



**Cassowary Coast Regional Council
Local Law No. 3 (Community and Environment) 2022**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 3 (Community and Environment) 2022*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to protect the environment and public health, safety and amenity within the local government's area.
- (2) The purpose is to be achieved by providing for the elimination or reduction of risks and threats to the environment and public health, safety and amenity resulting from:
 - (a) inadequate protection against **animal** and **plant** pests;
 - (b) vegetation overgrowth;
 - (c) visual pollution including from accumulation of objects and materials;
 - (d) fires and fire hazards not regulated by State law;
 - (e) community safety hazards;
 - (f) noise that exceeds **noise standards**; and
 - (g) **waste** management.

3 Relationship with other laws

This local law is:

- (a) in addition to and does not derogate from laws for pest management, regulation of fires and environmental protection;
- (b) to be read with *Local Law No. 1 (Administration) 2022* which contains provisions and definitions that apply to all local laws; and
- (c) made under Chapter 3 of the **LGA**.

Part 2 Declared local pests

Division 1 Application

4 Application of part

This part does not apply to an animal or plant that is dealt with under the *Biosecurity Act 2014* to the extent of any inconsistency between this Part and the *Biosecurity Act 2014*.

Division 2 Declaration of local pests

5 Declaration of local pests

The **animal** or **plant** described in column 2 of schedule 1 of *Subordinate Local Law No. 3 (Community and Environment) 2022* is a **declared local pest** in the corresponding part of the **Council's** area mentioned in column 1 of schedule 1.

6 Emergency declarations

- (1) This section applies if the **Council** is satisfied urgent action is needed to avoid or minimise an immediate risk of environmental harm posed by a **plant** or **animal**.
- (2) **Council** may, by resolution, declare an **animal** or **plant** of the relevant species to be a **declared local pest**.
- (3) A declaration under this section:
 - (a) must be published in a newspaper circulating generally in the local government's area;
 - (b) comes into force on the date of publication; and
 - (c) comes to an end three months after the date of publication.
- (4) A declaration may apply:
 - (a) to the whole of the **Council's** area or in a specified part or parts of the area; and
 - (b) generally or only in specified circumstances.

Division 3 Control of local pests

7 Power to search for declared local pests

- (1) This section applies if an **authorised person** wants to enter a **premises** to search for **declared local pests**.
- (2) After giving reasonable written notice on **Approved Form 3.7 Notice to Enter for Declared Pests** to the owner and the **occupier** of the **premises**, the **authorised person** may:
 - (a) enter the **premises** without the permission of the **occupier**; and
 - (b) take reasonable action to search for **declared local pests**.
- (3) However, the **authorised person**:
 - (a) must, as soon as the **authorised person** enters the **premises**, inform any **occupier** of the **premises**:
 - (i) of the reason for entering the **premises**;
 - (ii) that the **authorised person** is authorised under this local law to enter the **premises**, excluding a home on the **premises**, without the permission of the **occupier**; and

- (b) may enter a home that is on the **premises** only with the permission of the **occupier** of the relevant part of the **premises**.
- (4) If the **occupier** gives permission under subsection (3)(b), the **authorised person** may ask the **occupier** to sign a copy of **Approved Form 3.7 Notice to Enter for Declared Pests** that confirms that the **occupier** has given permission to enter the home.
- (5) The **authorised person** must not enter a home on the **premises** without the signature of the **occupier** on the **Approved Form**.

8 Compliance notice for pests

- (1) Where an **authorised person** forms an opinion that a **compliance notice**, should be given requiring the **owner** of the **premises** to take specified action to control **declared local pests**, a **compliance notice** must be given.
- (2) The specified action may include action to:
 - (a) destroy **declared local pests** on the **premises**;
 - (b) minimise the risk of an outbreak of **declared local pests** on or from the **premises**;
 - (c) prevent or minimise seeding or reproduction by **declared local pests**;
 - (d) contain infestation by **declared local pests** within a localised area;
 - (e) reduce the density or extent of infestation by **declared local pests**; or
 - (f) remove harbour provided to **declared local pests**.
- (3) The notice may require the repetition of a specified action, at stated intervals or on the reappearance of the **declared local pest**, within a specified period.

Division 4 Prohibition of sale and propagation

9 Prohibition on sale

A person must not:

- (a) sell or supply a **declared local pest**; or
- (b) offer or display a **declared local pest** for sale or supply.

Maximum penalty—50 penalty units.

10 Prohibition on introducing, propagating etc. a declared local pest

- (1) A person must not introduce, propagate, breed or providing harbor to a **declared local pest** in the local government area;
- (2) A person must take all reasonable steps to prevent and minimise the spread of a **declared local pest** in the local government area.

Maximum penalty for subsections (1) & (2)—50 penalty units.

- (3) However, subsection (1) does not apply to a person mentioned in column 1 of schedule 2 of Subordinate *Local Law No.3 (Community and Environment) 2022* in relation to introducing, propagating, breeding or providing harbour to a **declared local pest** mentioned in the corresponding part of column 2 of schedule 2.

Part 3 Overgrown and Unsightly Premises and Nuisances

11 Overgrown premises

- (1) This section applies where an **authorised person** forms the opinion that a **premises** is overgrown with vegetation to such an extent that:
- (a) it has seriously affected the visual amenity of the **premises**; or
 - (b) is likely to attract or harbor vermin or reptiles.
- (2) A **responsible person** must not allow a **premises** to become overgrown with vegetation to such an extent that:
- (a) it has seriously affected the visual amenity of the **premises**; or
 - (b) is likely to attract or harbor vermin or reptiles.

Maximum penalty for subsection (2) - 5 Penalty units.

- (3) Where an **authorised person** forms an opinion that a **compliance notice**, should be given requiring the **responsible person** of the **premises**, to clear the vegetation, a **compliance notice** must be given.
- (4) The **compliance notice** may require the repetition of a specified action, at stated intervals or on the regrowth of vegetation to a specified height, for a specified period not exceeding 12 months.

12 Accumulation of objects and materials on premises

- (1) This section applies where an **authorised person** forms the opinion that objects or materials brought on to, or allowed to accumulate on, **premises**:
- (a) have seriously affected the visual amenity of the **premises**; or
 - (b) are likely to attract or harbor vermin or reptiles.

Examples for paragraph (1) of objects and materials that may seriously affect the visual amenity of premises:

- Discarded or disused machinery or machinery parts.
- Broken-down or severely rusted vehicles.
- Discarded bottles, containers or packaging.
- Refuse or scrap material.

- (2) A **responsible person** must not allow objects or material to:
- (a) seriously affect the visual amenity of the **premises**; or
 - (b) attract or harbor vermin or reptiles.

Maximum penalty for subsection (2) – 20 Penalty units.

- (3) The **authorised person** may, by **compliance notice** given to the **responsible person** of the **premises**, require the **responsible person** to:

- (a) remove objects or materials that are causing the circumstance mentioned in subsection (1); or
- (b) take other specified action to remedy the circumstance mentioned in subsection (1).

Example of action that might be required under paragraph (b): Erecting an appropriate structure (in accordance with requirements under the Planning Act) to screen unsightly objects or materials from public view.

- (4) However, the **compliance notice** cannot prevent a use of **premises** authorised under the Planning Act or the *Environmental Protection Act 1994*.
- (5) The **compliance notice** may, following removal, require that no further objects or materials are brought on to, or allowed to accumulate on, **premises** inconsistently with subsection (2) for a specified period not exceeding 12 months.

13 Maintenance of premises

- (1) A **responsible person** must not allow the **premises** or any structure, object or material upon the **premises** to fall into a state of disrepair or dilapidation such that it becomes a risk to property or people in the neighbourhood.
- (2) An **authorised person** may give a **compliance notice** to the **responsible person** requiring them to make good the **premises**, structure so that it is no longer or to repair, clean or paint the structure, object or material, object or material so that it is no longer a risk to property or people in the neighbourhood.
- (3) The **compliance notice** may require the structure, object or materials on the **premises** to remain in a state so that it is no longer a risk to property or people in the neighbourhood for a specified period of time not exceeding 12 months.
- (4) A **responsible person** must not cause or allow any structure, object or materials on the **premises** to remain in a state where it becomes a visual blight on the neighbourhood.
- (5) In determining whether there is a visual blight on the neighbourhood the following factors will be considered:
 - (a) whether **Council** has received any complaints;
 - (b) the content of the complaints;
 - (c) the number of complaints;
 - (d) the visual impact of the structure, object or material including:
 - (i) whether the structure, object or material is in a dirty condition;
 - (ii) whether the structure, object or material is in a state of disrepair or dilapidation; and
 - (iii) whether the structure, object or material is in need of repainting;
 - (e) the prominence of the structure, object or material for those living in the neighbourhood and those passing by the **premises**; and

- (f) whether the content of the visual blight is offensive including whether it is racial, discriminatory, has content which is likely to incite hatred, or vilify persons or organisations.
- (6) If any structure, object or material is marked with graffiti the **responsible person** for the **premises** must remove the graffiti within 30 days, unless otherwise authorised by **Council** in writing.
- (7) An **authorised person** may give a **compliance notice** to the **responsible person** requiring them to remove graffiti or to repair, clean or paint the structure, object or material so that it is not dilapidated or in a state of disrepair, or no longer a visual blight.
- (8) The **compliance notice** may, following removal of the visual blight, require the structure, object or materials on the **premises** to remain in a state where they do not again become a visual blight on the neighbourhood for a specified period not exceeding 12 months.

14 Vegetation overhanging local government controlled areas and roads.

- (1) This section applies where an **authorised person** forms the opinion that vegetation on a **premises** is unreasonably overhanging a local government controlled area or road.

Examples for paragraph (1) of unreasonable overhanging vegetation:

- (a) *overhang any footpath so that it impedes pedestrian access or is likely to cause injury or damage;*
- (b) *overhang a road at a height less than 2.4 meters from the surface of the road;*
- (c) *drop leaves, fruit, seed or other vegetation onto the road or footpath that causes a hazard for road users or pedestrians;*
- (d) *be of a height which obstructs the view between vehicles and pedestrians where they come close to each other;*
- (e) *obstruct the view between vehicles converging at an intersection;*
- (f) *obscure a traffic control item from an approaching vehicle or pedestrian;*
- (g) *obscure street lighting; or*
- (h) *obstruct a motorists view of trains at a crossing where there are no flashing lights or boom gates within Township or residential areas.*
- (2) A **responsible person** must not allow vegetation on a **premises** to unreasonably overhanging a local government controlled area or road.
Maximum penalty for subsection (2) – 20 Penalty units.
- (3) The **authorised person** may, by **compliance notice** given to the **responsible person** of the **premises**, require the **responsible person** to:
 - (a) remove overhanging vegetation that is causing the circumstance mentioned in subsection (1); or
 - (b) take other specified action to remedy the circumstance mentioned in subsection (1).

Example of action that might be required under paragraph:

- (a) *cut overhanging vegetation back parallel with the property boundary or to a horizontal height not less than 2.4 meters above the footpath area;*
 - (b) *cut back or remove vegetation which obstructs a motorists view of intersections, pedestrian crossings and traffic control items.*
 - (c) *cut back vegetation that obstructs a motorists view of train crossings situated within Townships and residential areas.*
- (4) The **compliance notice** may, following removal, require periodic maintenance to prevent the recurrence of the circumstances mentioned in subsection (1) for a specified period not exceeding 12 months.

Part 4 Waste Management

Division 1 Waste Containers

15 Supply of waste collection containers

- (1) The **owner** or **occupier** of **serviced premises** must, subject to subsection (2), supply enough **waste** collection containers at the **premises** to contain the typical volume of **waste** produced at the **premises**.

Maximum penalty—20 penalty units.

- (2) The local government may supply to **serviced premises** the number of **waste collection containers** it reasonably considers is required to contain the volume of waste produced at the **premises**.
- (3) If the local government supplies a **waste collection container** to **premises** under subsection (2), the reasonable cost of supplying the container is a debt payable by the **responsible person** of the **premises** to the local government.
- (4) However, subsection (3) does not prevent the local government from supplying a **waste collection container** to **premises** without cost to the **responsible person** of the **premises**.

16 How to manage waste

- (1) A person must only put **dry waste** in a wheelie bin designated for **dry waste**.
- (2) A person must only put **wet waste** into a wheelie bin designated for **wet waste**.
- (3) Unless authorised in writing by an **authorised person** or **Council**, a person must not place any of the following in a **waste collection container** —
- (a) material that is smouldering or aflame;
 - (b) any **animal** that is alive; or
 - (c) **regulated waste**.
- (4) Where **Council** provides **waste collection containers** for collection, other than **wet waste** and **dry waste** wheelie bins, it may specify in writing given to the person to whom the **waste collection container** is given, the type of

waste that can be put in the container and a person must only put in the container the specified type of **waste**.

Maximum penalty for subsections (1), (2), (3) and (4)—20 penalty units.

- (5) The **owner** or **occupier** of the **serviced premises** must not allow a person to place a thing in a **waste collection container** at the **premises** in contravention of subsections (1), (2), (3) and (4).

Maximum penalty—5 penalty units.

- (6) It is a defence in a proceeding against a person for an offence under subsections (5) for the person to prove the contravention was due to causes over which the person had no control.

17 Waste collection notices

- (1) **Council** may give the **owner** or **occupier** of **serviced premises** a notice (a “waste collection notice”) stating any or all of the following—

- (a) the days on which **waste** is to be collected;
- (b) where **waste** collection containers are to be placed for collection of the **waste** (the designated location);
- (c) the time by which a **waste collection container** is to be placed in the designated location for collection of the **waste**;

Example —occupiers of premises on streets with limited access for waste trucks may be required to place waste collection containers at a common designated location serving the street or a number of premises on the street.

- (d) new types of **dry waste** or **wet waste**; and
 - (e) stating the designation of a wheelie bin as a **wet waste** wheelie bin or a **dry waste** wheelie bin.
- (2) A **waste** collection notice may be given by publication on **Council’s** website.

18 Waste collection containers

- (1) The **owner** and **occupier** of a **serviced premises** must ensure that—
- (a) each **waste collection container** is kept clean and in good repair;
 - (b) each **waste collection container** is kept securely covered, except when the **waste** is being placed in, or removed from, the container or the container is being cleaned;
 - (c) vermin do not infest **waste collection containers** or the area where a **waste collection container** is stored;
 - (d) waste in a **waste collection container** does not cause an odour nuisance, which—
 - (i) in the opinion of an **authorised person**, unreasonably disrupts or inhibits the utilisation or enjoyment of a local government controlled road by the public; or

- (ii) in the opinion of an **authorised person**, unreasonably disrupts or inhibits a lawful activity carried out on the premises or adjoining **premises**.

Maximum penalty—20 penalty units.

- (2) A person must not—

- (a) remove or disturb the cover of a **waste collection container**, except when placing **waste** in the container;
- (b) use or damage a **waste collection container** so that it is not weatherproof or serviceable or cannot be securely covered; or
- (c) remove, disturb or otherwise interfere with the contents of a **waste collection container**.

Maximum penalty—20 penalty units.

- (3) The **owner** and **occupier** of a **serviced premises** must ensure that the **waste collection container** is:

- (a) kept on the **serviced premises**:
 - (i) in the location identified for storage on a development approval;
 - (ii) where (i) does not apply, so it is not visible from a **road** frontage; or
 - (iii) as otherwise directed in writing by an **authorised person** or the local government;
- (b) not placed or deposited on the road or a State controlled road for collection more than 24 hours before the notified time by **Council** as the time for collection; and
- (c) not allowed to remain on the **road** or a State controlled **road** for more than 24 hours after the notified time.
- (d) placed in a location on the road where it will not affect the safety of **road** users, typically on the footpath of the **road**, and so that the **waste collection vehicle** can mechanically empty the **waste collection container**.

Maximum penalty—20 penalty units.

- (4) If subsection (3) is not complied with, **Council** may remove the **waste collection container** and give notice to the **owner** or occupier that the **waste collection container** may be collected upon payment of the **prescribed fee**.
- (5) A **waste collection container** removed by **Council** under sub-section (4) shall be returned to the **owner** or **occupier** if a valid reason is given by the **owner** or **occupier** to **Council** for the non-compliance with subsection (3) (including providing evidence of this reason) or upon payment of the **prescribed fee**.

- (6) The **owner** and **occupier** of the **premises** must ensure there is unobstructed access to the **waste collection container** for removal of the **waste** for the notified time.

Maximum penalty—20 penalty units.

- (7) It is a defence in a proceeding against a person for an offence under subsection (6) for the person to prove the contravention was due to causes over which the person had no control.

- (8) A person must not place or attach to a **waste collection container** a notice, poster, sign or any other similar material or deface such a container in any other manner.

Maximum penalty—20 penalty units

- (9) Subsection (8) does not apply to a notice, poster, sign or other similar material that **Council** requests in writing be affixed to a particular type of **waste collection container**.

Division 2 Littering and refuse likely to attract flies

19 Littering and refuse likely to attract flies

- (1) A person must not deposit or place **waste** on land other than at a **waste facility** lawfully established for that purpose.

Maximum Penalty – 30 penalty units.

- (2) A person must not deposit or place **waste** in any place unless it is covered and treated so that it does not attract flies or become a breeding place for flies.

Maximum Penalty – 20 penalty units.

Part 5 Fires and fire hazards

20 Regulation of lighting and maintaining fires in the open

- (1) This section does not apply to the lighting or maintaining of a fire that is authorised under the *Fire and Emergency Services Act 1990*.

- (2) Lighting or maintaining a fire described in column 2 of schedule 3 of the *Subordinate Local Law No.3 (Community and Environment) 2022* is prohibited in the corresponding part of the **Council** area mentioned in column 1 of schedule 3.

- (3) A person must comply with a prohibition or restriction imposed under this section.

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

- (4) A person must not light or maintain a fire if the fire exposes property to the risk of damage or destruction by fire.

Maximum penalty for subsection (4)—20 penalty units.

- (5) A person does not commit an offence under subsection (3) or (4) if the person is authorised or required to light or maintain the fire in the performance of duties under another Act.

21 Fire hazards

- (1) This section applies where an **authorised person** forms the opinion that a **fire hazard** exists on **premises**.
- (2) A person must not allow a **fire hazard** to be created or maintained on a **premises**.

Maximum penalty for subsection (2) – 20 penalty units

- (3) The **authorised person** may, by **compliance notice** given to the **responsible person** for the **premises**, require the **responsible person** to take specified action to reduce or remove the **fire hazard**.
- (4) The **compliance notice** may require ongoing steps be taken to maintain the reduction in fire hazard for a specified period not exceeding 12 months.

Part 6 Community safety hazards

22 Power to enter property to inspect for community safety hazards

- (1) This section applies if an **authorised person** wants to enter a **premises** to inspect it to identify any **community safety hazards**.
- (2) After giving reasonable written notice on **Approved Form 3.22 Entry to Premises for Community Safety Hazards** to the **responsible person** of the **premises**, the **authorised person** may:
 - (a) enter the **premises** without the permission of the **occupier**; and
 - (b) take reasonable action to inspect the **premises** for **community safety hazards**.
- (3) However, the **authorised person**:
 - (a) must, as soon as the **authorised person** enters the **premises**, inform any **occupier** of the **premises**:
 - (i) of the reason for entering the **premises**;
 - (ii) that the **authorised person** is authorised under this local law to enter the **premises**, excluding a home without the permission of the occupier; and
 - (b) may enter a home only with the permission of the **occupier** of the relevant part of the **premises**.
- (4) If the **occupier** gives permission under subsection (3)(b), the **authorised person** may ask the **occupier** to sign a copy of the **Approved Form 3.22 Entry to Premises for Community Safety Hazards** that confirms that the **occupier** has given permission to enter the home.
- (5) The **authorised person** must not enter a home on the **premises** unless the occupier has signed the **approved form**.

23 Removal or reduction of community safety hazards

- (1) This section applies where an authorised person forms the opinion that a **community safety hazard** exists on **premises**.
- (2) The **authorised person** may, by **compliance notice** given to the **responsible person** of the **premises**, require the **responsible person** to take specified action in relation to the **community safety hazard** to:
 - (a) remove the **community safety hazard**; or
 - (b) reduce the level of risk to persons or property.

Example of specified action that might be required under paragraph (b) to reduce the risk to the community from a community safety hazard:

Securing objects or materials that may become airborne in periods of high wind.

- (3) The **compliance notice** may require ongoing steps be taken to maintain the reduction in **community safety hazard** for a specified period not exceeding 12 months

24 Prescribed requirements

- (1) Responsible persons for **premises** that contains a **community safety hazard** listed in column 1 of schedule 4 of *Subordinate Local Law No. 3 (Community and Environment) 2022* must meet the requirements prescribed in the corresponding part of column 2 of schedule 4.
- (2) A **responsible person** must comply with requirements prescribed under this section.

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

Part 7 Noise standards

25 Prescribed noise standards

- (1) This section applies if the local government is the administering authority for the *Environmental Protection Act 1994*, Chapter 8, Part 3B.
- (2) The **noise standard** in Column 2 of Schedule 5 of *Subordinate Local Law No.3 (Community and Environment) 2022* is prescribed for the section of the *Environmental Protection Act 1994*, Chapter 8, Part 3B, Division 3 stated in Column 1 of Schedule 5.
- (3) The **noise standard** in Column 2 of Schedule 5 applies in the corresponding part of the local government's area mentioned in Column 3 of Schedule 5.
- (4) Where no **noise standard** is specified, the standards prescribed under the *Environmental Protection Act 1994* will apply.

- (5) A person must not make, or cause to be made, a noise that exceeds the **noise standard** in the whole, or designated parts, of the local government's area identified in Schedule 5.

Maximum penalty for subsection (5)—50 penalty units.

Part 8 Miscellaneous

26 Subordinate local laws

Council may make subordinate local laws about:

- (a) declaring **animals** or **plants** of specified species to be **declared local pests**;
- (b) exempting certain persons in relation to **declared local pests**;
- (c) prohibiting lighting and maintaining of fires;
- (d) prescribed requirements relating to **community safety hazards**; or
- (e) prescribed **noise standards**.

Part 9 Repeals

27 Repeal

This local law repeals –

- (a) Local Law No.3 (Community and Environmental Management) 2011.

CERTIFICATION

This and the preceding 13 pages bearing my initials is a certified copy of Cassowary Coast Regional Council *Local Law No. 3 (Community and Environmental Management) 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 and title.

Andrew Graffen
Chief Executive Officer
Cassowary Coast Regional Council