this local law.

Maximum penalty for subsection (2) – 50 penalty units

Part 6 Offences and matters relating to legal proceedings

37 Proceedings in the name of Council

Summary proceedings, whether for the recovery of any penalties or moneys payable in respect of any offence or otherwise against any local law of **Council**, Local Government Acts or statutory instrument which **Council** administers, superintends, or enforces, may be instituted by **Council** under the *Justices Act 1886* by the complaint of **Council**.

38 No abridgment of proceedings

The provisions of this Part shall be deemed to be in addition to and not to abridge or affect any right, remedy, or proceeding at common law or under any Act, local law or regulation.

39 Continuing Offence

- (1) This section applies where it is an offence to fail to comply with the requirements of:
- (a) A local law;

- (b) A subordinate local law; or
 - (c) Any direction, order, notice, requirement or the like made under the authority of any local law or subordinate local law.
- (2) The person who fails to comply shall be guilty of an offence, which shall be a continuing offence for every day on which such failure continues.
- (3) The daily penalty for an offence under this section is 1 penalty unit per day, with the maximum penalty that can be imposed set at 1 penalty units.

40 Offence for prescribed activity without permits and conditions

- (1) This section applies to a **prescribed activity** mentioned in:
- (a) section 6(1); or
 - (b) section 6(2) if the Local Government Act that authorises the local government to grant the **approval** is a local law.
- (2) A person must not undertake the **prescribed activity** without a **current permit** granted by the local government or contrary to a condition of a **permit**.

Maximum penalty for subsection (2):

- (a) for an activity for which no category has been declared by local law or subordinate local law—50 penalty units;
 - (b) for a **category 1 activity**—50 penalty units;
 - (c) for a **category 2 activity**—200 penalty units; or
 - (d) for a **category 3 activity**—500 penalty units.
- (3) However, **Council** may, by local law, declare that subsection (2) does not apply to a **prescribed activity** or a particular activity that is within the category of a **prescribed activity**.

Example: A local law may declare that subsection (2) does not apply to installation of a specified type of advertising device (for example, a device prescribed as a 'permitted advertising device'). These permitted advertising devices would not require an approval under this part but other types of advertising devices would continue to require an approval.

41 Offence for non-prescribed activity requiring a permit and conditions

- (1) This section applies to any **permit** required and conditions imposed by a local law other than for a **prescribed activity**.

- (2) A person must not undertake an activity without a **current permit** granted by the local government or contrary to a condition of a **permit**.

Maximum Penalty – 50 penalty units

42 General defence

- (1) In a proceeding under a local law against the **owner** or **occupier** of premises for an offence relating to an act or omission with respect to the premises, it is a defence for the **owner** or **occupier** to prove that:
 - (a) In the case of an **owner**, the act or omission occurred without the owner's knowledge or consent, or in the case of an **occupier**, occurred without the occupier's knowledge or consent; and
 - (b) the **owner** or **occupier** respectively could not, by reasonable diligence, have prevented the act or omission.
- (2) If a person is charged with an offence involving a contravention of a local law, it is a defence to provide that the person had a reasonable excuse for the contravention.

43 Joint and several liability

- (1) If a local law imposes a liability on an **owner** or **occupier** of property, or a person engaged in a particular activity, and 2 or more persons are the **owners** or **occupiers** of the relevant property, or are jointly engaged in the relevant activity, the liability is joint and several.
- (2) This section applies to civil liabilities only.

44 Executive Officer

- (1) The **executive officers** of a corporation must ensure the corporation complies with all local laws adopted by the local government, and in force for the local government area.
- (2) If a corporation commits an offence against a provision of a local law, each of the corporation's **executive officers** also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.
- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law is evidence that each of the **executive officers** committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an **executive officer** to prove—
 - (a) if the **executive officer** was in a position to influence the conduct of the corporation in relation to the offence—the **executive officer** exercised

reasonable diligence to ensure the corporation complied with the provision; or

- (b) the **executive officer** was not in a position to influence the conduct of the corporation in relation to the offence.

45 Presumptions about advertising devices

A person must not allow their products or services to be advertised on an **advertising device** that is not approved under the **planning scheme**, local law or is otherwise an **advertising device** that does not require a **permit**.

Maximum Penalty – 50 penalty units

46 Evidentiary provisions

- (1) The production of a copy of a record or an extract from a record of the local government relating to the proceedings of the local government, a committee of the local government or board of which the local government is a member shall be prima facie evidence in Court of:

- (a) the persons attending;
- (b) the time and place of the proceeding;
- (c) the content of any agenda and discussions; and
- (d) any resolutions passed or actions resolved

provided that the copy of the record is signed by the chief executive officer certifying that it is a true copy of a record of the local government.

- (2) In any proceedings for a breach of the local laws, the Act or regulation the appointment of all officers of the local government, and the authority of any officer to do any act shall be presumed until the contrary is provided.
- (3) The production of any map or extract from a map made by the local government signed by the chief executive officer certifying that it is a true copy of a record of the local government shall be prima facie evidence of the matters stated or delineated on the map.
- (4) The production of a copy of a certificate of title, memorandum of transfer, or other instrument creating an interest in land shall be prima facie evidence:
 - (a) the person named therein is the registered proprietor; or
 - (b) is entitled to an interest in that land.
- (5) All courts and persons acting judicially shall take judicial notice of the signature of any person who holds or has held the office of mayor or chief executive officer and the fact that such person holds or has held such office if the signature purports:
 - (a) to be attached to any document; and

- (b) to have been made by the mayor or chief executive officer.
- (6) All courts and persons acting judicially shall take judicial notice of the Seal affixed to any Deed, instrument or other document and shall presume that it was duly affixed.
- (7) The signature of a person holding public office signing any deed, instrument or other document will be prima facie evidence that the person was authorised to sign it, until the contrary is proved.
- (8) In any prosecution for a breach of the provisions of any local law, every allegation or averment contained in the complaint shall be prima facie evidence of the matter so alleged or averred.
 - (a) This section shall apply to any matter alleged or averred although:
 - (b) evidence in support or rebuttal of the matter alleged or averred or any other matter is given;
 - (c) the matter alleged or averred is a mixed question of law and fact, but in that case the allegation or averment shall be prima facie evidence of the fact only; or
 - (d) any evidence given in support or rebuttal of matter so alleged or averred shall be considered on its merits, and the credibility and probative value of such evidence shall be neither increased nor diminished by reasons of this local law.
- (9) This local law shall not lessen or affect any onus of proof otherwise falling on the defendant.
- (10) This local law shall not derogate from the averment provisions of any other Act.

47 Recovery of damages, expenses etc.

- (1) When any person is convicted of an offence under a local law conferring powers, rights, privileges, or authorities on the local government, or against any local law of the local government, the local government shall have the right to recover from such person, in addition to any penalty or costs of the legal proceeding that may be imposed:
 - (a) the amount of any damage or expense sustained by it through the act or default constituting such offence;
 - (b) all fees, rates, charges, fares, rents, dues, and other amounts, the omission to pay which was an element in or was in any way related to such offence, in addition to the penalty.
- (2) The Court in which the conviction is made shall have jurisdiction to award the amount of such damage, expense, fees, rates, charges, fares, rents, dues, or other amounts on application made by or on behalf of the local government, and to make such order as to the mode of recovering the said amount in default of payment as it may make when inflicting a fine or penalty.

Part 7 Miscellaneous

48 Maintenance of good order at meetings

- (1) A person who is not a member of the local government or a local government committee must not obstruct the proper conduct of a meeting of the local government or committee.

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

- (2) If a person (other than a member) obstructs the proper conduct of a meeting of the local government or committee, the chairperson may ask the person to withdraw from the meeting place.

- (3) A person asked to withdraw from a meeting place under subsection (2) must immediately withdraw from the place and remain away until the end of the meeting or for a lesser period fixed by the chairperson.

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

- (4) If a person contravenes subsection (3), an **authorised person** may, at the request of the chairperson, exercise reasonable force to remove the person, and keep the person away, from the meeting place.

- (5) The local government may by resolution make standing orders for **Council** meetings.

- (6) The local government meetings shall be conducted in accordance with the standing orders current from time to time.

- (7) The chief executive officer shall maintain a copy of the current standing orders and have them available at meetings.

- (8) The local government may direct that an audio or video recording of a meeting of the local government or a committee be made.

- (9) A person, other than the local government, is not to use an electronic recording or transmitting device or a mobile phone in the public gallery of a meeting place of the local government or a committee, without the written approval of the local government.

Maximum penalty for subsection (9)—20 penalty units.

49 Fees

- (1) If a local law provides for payment of a fee and does not itself fix the amount of the fee, the fee is to be fixed by resolution under the **LGA**, Chapter 4, Part 2.

- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.

Example:

Suppose that a person pays a permit fee appropriate to an approval of 1 year's duration but, because of unforeseen circumstances, surrenders the approval within 3 months after it is granted. A resolution might provide that, in such a case, the former permit holder is to receive a partial reimbursement of the permit fee.

- (3) Unless specific provision to the contrary is made in the local law or resolution fixing a fee, **Council** may, in an appropriate case, waive or partially remit a fee.
- (4) The factors taken into account by **Council** in deciding whether or not to reimburse a fee, waive a fee or partially remit a fee under this section, include:
 - (a) whether or not the activities of **Council** give rise to the need for the reimbursement, waiver or partial remission.

Example: the Council undertakes roadworks along a stretch of road which has a negative impact to a business along that stretch of road.
 - (b) If the person who holds a **permit** has to surrender that **permit** on reasonable grounds and can provide evidence satisfactory to **Council** as to the reasonable grounds for the surrender.

50 Dealing with seized and impounded goods

- (1) This section applies where:
 - (a) an **authorised person** has exercised a power under a local law to seize and impound a vehicle, structure, goods or things; or
 - (b) **Council** has impounded an item that has been delivered into its custody pursuant to a local law and the local law states that this section is to apply.
- (2) However, this section does not apply to an impounded item that is an animal.
- (3) If the item impounded under subsection (1) is:
 - (a) perishable;
 - (b) damaged to the extent that it is not economically feasible to make it good; or
 - (c) where there is no reasonable prospect of identifying an owner or responsible person

it may be immediately disposed of as the chief executive officer directs and the proceeds applied in accordance with subsection (6);
- (4) A person may make application to reclaim the item impounded if:
 - (a) written application is made to the chief executive officer;
 - (b) proof is produced to the satisfaction of the chief executive officer that the applicant is the owner or **responsible person** of the item; and

- (c) the applicant pays the prescribed fee for the impounding of the item.
- (5) The chief executive in deciding the application must consider whether:
 - (a) the item impounded is needed for evidence;
 - (b) the item impounded if returned would or would likely lead to a further offence being committed; and
 - (c) any other relevant circumstances.

and advise the person that they can apply for an internal review of the decision under Part 4 Review of decisions and provide information required of an **information notice**.

- (6) At the expiry of 1 month since the date of impounding, the item impounded is forfeited to **Council**, which may dispose of the item:
 - (a) if it has no commercial value or has a value that would not cover the costs of sale of the item—as the chief executive officer directs;
 - (b) by sale through:
 - (i) public auction or tender, following an advertisement published at least 14 days before the date of the proposed sale;
 - (ii) an agent of the local government; or
 - (iii) an enterprise owned by **Council**;
 - (c) if the item has been offered for sale under paragraph (b) but has not been sold within a reasonable period, as the chief executive officer directs.
- (7) The proceeds of the sale or disposal of the item impounded must be in the following alphabetical sequence applied:
 - (a) in payment of the reasonable expenses incurred in impounding, selling or disposing of the item;
 - (b) in payment of the prescribed fee for seizing and holding the item; and
 - (c) the balance to the owner of the item.
- (8) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (7)(c) within 1 year of the date of the sale or disposal of the item, the amount becomes the property of the local government.

51 Transitional provisions

- (1) Existing approvals under the **repealed local laws** continue to have force and effect after the **current local laws** are made for the balance of their term.
- (2) Offences in relation to breaches of existing **approvals** under the **repealed local laws** will continue to be dealt with under the **repealed local laws**.

- (3) Applications made under the **repealed local laws** but not decided prior to **current local laws** having force and effect will be decided under the **current local laws**.
- (4) An existing **approval** under the **repealed local laws** will not be dealt with under the **current local laws** and once the term has expired will end.
- (5) Where works are required for an existing **permit holder** to comply with the local laws adopted on 28 July 2022 the local government may at its discretion resolve to allow a reasonable period of time, determined by **Council**, within which the **permit** holder must comply.
- (6) Where a **compliance notice** has issued under the **repealed local laws** the **compliance notice** will continue to apply under the **repealed local laws** as if they were not repealed until the **compliance notice** is satisfied.
- (7) So far as there is any inconsistency between **advertising devices** to be regulated under the **planning scheme** and **advertising devices** to be regulated under the local laws, the regulation under the planning scheme will apply instead of any regulation under these local laws.

Part 8 Subordinate local laws

52 Subordinate local laws

Council may make subordinate local laws about:

- (1) application requirements for which a third-party certifier's certificate may be accepted by **Council**;
- (2) the individuals or organisations that are declared as third-party certifiers for particular application requirements; or
- (3) the qualifications that are necessary for an individual or organisation to provide a third-party certificate about particular application requirements.

Part 9 Repeals

53 Repeal

This local law repeals -

- (1) Local Law No.1 (Administration) 2011;and
- (2) Subordinate Local Law No.1 (Administration) 2011

Schedule 1 Dictionary

<p>Act means an Act and Regulations of the Queensland Parliament.</p>
<p>advertising area is the total area of an advertisement which is either:</p> <p>(a) the area bounded by the framework of a panel or sign case and is calculated by multiplying the framework height and width parameter; or</p> <p>(b) where there is no framework in the case of lettering, logo and/or design applied to a wall, window, fence or awning face, the advertising area is calculated by drawing a rectangle around the advertising lettering, logo or designs and multiplying the height and width parameters.</p>
<p>advertising device means any structure, device, sign or the like intended for advertising purposes. It includes any framework, supporting structure or building feature that is provided exclusively or mainly as part of the advertisement.</p>
<p>aggressive behaviour means attacking, or acting in a way that causes fear to, someone else or another animal.</p>
<p>amend for a permit, includes varying a condition, removing a condition or adding a condition.</p>
<p>animal means an organism (other than a human being) that is not a plant and includes eggs and semen.</p>
<p>animal carer means a person who keeps the animal on the premises, receives no financial reward for keeping the animal on the premises and cares for the animal as a foster carer on behalf of an animal welfare agency.</p>
<p>animal refuge shelter means a premises maintained for the purpose of providing shelter to or finding a home for, stray, abandoned or unwanted animals.</p>
<p>animal welfare agency means an organisation which finds homes for stray, abandoned or unwanted animals.</p>
<p>approval includes a consent, permission, licence, permit or authorisation.</p>
<p>Approved Form means a form approved in writing by the chief executive officer for the local laws.</p>
<p>aquatic equipment means:</p> <p>(a) a boat or vessel;</p> <p>(b) a surf ski</p> <p>(c) a jet ski</p>

<p>(d) a surf board</p> <p>(e) a sail board;</p> <p>(f) a body board; or</p> <p>(g) another device (whether motorized or not) for use on or in water to carry a person or thing across or through water or for recreations use in water.</p>
<p>assistance dog (other than guide dog) means:</p> <p>(a) a dog that has been trained to assist the person to alleviate the effect of a disability;</p> <p>(b) a person with a disability is in control of the dog;</p> <p>(c) the dog is providing assistance to their person to alleviate the effect of that disability; and</p> <p>(d) the dog has been trained to comply with the standards of hygiene and behavior comparable to those that apply to guide dogs.</p>
<p>attack, by an animal, means:</p> <p>(a) aggressively rushing at, causing fear to, or harassing any person or animal;</p> <p>(b) biting, butting, kicking, or otherwise causing physical injury to, a person or an animal; or</p> <p>(c) tearing clothing on, or otherwise causing damage to the property in the immediate possession of, a person.</p>
<p>audible noise means noise that can be clearly heard by an individual who is an occupier of a building. An individual is taken to be able to clearly hear a noise if he or she can hear the noise from the part of the building occupied by the individual that is most exposed to the noise.</p>
<p>authorised person means a person who is an authorised person for a local law under an Act.</p>
<p>authorised vessel means a vessel which Council has permitted to moor at a mooring site.</p>
<p>awning means a permanent, roof like structure, attached to and projecting from the wall of a building which is generally designed or constructed to provide pedestrians with protection against the weather.</p>
<p>background noise means the background A-weighted sound pressure level under the prescribed standard measured as $L_{A90,T}$ and is obtained in the absence of the noise under investigation.</p>
<p>BCCMA means the <i>Body Corporate and Community Management Act 1997</i>.</p>

<p>beacon light means any light with one or more beams, capable of being directed in one or more directions, or capable of being revolved automatically and includes:</p> <ul style="list-style-type: none"> (a) a strobe or oscillating light; (b) any other high density discharge lamps; (c) any device capable of converting light of mixed frequencies into an intense beam of light; and (d) any other similar light emitting appliance.
<p>best practice management for an activity is the best practice management adopted by Council in any policy.</p>
<p>birds means all birds other than special birds, poultry, roosters and racing pigeons.</p>
<p>breeding means the act of coitus leading to and the giving birth to progeny.</p>
<p>BUGTA means the <i>Building Units and Group Titles Act 1980</i>, but only to the extent of its continued application.</p>
<p>busker means a person carry out the activity of busking.</p>
<p>busking means to entertain by dancing, singing, or reciting on a local government controlled road or in a public place.</p>
<p>camping ground means a commercial operation of a place for camping, including a place that also provides for complementary accommodation.</p>
<p>camping means:</p> <ul style="list-style-type: none"> (a) to pitch, place or erect a tent, caravan or structure that may be used for camping for the purpose of staying overnight by using the tent, caravan or structure; (b) to park or place a vehicle or other equipment that may be used for camping, for the purpose of staying overnight by using the vehicle or equipment; (c) to keep a tent, caravan, structure vehicle or other equipment that may be used for camping in position overnight, whether or not the tent, caravan, structure or equipment is unattended; or (d) to stay overnight.
<p>caravan park means a commercial operation of a place for parking and residing in caravans and recreational vehicles, including a place that also provides for complementary accommodation.</p>

<p>caravan see <i>Residential Tenancies and Rooming Accommodation Act 2008</i>, section 7.</p>
<p>cat means an animal of the species <i>Felis Catus</i> or domestic cat.</p>
<p>category 1 activity means a prescribed activity that is identified as a category 1 activity by a local law.</p>
<p>category 2 activity means a prescribed activity that is identified as a category 2 activity by a local law.</p>
<p>category 3 activity means a prescribed activity that is identified as a category 3 activity by a local law.</p>
<p>commercial vehicle means a commercial vehicle as defined in the TORUM Act.</p>
<p>commercial waste means waste, other than green waste, dry waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of commercial premises.</p>
<p>common property has the meaning given to it in the BCCMA.</p>
<p>community organisation advertisement means an advertisement containing information about a club, community service organisation, charitable institution, place of worship or educational institution, conducted on-site.</p>
<p>community safety hazard includes:</p> <ul style="list-style-type: none"> (a) a fence or structure on land that, because of its nature or its position, poses a significant risk of causing injury to a person or damage to property; (b) objects or materials that are unsecured or inadequately secured and are likely to become airborne in periods of high wind in a way that will give rise to a possible risk of personal injury or property damage; (c) barbed wire fencing; (d) electric fencing; (e) disused machinery or machinery parts; (f) disused, broken down or severely rusted vehicles, or vehicle parts; (g) accumulation of bottles, containers or packaging; (h) refuse or scrap metal; (i) fish frames, scraping, carcasses and or guts; (j) smoke from outdoor cooking ovens or fires; (k) any material that causes offensive odours; (l) works, structures or things on a drainage easement or channel that have the

<p>potential to alter or obstruct, or alters or obstructs the flow of water through the drainage easement or channel;</p> <p>(m) failing to properly maintain a drainage easement or channel so that there is a potential to alter or obstruct, or alters or obstructs the flow of water through the drainage easement or channel; or</p> <p>(n) works, structures or things on or adjacent to a drainage easement or channel that have the potential to or actually do impact upon the drainage infrastructure.</p>
<p>complementary accommodation means:</p> <p>(a) accommodation in an on-site caravan;</p> <p>(b) cabin or a tent or other structure that can be readily assembled and disassembled;</p> <p>(c) registered caravans;</p> <p>(d) demountable units; and</p> <p>(e) relocatable homes.</p>
<p>compliance notice means a compliance notice, Approved Form 1.34: Compliance Notice, mentioned in <i>Local Law No.1 (Administration) 2022</i>.</p>
<p>construction advertisement means a temporary advertisement used to identify the name of a development or developer during the construction of a development.</p>
<p>cost-recovery fee means the fee fixed by Council to cover the costs associated with impounding an animal.</p>
<p>construction and demolition waste means</p> <p>(a) waste generated from carrying out building work within the meaning of the <i>Building Act 1975</i>, section 5; and</p> <p>(b) without limiting paragraph (a), includes waste generated from building, repairing, altering or demolishing infrastructure for roads, bridges, tunnels, sewerage, water, electricity, telecommunications, airports, docks or rail.</p>
<p>Council means the Cassowary Coast Regional Council</p>
<p>current permit means a permit that is in force and has not been suspended at the time the prescribed activity is being undertaken.</p>
<p>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.</p>
<p>dB(A) means decibels measured on the 'A' frequency weighting network.</p>

<p>declared dangerous animal means an animal (other than a dog), declared by an authorised person under <i>Local Law No. 2 (Animal Management) 2022</i> to be a declared dangerous animal.</p>
<p>declared local pest means a plant or animal declared to be a pest under <i>Local Law No.3 (Community and Environment) 2022</i>.</p>
<p>decommissioned greyhound means a greyhound that—</p> <p>(a) is not a declared dangerous dog or declared menacing dog; and</p> <p>(b) has successfully completed a program prescribed under a regulation.</p>
<p>designated meter reading cycle means the designated frequency for meter reading as determined by the local government under <i>Local Law No. 12 (Town Water) 2022</i>.</p>
<p>destroy for an animal, includes causing it to be destroyed.</p>
<p>destruction order see section 41 <i>Local Law No.2 (Animal Management) 2022</i> and Approved Form 2.41 Destruction Order.</p>
<p>development approval means a development approval issued under a Planning Act.</p>
<p>distribute a business advertising publication:</p> <p>(a) includes making the business advertising publication available to other persons; but</p> <p>(b) does not include merely display of the business advertising publication.</p> <p><i>examples:</i></p> <p><i>A person “distributes” a business advertising publication if the person hands the business advertising publication out to other persons or leaves it at a place for other persons to take away, including posting the business advertising publication on a car windscreen.</i></p> <p><i>A person does not “distribute” a business advertising publication if the person attaches the business advertising publication onto walls and other structures, merely for display.</i></p>
<p>disturbance of human remains includes interfering with remains, removal of remains and opening of a site of burial.</p>
<p>dog means an animal of the species <i>Canis Lupus Familiaris</i>, or domestic dog.</p>
<p>dog off-leash area see <i>Local Law No.2 (Animal Management) 2022</i>.</p>

<p>DOGIT land means land that is DOGIT land under the <i>Aboriginal Land Act 1991</i>, section 13, or the <i>Torres Strait Islander Land Act 1991</i>, section 12.</p>
<p>domestic waste means waste, other than domestic clean-up waste, green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of domestic premises.</p>
<p>drainage easement means a public utility easement in favour of Council for drainage purposes.</p>
<p>dry waste includes, clean and inoffensive waste that is:</p> <ul style="list-style-type: none"> (a) Clean plastic bags, cans, bottles, jars, food and drink containers (b) Paper and cardboard (c) Plastic (d) Wood and cork (e) Glass (all types) (f) Small metal items (g) Fabric (clothing, shoes etc) (h) Clean packaging material; and (i) otherwise notified by Council to be dry waste; <p>- but does not include regulated waste.</p>
<p>dual occupancy premises containing two dwellings on one lot (whether or not attached) for separate households.</p>
<p>dwelling means a building or part of a building used or capable of being used as a self contained residence.</p>
<p>effective control of an animal means:</p> <ul style="list-style-type: none"> (a) a person who is physically able to control the animal; <ul style="list-style-type: none"> (i) is holding it by an appropriate leash, halter or rein; (ii) has appropriately tethered it to an object fixed to a place from which the object cannot be moved by the animal and is continuously supervising the animal; or (iii) has corralled it in a temporary enclosure adequate to contain the animal and is continuously supervising the animal; (b) the animal is tethered in or on a vehicle and unable to reach beyond the vehicle extremities; (c) the animal is a dog in a dog off-leash area and under the supervision of a person who is able to both physically control the animal as well as control the

<p>animal by voice command;</p> <p>(d) the animal is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for this section by Council; or</p> <p>(e) the animal is a working dog actually engaged in moving livestock and under the supervision of a person who is able to control the animal by voice command.</p>
<p>election advertising device means an advertising device identifying candidates and/or promoting a political party at local, state or federal government elections.</p>
<p>emergency management plan means an emergency management plan prepared in accordance with the requirements Section 43 of the <i>Work Health & Safety Regulation 2011</i>;</p>
<p>emergency vehicle includes the following:</p> <p>(a) an ambulance;</p> <p>(b) a fire-engine;</p> <p>(c) a police vehicle; and</p> <p>(d) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.</p>
<p>enforceable undertaking means an enforceable undertaking under Part 5 of this Local Law.</p>
<p>entertainment includes recreation and amusement.</p>
<p>environmental harm see <i>Environmental Protection Act 1994</i>, section 14.</p>
<p>environmental nuisance see <i>Environmental Protection Act 1994</i>, section 15.</p>
<p>estate entrance advertising device means a permanent advertising device placed or erected at the entrance to an industrial or residential development identifying the particular development.</p>
<p>executive officer, of a corporation, means a person who is concerned with or takes part in the management of the corporation, whether or not the person is a director or the person's position is given the title of executive officer</p>
<p>extraordinary traffic means traffic—</p> <p>(a) that involves building removal;</p> <p>(b) that would in the authorised person's opinion cause damage to the local government road beyond that caused by the ordinary traffic on the local</p>

<p>government road;</p> <p>(c) that in the authorised person's opinion is substantially different to the ordinary traffic on a local government road; or</p> <p>(d) that would in the authorised person's opinion give rise to a risk of—</p> <p>(i) harm to human health or safety or personal injury;</p> <p>(ii) property damage or damage to the local government road; or</p> <p>(iii) interference with a local government road.</p>
<p>farm stay means a farm offering accommodation to paying guests.</p>
<p>fire hazard means</p> <p>(a) anything that, because of its flammable nature, its position or its quantity, exposes property to significant risk of damage or destruction by fire;</p> <p>(b) live cinders or hot ash that is not enclosed in a fireplace so constructed as to prevent the escape of cinders or ash;</p> <p>(c) a large accumulation of grass clippings that is in the opinion of an authorised person liable to spontaneous combustion; or dry vegetation that could be easily ignited or other flammable materials.</p>
<p>fireplace means an outdoor structure which may be fixed or moveable, constructed of stone, brick or metal or similar material, for keeping a small contained fire for the purpose of:</p> <p>(a) cooking (eg. a bbq); or</p> <p>(b) heating (eg. Mexican fire pit or small kiln)</p> <p>however:</p> <p>(c) does not include an incinerator or other structure for the purpose of disposing of a carcass, garden waste or other combustible waste; and</p> <p>(d) must not exceed the dimensions of 1m².</p>
<p>foreshore means the land lying between high water mark and low water mark during ordinary spring tides.</p>
<p>free-standing advertising device includes an advertising device erected on a pole or poles or a solid free-standing structure, that does not form part of any building or other structure and includes, for example:</p> <p>(a) a sign, including a flag, fixed to a free-standing pole on private land; and</p> <p>(b) a billboard advertising device, normally elevated from the ground and supported by one or more vertical supports.</p>

<p>full grave slab means a rectangular or square concrete slab which fully covers the surface area of a normal in-ground interment.</p>
<p>garden of remembrance means any cemetery or part thereof set aside for the burial of ashes.</p>
<p>general activity includes use of a local government controlled area or road for:</p> <ul style="list-style-type: none"> (a) soliciting or carrying on the supply of goods and services and includes: <ul style="list-style-type: none"> (i) footpath dining; (ii) stationary vending; (iii) mobile road side vending; (iv) goods for sale on footpath/road (outside the CBD); (v) activity conducted wholly or partially for the purpose of sport, entertainment, education, tourism or recreation; (vi) busking; (vii) commercial filming /photography; and (viii) market stalls. (b) weddings; (c) research and scientific investigation; (d) public education information and interest displays; (e) fundraising; (f) street parades; (g) training events held on more than 1 day which involves payment of a fee; (h) extraordinary traffic; (i) temporary entertainment event; (j) sporting or recreational activities; (k) drive a vehicle on beach, footpath, mall, parks and reserves; and (l) use Council land for access
<p>generator means an engine that converts mechanical energy into electricity to serve as a power source.</p>
<p>good order means structurally sound, not faded, damaged, mouldy, dirty or defaced in anyway.</p>
<p>goods means personal property that is moveable (including a vehicle) but does not include animals.</p>

<p>grass-cutter means an electrical or mechanical device a function of which is to cut grass.</p> <p><i>Examples—brush-cutter, edge cutter, lawnmower, ride-on mower, string trimmer.</i></p>
<p>green waste means grass cuttings, trees, bushes, shrubs, loppings of trees, bushes or shrubs or similar matter produced as a result of the ordinary use or occupation of premises.</p>
<p>high water mark means the ordinary high water mark at spring tides.</p>
<p>home based business advertising device means an advertising device associated with a lawful home based business limited to one advertisement per premises, not exceeding 0.3m² in size, and not illuminated.</p>
<p>human remains means the body or part of the body of a deceased person, whether cremated or not.</p>
<p>illuminated advertising device means an advertising device illuminated by neon tubes, LCD or similar.</p>
<p>indication, on an official traffic sign, see TORUM Act, schedule 4.</p>
<p>industrial waste means:</p> <ul style="list-style-type: none"> (a) Interceptor waste; or (b) waste other than the following: <ul style="list-style-type: none"> (i) commercial waste; (ii) domestic waste; (iii) domestic clean-up waste; (iv) green waste (v) recyclable waste; (vi) recyclable interceptor waste; and (vii) waste discharged to a sewer.
<p>information notice, for a decision, means Approved Form 1. Information Notice stating the following:</p> <ul style="list-style-type: none"> (a) the decision for which an information notice is required to be given; <p><i>Note: For the grant of a permit subject to a non-standard condition the information notice would not address the approval or the imposition of the standard conditions</i></p> (b) the reasons for the decision; (c) that the person to whom the notice is given may apply for a review of the

<p>decision within 14 days after the notice is given; and</p> <p>(d) how to apply for a review.</p>
<p><i>infringement notice penalty</i> means an infringement notice fine under the <i>State Penalties Enforcement Act 1999</i>.</p>
<p><i>insanitary</i> means dirty, filthy or contaminated state, which is offensive and potentially injurious to another person or animal.</p>
<p><i>interment</i> includes burial of the body of a deceased person and placement in a niche of the ashes of a deceased person.</p>
<p><i>keeping of animals</i> means:</p> <p>(a) a person keeps an animal if the person;</p> <p>(i) has control or custody of the animal;</p> <p>(ii) feeds and cares for the animal;</p> <p>(iii) keeps the animal at a particular place on more than one occasion during a month; or</p> <p>(iv) boards and trains an animal; however</p> <p>(b) keeping of animals does not include any animal keeping related use that is regulated under the planning scheme of the local government.</p> <p><i>Example – an approval for animal keeping, home based business or animal husbandry under the local government’s planning scheme.</i></p>
<p><i>L_{A90,T}</i> means the A-weighted sound pressure level obtained using time weighting “F” that is exceeded for 90% of the measuring period (T).</p>
<p><i>large bird</i> means ostrich, emu, cassowary, peacocks and guinea fowl type birds</p>
<p><i>lawn cemetery</i> means any cemetery or part thereof set aside exclusively for the erection of a headstone or plaque:</p> <p>(a) on an individual concrete base; or</p> <p>(b) on a continuous concrete beam located at the head of the grave.</p>
<p><i>leaf-blower</i> means an electrical or mechanical device a function of which is to blow leaves.</p>
<p><i>LGA</i> means <i>Local Government Act 2009</i>.</p>
<p><i>Local Government Acts</i> means any or all of the laws under which a local government performs the local government’s responsibilities, and includes the examples listed in the definition of ‘Local Government Act’ in the <i>Local Government Act 2009</i>.</p>

litter means any kind of rubbish, refuse or garbage, and any matter that, when in a public place, causes, contributes to or tends to the defacement or defilement of that place.

local government cemetery means a cemetery under the control of **Council**, including a cemetery located on land owned by **Council** or on land for which **Council** is the trustee.

local government controlled area

(a) A local government controlled area means land, facilities and other infrastructure owned, held in trust or otherwise controlled by **Council**, other than a road.

examples of local government controlled areas:

- *parks, reserves and gazetted foreshores*
- *camping grounds or caravan parks on land owned or controlled by Council*
- *Council swimming pools*
- *cemeteries*
- *Council Chambers and Council offices.*

(b) A local government controlled area includes part of a local government controlled area.

(c) A local government controlled area does not include a residential lot on DOGIT land.

mausoleum means an external free standing building constructed as a monument enclosing the interment space or burial chamber of a deceased person or people.

memorial means anything erected or placed within a cemetery to mark a grave or commemorate a deceased person and includes a monument or other structure, headstone, grave plaque, lawn plaque, inscription plate, tree, vase or ornament.

meter installation guidelines means guidelines for meter installation developed by Council.

minor traffic offence see TORUM Act, section 108(4).

mobile roadside vending means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where:

- (a) the operator travels from place to place; and
- (b) the operator supplies the goods or services to a customer in response to the customer waving down the operator.

Example: coffee vans; food vans

<p>mooring site means a site identified in Schedule 13 to <i>Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022</i>.</p>
<p>moveable advertising device includes banner advertisements, flags and free-standing advertisements that may:</p> <ul style="list-style-type: none"> (a) be suspended from any structure, tree or pole; (c) be with or without a supporting framework; (d) be made out of paper, plastic or other material; (e) not form part of a building or other structure; (f) inflatable signs or devices; or (g) A-frame signs or sandwich boards <p>and excludes National and State flags.</p>
<p>multiple dwelling means premises containing three or more dwellings for separate households.</p>
<p>new premises means premises other than existing or approved premises.</p>
<p>noise standard see <i>Environmental Protection Act 1994</i>, section 440K.</p>
<p>non-prescribed activity means an activity, other than a prescribed activity, for which the Local Laws provide the Council may give a permit, or an activity that the Council is authorised to permit under legislation where no or insufficient process has been provided.</p>
<p>non-standard condition means a condition other than a standard condition.</p>
<p>notice of impounding means a written notice, given to the responsible person for an animal, stating that:</p> <ul style="list-style-type: none"> (a) the animal has been impounded; and (b) the animal may be reclaimed within the prescribed period provided that: <ul style="list-style-type: none"> (i) the cost-recovery fee is paid; (ii) if a permit or registration is required for the keeping of the animal and the owner or responsible person does not have the permit or registration, the permit or registration is obtained; (iii) if the responsible person has not complied with a current compliance notice that has been issued in relation to compliance with this local law, complies with the compliance notice; (iv) if the animal is required by law to be desexed then once the animal has

<p>been desexed;</p> <p>(v) if the animal is required by law to have a prescribed permanent identification device then once the animal has the prescribed permanent identification device;</p> <p>(vi) continued retention of the animal is not needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; and</p> <p>(vii) no destruction order has been made for the animal.</p>
<p>occupier includes any one or more of the following—</p> <p>(a) a person who reasonably appears to be the occupier of, or in charge of, the premises;</p> <p>(b) the owner or manager of a business carried out at the premises;</p> <p>(c) for premises titled under a community, group, building units or like scheme, any person that is the occupier of a premises, the registered proprietor, or the controlling entity for that premises.</p>
<p>official sign means a sign installed by Council for the purpose of these local laws displayed at a prominent place so that it is clearly visible to members of the public using the area or at each public entrance to the area within each local government controlled area or road stating:</p> <p>(a) the area to which it applies;</p> <p>(b) if a prohibition relates to the whole or part of the area – the prohibited activities;</p> <p>(c) if the restriction relates to the whole or part of the area—the restricted activities;</p> <p>(d) in general terms, the prohibition or restriction;</p> <p>(e) any information required to enable the local laws to be applied to that area;</p> <p><i>Example the hours of operation of the library.</i> <i>Example areas for depositing waste at a waste facility.</i></p>
<p>official traffic sign see TORUM Act, schedule 4.</p>
<p>off-street regulated parking area see TORUM Act, schedule 4.</p>
<p>off-premises advertising device means an advertising device advertising for uses, goods, services, a business, commercial enterprise or industry that is conducted off of the premises on which the device is located</p>

<p>on-premises advertising device means an advertising device advertising for uses, goods, services, a business, commercial enterprise or industry that is conducted on the premises on which the device is located.</p>
<p>operation, in relation to a caravan park, camping grounds and shared facilities accommodation, means to permit access to, or use of, a caravan park, camping ground or shared facilities accommodation on a commercial basis.</p>
<p>original owner has the meaning given to it in the BCCMA.</p>
<p>out of repair means a primary meter failing for any reason to register or to correctly register water consumption.</p>
<p>overnight means lasting for, extending over, or remaining during a night, an overnight trip, an overnight guest.</p>
<p>owner, of an animal, means:</p> <ul style="list-style-type: none"> (a) its registered owner; (b) a person who owns the animal, in the sense of it being the person's personal property; (c) a person who usually keeps the animal, including through an agent, employee or anyone else; or (d) if a person mentioned in paragraphs (a) to (c) is a minor—a parent or guardian of the minor.
<p>parking permit for people with disabilities see TORUM Act, schedule 4.</p>
<p>penalty infringement notice means an Infringement notice penalty under the <i>State Penalties Enforcement Act 1999</i>.</p>
<p>permit includes a consent, permission, licence, approval or authorisation but not an approval under a Planning Act.</p>
<p>permit holder means the holder of a valid permit issued by Council under its local laws.</p>
<p>PPID means a microchip or other electronic device:</p> <ul style="list-style-type: none"> (a) capable of being permanently implanted in a dog; and (b) designed to record information in a way that can be electronically retrieved.
<p>PA means the <i>Planning Act 2016</i>.</p>
<p>Planning Act means the</p> <ul style="list-style-type: none"> (a) <i>Planning Act 2016</i>;

<p>(b) Repealed Acts that regulated town planning; and</p> <p>(c) Any future Acts that regulate town planning.</p>
<p>planning area as defined by the planning scheme.</p>
<p>planning scheme means the planning scheme for the Council.</p>
<p>plant means vegetation of any type, including its flowers, roots, seeds and other parts.</p>
<p>potable water means water that complies with the NHMRC – Australian Drinking Water Guidelines 2011</p>
<p>poultry includes any species of chickens (including bantam chickens), geese, ducks, guinea fowls, turkeys, pheasants or quails but excludes roosters.</p>
<p>PPID means a prescribed PID that complies with the requirements prescribed under a regulation under the <i>Animal Management (Cats and Dogs) Act 2008</i>.</p>
<p>premises means any land, building or structure, and includes any part thereof.</p>
<p>prescribed activity means an activity described by a local law as a prescribed activity.</p>
<p>prescribed fee means a cost-recovery fee fixed by Council by resolution, under the LGA.t.</p>
<p>prescribed permanent identification device see section 12 of the <i>Animal Management (Cats and Dogs) Act 2008</i>.</p>
<p>primary meter means the meter or meters used by the local government to determine water consumption or water usage charges for premises or a premises group.</p>
<p>projecting advertising device means a single or double faced structure projecting off the horizontal or vertical dimension of a building or structure which displays advertising matter. Projecting signage may also be known as a roof sign, or above awning sign.</p>
<p>property means any legal or equitable estate or interest (whether present of future, vested or contingent, or tangible or intangible) in real or personal property of any description (including money) and includes things in action.</p>
<p>public information advertising device means an advertisement erected or displayed to indicate the location of a public building, service or place of interest, and which carries no other information or advertisement.</p>

<p>public notice means a notice published in a newspaper circulating in the local government's area.</p>
<p>public place is a place, or that part of a place that-</p> <ul style="list-style-type: none"> (a) <i>is open to the public;</i> (b) <i>is used by the public; or</i> (c) <i>the public is entitled to use</i> <p>whether or not on payment of money.</p> <p><i>Example – a person uses a room at the front of their home as a business office. While the business office is open to the public it is a public place. However the home is private property and not part of the public place.</i></p>
<p>pump means an electrical, mechanical or pneumatic pump and includes a swimming pool pump and a spa blower.</p> <p><i>Examples—liquid pump, air pump, heat pump</i></p>
<p>pylon advertising device means a free standing structure which is taller than it is wide and is supported by one or more columns. The display may consist of multiple panels or slats which can be replaced or have interchangeable messages. Pylon advertising devices are regulated under the planning scheme.</p>
<p>racing pigeon means a class of pigeon which is:</p> <ul style="list-style-type: none"> (a) primarily kept for the purpose of racing or breeding for racing; (b) kept by a person who is a registered member of the Queensland Racing Pigeon Federation Incorporated or affiliate Club; and (c) kept in accordance with the terms of membership of the Queensland Racing Pigeon Federation incorporated or affiliate club.
<p>real estate advertising device means a temporary advertisement on-site, advising of the owner's intention to sell, lease, tender or auction the land and/or building.</p>
<p>reasonable steps include the placement of official advertising devices where likely to be seen by the public using areas for which the signs have been placed and including putting information on Council's website.</p>
<p>reasonable written notice means a written notice given at least 7 days before a property is to be entered, that informs the responsible persons of the premises of:</p> <ul style="list-style-type: none"> (a) the local government's intention to enter the premises; (b) the reason for entering the premises; and (c) the days and times when the premises is to be entered.

registered owner, of an animal, means a person recorded as being the owner of the animal in a register kept by Council.

registration device means a permanent identification device implanted in a cat to assist in identifying the cat.

regulated device means any of the following:

- (a) a compressor;
- (b) a ducted vacuuming system;
- (c) a generator;
- (d) a grass-cutter;
- (e) an impacting tool;
- (f) a leaf-blower;
- (g) a mulcher;
- (h) an oxyacetylene burner;
- (i) an electrical, mechanical or pneumatic power tool; or

Examples of a power tool—

chainsaw, drill, electric grinder or sander, electric welder, nail gun

- (j) any other device declared by resolution of **Council** to be a regulated device for the purposes of this provision.

regulated waste see *Environmental Protection Regulation 2019* Section 42.

repealed local laws mean:

Local Law No. 1 (Administration) 2011

Subordinate Local Law No. 1 (Administration) 2011

Local Law No. 2. (Animal Management) 2011

Subordinate Local Law. No. 2 (Animal Management) 2011

Local Law No. 3 (Community and Environmental management) 2011

Subordinate Local Law. No. 3 (Community and Environmental management) 2011

Local Law No. 4 (Local Government Controlled Areas Facilities and Roads) 2011

Subordinate Local Law. No. 4 (Local Government Controlled Areas and Roads) 2011

Local Law No. 5 (Parking) 2011

Subordinate Local Law. No. 5 (Parking) 2011

Local Law No. 6 (Bathing Reserves) 2011

<i>Subordinate Local Law. No. 6 (Bathing Reserves) 2011</i>
residence means human habitation on a short-term or long-term basis.
responsible person , for a premises, means the person who has control or management of the premises and includes a person in charge of activities or structures in the premises that may result in contravention of this local law. A responsible person would usually include the owner, occupier and agent of a premises
responsible person for a vessel means the person who is the owner, master or person in control of a vessel as defined in the <i>Transport Operations (Marine Safety) Act 1994</i> .
responsible person , for an animal, means: <ul style="list-style-type: none"> (a) the owner; (b) the person, or the person's employee acting within the scope of the employment, who has immediate control or custody of the animal; (c) the parent or guardian of a minor who has immediate control or custody of the animal; (d) the person who occupies the place at which the animal is usually kept, but does not include: a person who occupies the place at which the animal is usually kept, if someone else who is an adult and lives at the place keeps the animal; or (e) a person who has the control or custody of or keeps the animal as an employee of someone else, if the person is acting within the scope of the employment.
restricted dog see <i>Animal Management (Cats and Dogs) Act 2008</i> , section 63.
resting place means a part of a premises where human remains are laid to rest.
review decision means a decision following an internal review, and where provided for under the local laws an appeal to the Magistrates Court and District Court, and where provided for under an Act to any court or tribunal.
revolving or flashing light means a light which flashes or is capable of being revolved automatically, and includes a strobe light, but excludes those lights affixed to an emergency vehicle or road crew.
road means: <ul style="list-style-type: none"> (a) an area of land that is dedicated to public use as a road; (b) an area of land that— <ul style="list-style-type: none"> (i) is developed for, or has as 1 of its main uses, the driving or riding of

<p>motor vehicles; and</p> <p>(ii) is open to, or used by, the public;</p> <p>(c) a footpath or bicycle path;</p> <p>(d) a bridge, culvert, ford, tunnel or viaduct; or</p> <p>(e) a State-controlled road prescribed under a local law or subordinate local law for this subparagraph as a road to which this local law applies unless otherwise provided and in respect of which the chief executive has given written agreement under the TORUM Act, section 66(5)(b)</p> <p>(f) but does not include a public thoroughfare easement.</p>
<p>sanitary convenience means a urinal, water closet, earth closet, cesspit, cesspool or other receptacle for human waste.</p>
<p>serviced premises means a premises in the waste collection area supplied with a waste collection container.</p>
<p>shared facility accommodation means commercial operation of accommodation occupied or available for occupation by six (6) or more people, on the basis of people sharing 1 or more of the following facilities:</p> <p>(a) dormitories or bedrooms;</p> <p>(b) toilets;</p> <p>(c) bathrooms, showers or other bathing facilities;</p> <p>(d) laundries;</p> <p>(e) dining facilities;</p> <p>(f) cooking facilities; or</p> <p>(g) recreation facilities.</p> <p>but does not include accommodation in a hotel or motel.</p>
<p>sport and recreational purposes means any land that is in a zone/planning area under the planning scheme of the local government that is designated for a range of organised activities that includes sport, cultural and educational activities, that may also occur inside or outside of infrastructure such as clubhouses or gymnasiums.</p>
<p>stallion means an uncastrated male horse.</p>
<p>standard condition means a condition that is identified in a local law that must be imposed or that will ordinarily be imposed on a permit.</p>
<p>stationary vending means an operator soliciting or carrying on the supply of goods or services (including food or drink) on a local government controlled road,</p>

<p>or within a local government controlled area, for profit in circumstances where:</p> <p>(a) the operator carries on the activity from</p> <p>(i) a specified place; or</p> <p>(ii) a number of specified places; but</p> <p>(b) the activity is not:</p> <p>(i) footpath dining; or</p> <p>(ii) a roadside stall as defined under the planning scheme.*</p> <p><i>*a roadside stall on private land</i></p>
<p>stock means—</p> <p>(a) buffalo, camels, cattle, deer, goats, horse, llamas, poultry, sheep or swine; or</p> <p>(b) animals prescribed by resolution of Council.</p>
<p>subsidiary meter means a primary meter measuring supply to:</p> <p>(a) individual premises within a premises group; or</p> <p>(b) individual tenancies on premises and the balance area of the premises.</p>
<p>suitable person means a permit holder or responsible person in relation to a permit who:</p> <p>(a) has not been convicted of an offence under the local laws or Local Government Acts within the last 3 years;</p> <p>(b) has not been a permit holder where the permit has been cancelled or suspended within the last 3 years;</p> <p>(c) has not held an approval under a Local Government Act where the permit has been cancelled or suspended within the last 3 years; or</p> <p>(d) is not the subject of a current enforcement action under the local laws or a Local Government Act.</p>
<p>supply fee means a charge fixed by the local government by resolution for the supply of a meter.</p>
<p>tampering with a water meter includes removing or altering the position of the meter without the approval of the Local Government.</p>
<p>taxi zone has the same meaning as taxi zone in the <i>Transport Operations (Road Use Management – Road Rules) Regulation 2009</i>.</p>
<p>temporary advertising device means an advertising device which, by its nature, is intended to be in place for only a limited amount of time, not exceeding three</p>

<p>months. The term includes:</p> <ul style="list-style-type: none"> (a) an election sign; (b) a real estate advertisement; or (c) an advertisement for the sale, lease, tender or auction of a product.
<p>temporary home means a caravan, vehicle, structure, or annex attached to a caravan, vehicle, or structure that is erected for the occupation on private land of the owner, and immediate family, of the land upon which there is a current approval to construct or renovate a dwelling house and only during the construction or renovation of the dwelling house.</p>
<p>tenancy means a part of the premises capable of being separately occupied.</p>
<p>TORUM Act means the <i>Transport Operations (Road Use Management) Act 1995</i>.</p>
<p>touting means to spruik, publicise to another person either verbally or with a publication a business, commercial or trade activity, including by approaching that person and “touted” and “touting” have the corresponding meanings.</p>
<p>town water means a water supply provided by Council to a premises or premises group.</p>
<p>TPI means a DVA Health Card Totally & Permanently Incapacitated (Gold) card</p>
<p>traffic area see TORUM Act, schedule 4.</p>
<p>under awning advertising device means an advertising device which is attached to the underside of an awning, verandah, or canopy.</p>
<p>undertaking prescribed activities regarding human remains means undertaking one of the following activities:</p> <ul style="list-style-type: none"> (a) disturbance of human remains buried outside a cemetery; (b) burial or disposal of human remains (excluding cremated remains) outside a cemetery; or (c) disturbance of human remains in a local government cemetery.
<p>urban area means land contained within the following zones identified in the planning scheme:</p> <ul style="list-style-type: none"> (a) Emerging community zone; (b) Major tourism zone; (c) Rural residential zone; (d) Special purpose zone;

(e) Township zone;
vault means the lining of a grave or graves by means of bricks and mortar or concrete liners cemented together so that the floor, walls and ceiling of the grave are completely covered and sealed and includes and walk in room or rooms constructed either above or below ground level and a chapel.
vegetation includes a tree, bush, shrub, plant or grass, but does not include vegetation that is protected under an Act, a law of the Commonwealth or under the planning scheme.
vehicle includes any type of transport that moves on wheels and a hovercraft but does not include a train.
vehicle identification label means a label given to a parking permit holder to be prominently shown on the left hand side windscreen of the vehicle facing outward when the vehicle is parked in accordance with the permit. The label can be for different types of permits such as a commercial vehicle permit to allow parking in loading zones or a temporary event permit to allow parking in a particular area.
vehicle registry information means information kept in the register of registered vehicles under a regulation under the <i>Transport Operations (Road Use Management) Act 1995</i> .
vessel means a ship, steamer, yacht, boat, barge, or any other kind of vessel whether powered or not.
wandering at large means: <ul style="list-style-type: none"> (a) the animal is not under the effective control of someone; and (b) the animal is in either: <ul style="list-style-type: none"> (i) a public place; or (ii) a private place without the consent of the occupier.
waste means anything that is: <ul style="list-style-type: none"> (a) left over, or an unwanted by-product from an industrial, commercial, domestic or other activity; (b) surplus to the industrial, commercial, domestic or other activity generating waste; (c) gas, liquid, solid or energy or a combination of any of them; or (d) may or may not be a thing of value.
waste collection area means the local government area for the Council.

waste collection containers means a container of a type approved by Council for storage and collection of waste from serviced premises and includes:

- 240 litre bin, wheelie bins that the Council designates for dry waste and wheelie bins that the Council designates for wet waste supplied to domestic, commercial or government premises.
- Waste collection containers in local government controlled areas and roads.

waste facility means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste.

water meter has the same meaning given to it in section 37(2) of the *Water Supply (Safety and Reliability) Act 2008*.

water usage charges means charges for the supply of water according to water consumption calculated at a rate determined by the local government from time to time.

wet waste means waste other than dry waste and regulated waste and includes:

- (a) Food scraps;
- (b) Aerosol cans;
- (c) Unrinsed steel cans;
- (d) Dirty plastic bags;
- (e) Unrinsed food and drink container;
- (f) Disposable nappies (napkins, tissues, cotton wool, etc.);
- (g) Other wet waste materials (putrescibles);
- (h) (h) Small quantities of garden waste (please try composting instead); and
- (i) (i) otherwise notified by Council to be wet waste.

working dog means:

- (a) a dog usually kept or proposed to be kept on rural land by an owner who is a primary producer, or a person engaged or employed by a primary producer and primarily for the purpose of:
 - (i) droving, protecting tending, or working, stock;
 - (ii) protecting farm assets; or
 - (iii) being trained in droving, protecting, tending, or working, stock;
- (b) does not include a class of dog prescribed under a regulation; and
- (c) does not include a dog kept for the hunting of animals except by a currently licensed and certified animal harvester

CERTIFICATION

This and the preceding 56 pages bearing my initials is a certified copy of *Cassowary Coast Regional Council Local Law No. 1 (Administration) 2022* made in accordance with the provisions of the *Local Government Act 2009*, by Cassowary Coast Regional Council by resolution dated 28 July 2022.

A handwritten signature in black ink, appearing to read 'Andrew Graffen', is positioned above the printed name.

Andrew Graffen
Chief Executive Officer
Cassowary Coast Regional Council