



**Cassowary Coast Regional Council
Local Law No. 4
(Local Government Controlled Areas and Roads) 2022**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 4 (Local Government Controlled Areas and Roads) 2022*.

2 Purpose and how it is to be achieved

(1) The purpose of this local law is to:

- (a) allow the use of local government controlled areas or **roads** where there is a positive community benefit in allowing that use;
- (b) decline the use of local government controlled areas or **roads** where there is a negative community outcome in allowing that use;
- (c) balance the public interest against the competing private interest in granting a **permit**;
- (d) protect the health and safety of persons using local government controlled land, facilities, infrastructure and **roads**;
- (e) protect the health and safety of persons using state controlled **roads** to the extent that the local government has assumed responsibility for the management of the state controlled **road**;
- (f) preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and **roads**; and
- (g) 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:

- (a) the regulation of access to local government controlled areas and **roads**;
- (b) the prohibition or restriction of particular activities on local government controlled areas or **roads**;
- (c) **prescribed activity** applications and **permits** for local government controlled areas and **roads**;
- (d) offences to enforce compliance with the purpose; and
- (e) miscellaneous matters affecting local government controlled areas and **roads**.

3 Relationship with other laws

This local law is:

- (a) in addition to and does not derogate from laws regulating the use of trust land and **roads**;

- (b) made under Chapter 3 of the **LGA** and the **TORUM Act** and may be affected by the *Land Act 1994*, the *Land Regulation 2009* and the *Land Protection (Pest and Stock Route Management) Act 2002*;
- (c) otherwise in addition to and does not derogate from, laws regulating land use planning and development assessment;
- (d) applicable to a State controlled **road** where the chief executive of the department that administers Section 66 (5) (Road Transport Infrastructure) of the **TORUM Act** approves in writing the application of this local law to a state controlled **road**;
- (e) applicable to those local government controlled areas and **roads** identified in Schedule 1 of *Subordinate Local Law No.4 (Local Government Controlled Areas and Roads) 2022*; and
- (f) is to be read with *Local Law No. 1 (Administration) 2022*, which contains provisions and definitions that apply to all local laws.

4 Prescribed activities

The **prescribed activities** referred to in this local law are all:

- (a) **category 1 activities** for the purpose of section 38(4) of *Local Law No.1 (Administration) 2022*; and
- (b) **permits** are non-transferable **permits**.

Part 2 Use of local government controlled areas and roads

5 Management under this Part

- (1) **Council** manages those areas under its control by prohibiting, restricting and permitting activities on local government controlled areas and **roads**.
- (2) Prohibited activities cannot be permitted.
- (3) **Prescribed activities** can be permitted or permitted subject to conditions, except where prohibited, or restricted in all areas.
- (4) Restricted activities, other than **prescribed activities**, can only be undertaken in accordance with this part.

6 Prohibited activities

- (1) Activities are prohibited in different parts of the local government controlled areas and **roads**.
- (2) Schedule 2 of Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022 in Column 2 identifies the prohibited activities and Column 1 identifies the local government controlled area or **road** where the activities are prohibited.
- (3) Where Schedule 2 of Subordinate Local Law No. 4 (Local Government Controlled Areas and Road) 2022 identifies specific areas (which are also

more generally defined in Schedule 2), the specific prohibitions of the specific areas apply to the exclusion of the general area prohibitions.

- (4) The local government must take **reasonable steps** to provide notice to members of the public regarding prohibited activities for local government controlled areas or **roads**.
- (5) A person must not engage in a prohibited activity.
Maximum penalty - 20 penalty units
- (6) A person must comply with a verbal direction of an **authorised person** to cease undertaking a prohibited activity.
Maximum penalty - 20 penalty units
- (7) Any direction given under subsection (5) is in addition to any other action that may be taken by the local government or an **authorised person** under this or any other local law or law.

7 Restricted Activities

- (1) Activities are restricted in different parts of the local government controlled areas and **roads**.
- (2) Schedule 3 of *Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022* in Column 2 identifies activities that are restricted in the local government controlled area or **road** identified in column 1, subject to the extent of the restriction identified in Column 3, the specific restrictions of the specific areas apply to the exclusion of the general area restrictions.
- (3) **Council** must take **reasonable steps** to provide notice to members of the public regarding restricted activities for local government controlled areas or **roads**.
- (4) A person must not engage in a restricted activity beyond the extent of restriction identified in Column 3 of Schedule 3.
Maximum penalty – 20 penalty units

Part 3 General activities on local government controlled areas and roads

8 Prescribed activity

- (1) General activity on local government controlled areas and roads is a **prescribed activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 4.8: General Activity](#).

9 Activities that do not require a permit

The following **general activities**, providing they do not conflict with a permitted activity for the local government controlled area or **road**, do not require a **permit** under this local law:

- (a) picnics, day outings, walks and the like with less than 20 people;
- (b) invitation only gatherings of friends or family, including for barbeques or birthday parties, where no more than 50 people are expected to attend and no temporary structure is placed on the local government area;

Examples of temporary structures: marquees, jumping castles, inflatable water slides.

- (c) small scale fundraising,

Examples of small scale fund raising include daffodil day stalls, raffle sales for community groups a sausage sizzle.

- (d) a peaceful assembly as defined in the *Peaceful Assemblies Act 1992* (but does require authorisation under that Act);
- (e) the provision of a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*;
- (f) a business on part of a **road** if the person carrying on the business is authorised by a **permit** under the *Land Act 1994* to occupy the relevant part of the **road** for carrying on the business;
- (g) a business that a person is authorised to carry on under the *Transport Infrastructure Act 1994*, unless and until a Memorandum of Understanding is agreed under the *Transport Infrastructure Act 1994* by which **Council** is to take control of specified declared roads upon which the activity is to be carried out; and
- (h) using a road for a particular purpose if the use constitutes development under the **Planning Act**, other than development about which a local law can be made under the **LGA**.

10 Additional criteria for the granting of a permit

- (1) **Council** must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) will it adversely affect the amenity of the area, **road** or the environment;
 - (b) will it unduly interfere with the usual use and enjoyment of the area or **road**;
 - (c) can it be lawfully conducted on the area or **road**;
 - (d) does it unreasonably detract from the established amenity in the neighbourhood;
 - (e) is it able to be conducted consistent with relevant environmental, health and safety standards;

- (f) is it able to be operated in accordance with **best practice management** for the activity;
- (g) does it comply with the **planning scheme**;
- (h) will it generate significant noise, dust or light pollution or other significantly adverse effects on the surrounding neighbourhood;
- (i) would it adversely affect existing services located in, on or over an area or **road**;
- (j) is it appropriate having regard to any current **permits** issued, or application for **permits**, under this local law for the **premises** including the number of **permits**, their duration and the nature of any approved activity;
- (k) is it appropriate having regard to the frequency at which the activity is proposed to be conducted on the **premises**;
- (l) is it appropriate having regard to the adequacy of any amenities or facilities considered by the local government to be reasonably necessary for the conduct of the activity;
- (m) is it appropriate having regard to the economic impact on commercial operators immediately adjacent to the **premises**;
- (n) is it appropriate having regard to the situation, suitability and amenity of the site in relation to neighbouring areas;
- (o) certified plans showing any temporary structure intended to be erected as part of the activity is structurally sound;
- (p) will it meaningfully detract from the capacity of a **road** to provide a vehicular and, where relevant, pedestrian thoroughfare; and
- (q) will it obstruct access from the footpath to kerbside parking.

11 Conditions that must be imposed on a permit

The following types of conditions must be imposed on a **permit** where applicable requiring the **permit holder** to:

- (a) conduct the activity on the days and hours specified;
- (b) adhere to safety standards; and
- (c) adopt **best practice management** for the activity.

12 Conditions that will ordinarily be imposed on a permit

- (1) The following type of conditions will ordinarily be imposed on a **permit**, where applicable, requiring the **permit holder** to:
 - (a) indemnify the **Council** against all liability directly or indirectly associated with the activity;

- (b) take out a public liability insurance policy in the amount of twenty million dollars (\$20,000,000.00) in the name of the **permit holder** and noting the **Council** as an interested party;
- (c) be responsible for any costs or expenses incurred by **Council** for rectifying any damage caused by the activity;
- (d) make smoking receptacles available to collect cigarette butts, lighted matches, smoking products or any other lit materials;
- (e) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
- (f) not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided;
- (g) not erect any permanent or temporary buildings, signs or structures upon the permitted activity area unless specifically permitted;
- (h) ensure that all areas used are left in a clean and tidy condition and litter is collected and lawfully disposed at a **waste facility**;
- (i) ensure that portable toilets are supplied, as directed by **Council**; and serviced for the use of the people attending the activity should insufficient facilities be available onsite;
- (j) ensure that waste from portable toilets is collected by a regulated waste transporter and disposed of lawfully at a facility licensed to accept such waste;
- (k) ensure that serving or selling any food, refreshments, souvenirs or other retail items is prohibited unless specifically permitted;
- (l) ensure that cleaning, maintaining or repairing any **vehicle**, vessel, aircraft or other equipment except for emergency repairs is prohibited;
- (m) provide the means by which impacts on the environment are to be minimised;
- (n) provide the means by which impacts on the amenity of neighbouring areas are to be minimised;
- (o) provide copies of any necessary **approvals** to **Council**; and
- (p) ensure activities on **roads** are carried out so as not to compromise **road** safety or unduly disrupt traffic.
- (q) Remove all vehicles, goods and chattels from the site at the end of the permitted activity.

(2) **Footpath dining**

In addition to subsection 12(1) the following type of conditions will ordinarily be imposed on a **permit** for footpath dining, where applicable, requiring the **permit holder** and **responsible persons** to:

- (a) ensure all tables and associated furniture used for the purpose of footpath dining are placed and shall remain at all times in the position as indicated on the approved plan;
- (b) ensure that only the permitted footpath dining area shall be utilised at any one time, and that footpath access is maintained to the degree that allows a person to traverse along the footpath safely and conveniently on a wheelchair or pushing a pram or trolley;
- (c) ensure all approved footpath dining furniture and their environs are kept clean and tidy and that suitable refuse containers are provided and the area is thoroughly cleaned at the end of each business day;
- (d) ensure all tables and associated furniture are secured by removal and storage inside the **premises**, or as permitted, at all times outside the business hours of operation;
- (e) ensure any umbrellas are suitably weighted or fixed to ensure there is neither uplift nor damage to property or person;
- (f) ensure any footpath dining furniture not approved by the **Council** is not placed on the footpath at any time;
- (g) ensure all permitted footpath dining activities are consistent with the Regulations and Standards of the Work, *Health & Safety Act* 2011;
- (h) ensure the footpath in the **road** used for footpath dining purposes remain public spaces, even after a footpath dining **permit** has been granted within the designated footpath space;
- (i) where the consumption of liquor occurs within the permitted footpath dining area, ensure that a current approval is maintained from the Office of Liquor and Gaming Regulation. A copy of the approval for the consumption of liquor must be forwarded to the local government prior to the commencement of service of liquor within the footpath dining area;
- (j) ensure the approved activities are only conducted on the days and times specified on the **permit**;
- (k) display the **permit** in a clearly visible position to the public and if requested by an **authorised person**, produce the **permit** for inspection;
- (l) ensure the activity does not adversely obstruct the movement of **vehicles** and pedestrians along the **road**;
- (m) ensure the activity does not cause a danger or nuisance to neighbouring residents or users of the **road** (including any disposal of waste water as part of that activity);
- (n) ensure the activity does not interfere with the existing services located in, on or over a **road**;

- (o) ensure that any waste generated as a result of the activity is properly disposed of and provide a rubbish receptacle for customers visiting their business; and
- (p) ensure people using the footpath dining can do so safely.

(3) **Stationary vending**

In addition to subsection 12(1) the following type of conditions will ordinarily be imposed on a **permit** for stationary vending where applicable requiring the **permit holder** to:

- (a) ensure any **vehicle** used in the operation of the **general activity** is parked and remains at all times in the position as indicated on the approved site plan, at the allowed locations for stationary vending as outlined in Schedule 4 of *Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022*;
- (b) ensure the **permit** is displayed at all times whilst the **general activity** is being conducted;
- (c) ensure a copy of the **permit** are kept on site at all times and can be produced to an **authorised person** upon request;
- (d) ensure advertising material is limited to one A-frame sign (900mm high x 600mm wide) only;
- (e) illuminated signage and amplified advertising devices are not permitted at the vending site;
- (f) ensure the **general activity** does not have any adverse effect on the existing vegetation and landscaping of the area or the environment;
- (g) ensure the **general activity** does not cause a nuisance to any person or a danger to any person or property;
- (h) provide and maintain sufficient receptacles for refuse and thoroughly clean areas, including nearby footpaths, driveways, shop fronts and remove all material associated with the activity at the conclusion of business each day;
- (i) ensure that no permanent structures are erected at the vending site;
- (j) ensure all fees payable under the **permit** are paid by the due date;
- (k) conduct the **general activity** on the days and hours specified on the permit;
- (l) adhere to safety standards;
- (m) provide to its customers or any other persons undertaking the **general activity** all necessary or appropriate safety equipment, warnings and instruction;
- (n) reimburse **Council** for any costs or expenses incurred by **Council** for rectifying any damage caused by the **general activity**;

- (o) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
- (p) not to erect any permanent buildings, signs or structures upon the **general activity** area without the written consent of **Council**;
- (q) ensure that **litter** is collected and lawfully disposed at a **waste facility**;
- (r) where the **permit** involves any food other than whole fruit and vegetables, the **permit holder** must submit evidence that the food was prepared in the approved **premises**;
- (s) if the **permit** is for a vending activity that involves food preparation in the vehicle, the **permit holder** must keep available for inspection copies of current certificates of Registration and Licence under the *Food Act* 2006;
- (t) display only those goods stated on the **permit**;
- (u) if placing goods on the **road** outside the **premises**, secure goods by removal and storage inside the **premises**, at all times outside of the business hours of operation; and
- (v) maintain a clear unobstructed walkway for pedestrians of a minimum width of 2.00 metres at all times.

(4) Sale of goods on a footpath or road

In addition to subsection 12(1) the following type of conditions will ordinarily be imposed on a **permit** for goods for sale on a road, where applicable, requiring the **permit holder** to:

- (a) display only those goods stated on the **permit**;
- (b) secure goods by removal and storage inside the **premises**, at all times outside of the business hours of operation;
- (c) maintain a clear unobstructed walkway for pedestrians on the footpath of a minimum width of 2.00 metres at all times;
- (d) keep the goods positioned as per the original site plan on the **permit**;
- (e) conduct the **general activity** on the days and hours specified on the **permit**;
- (f) adhere to relevant safety standards;
- (g) be responsible for any costs or expenses incurred by the **Council** for rectifying any damage caused by the **general activity**;
- (h) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
- (i) not erect any permanent buildings, signs or structures upon the approved activity area without a condition of the **permit** permitting that activity;

- (j) ensure that **litter** is collected and lawfully disposed at a **Council waste facility**; and
- (k) advise the means by which impacts on the amenity of neighbouring areas will be minimised.

Part 4 Driving or leading animals

13 Prescribed activity

- (1) Driving or leading of **animals** to cross a **road** is a **prescribed activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 4.13: Driving or Leading Animals](#).

14 Activities that do not require permit

The following activities do not require a **permit**:

- (a) leading of horses across a **road** by a member of a horse or pony club; or
- (b) where no more than two **animals** are being led by a single person.

15 Additional criteria for the granting of permit

- (1) The local government must assess the application against the additional criteria.
- (2) The additional criteria are whether the leading of **animals** would not unduly interfere with the proper use of the **road** or create a safety hazard for users of the **road**.

16 Conditions that must be imposed on a permit

The following type of conditions must be imposed on a **permit**:

- (a) the days and the time of day that **animals** may be led across the **road**;
- (b) the number of **animals** that may be driven or led across the **road**;
- (c) comply with specified safety requirements;
- (d) exhibit specified warning notices;
- (e) take other specified precautions for the safety of users of the **road** or area; and
- (f) Stock crossings must be operated in accordance with best practice management.

17 Conditions that will ordinarily be imposed on a permit

The following type of conditions will ordinarily be imposed on a **permit**, where applicable:

- (a) the **permit holder** and **responsible person** may be required to give specified indemnities and to take out specified insurance.

Part 5 Depositing of goods and material

18 Prescribed activity

- (1) This Part does not apply to a:

- (a) car;
- (b) motorbike;
- (c) motorised part of a truck (excluding trailer);
- (d) trailer that is attached to a car or the motorised part of a truck;

where it is in regular use and not parked for more than 48 hours, unless otherwise provided for by an **official advertising device**.

- (2) Depositing of **goods** or materials on a local government controlled area or **road** is a **prescribed activity**.

*Example: storing building materials on a nature strip or footpath area;
placing bee hives in a reserve;
placing a skip bin on nature strip or footpath area; or
parking a caravan or trailer on the footpath or road for more than 48 hours.*

- (3) To obtain a **permit** an application must be made to **Council** on:

- (a) [Approved Form 1.7: Application Information \(What I want\)](#); and
- (b) [Approved Form 4.18: Depositing Goods or Materials](#).

19 Activities that do not require a permit

Nil

20 Additional criteria for the granting of a permit

- (1) The local government must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) whether the proposed activity significantly detracts from the capacity of the **road** to provide a vehicular and where relevant pedestrian thoroughfare;
 - (b) whether the proposed activity constitutes a nuisance or a danger to any person or property;

- (c) whether the proposed activity obstructs access from the footpath to kerbside parking;
- (d) whether the proposed activity adversely affects the amenity of the area or the environment; and
- (e) whether the proposed activity adversely affect the existing services located in, along, over or adjacent to a **road**.

21 Conditions that must be imposed on a permit

The following type of conditions must be imposed on a **permit**:

- (a) the location of such works or activity; and
- (b) duration and hours of operation.

22 Conditions that will ordinarily be imposed on a permit

The following type of conditions will ordinarily be imposed on a **permit**, where applicable, requiring the **permit holder** or **responsible person** to:

- (a) ensure unobstructed movement of **vehicles** and pedestrians;
- (b) take out public liability insurance in an amount nominated by the **Council** and note the **Council** as an interested party on the policy;
- (c) indemnify the **Council** and any other person who has an interest in or takes a benefit from the work or activity against all claims and liability, including claims for personal injury (including death) and damage to property (including economic loss) arising directly or indirectly by, through or in connection with the works or activity;
- (d) observe standards specified by the **Council** in the carrying out of the works or activity including complying with **best practice management**;
- (e) ensure safety of pedestrians and **vehicles** including but not limited to the safe temporary diversion of traffic, erection of warning lights and barricades;
- (f) specify a deadline for completion of the works or ceasing of the activity;
- (g) reinstate the local government controlled area and **road** to a specified standard following completion of the works or ceasing of the activity; and
- (h) lodge security for performance of any requirement under this local law or any condition of the **permit**.

Part 6 Alteration or improvement to local government controlled areas or roads

23 Prescribed activity

- (1) Alteration or improvement to local government controlled areas and **roads** is a **prescribed activity**.

Example: installation of a gate or grid.

Example: planting, clearing or damaging trees on a footpath.

Example: construction of a garden bed on a footpath.

Example: installation of hoarding, scaffolding or gantry on road reserve.

- (2) To obtain a **permit** an application must be made to **Council** on:
- (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 4.23: Alteration or Improvement to Local Government Area or Road](#).

24 Activities that do not require permit

- (1) Activities that do not require a **permit** include:
- (a) Planting vegetation on **road** verges that complies with:
 - (i) the Far North Queensland Regional Organisation of Council's Development Manual (FNQROC); or
 - (ii) Council's "Planning Scheme Policy – Landscaping and Preferred Plant Species".
 - (b) Pruning or trimming a tree on **road** verges, provided it is undertaken in accordance with:
 - (i) Australian Standard Pruning of amenity trees AS 4373-2007;
 - (ii) Australian Standard Protection of trees on development sites AS4970-2009; and
 - (iii) is carried out by a qualified Arborist.

25 Additional criteria for the granting of permit

- (1) The local government must assess the application against the additional criteria.
- (2) The additional criteria are:
- (a) whether the proposed activity detracts from the capacity of the **road** to provide vehicular and, where relevant, pedestrian thoroughfare;
 - (b) whether the proposed activity significantly causes a nuisance or danger to any person or property;
 - (c) whether the proposed activity significantly obstructs access from the footpath to kerbside parking;

- (d) whether the proposed activity adversely affects the amenity of the area or the environment; and
- (e) whether the proposed activity adversely affects existing services located in, on, over or adjacent to a **road**.

26 Conditions that must be imposed on permits

The following type of conditions that must be imposed on a **permit**, where applicable:

- (a) the works or activity must not meaningfully detract from the capacity of the **road** to provide a vehicular and, where relevant, pedestrian thoroughfare;
- (b) the works or activity must not cause a meaningful nuisance or danger to any person or property;
- (c) the works or activity must not meaningfully obstruct access from the footpath to kerbside parking;
- (d) the works or activity must not adversely affect the amenity of the area or the environment;
- (e) the works or activity must not adversely affect existing services located in, on, over or adjacent to a **road**;
- (f) the location of such works or activity;
- (g) the measures to ensure unobstructed movement of **vehicles** and pedestrians;
- (h) the requirement to take out public liability insurance in the amount of twenty million dollars (\$20,000,000.00) and to note the **Council** as an interested party on the policy;
- (i) indemnification of the **Council** by the **permit holder** and any other person who has an interest in or takes a benefit from the work or activity against claims for personal injury (including death) and damage to property (including economic loss) arising directly or indirectly by, through or in connection with the works or activity;
- (j) specification of a deadline for completion of the works or ceasing of the activity;
- (k) standards to be observed in the carrying out of the works or activity;
- (l) reinstatement of the **road** to specified standards following completion of the works or ceasing of an activity;
- (m) requirements to ensure safety of pedestrians and **vehicles** including but not limited to the safe temporary diversion of traffic, erection of warning lights and barricades;
- (n) comply with **best practice management**; and

- (o) comply with the requirements of relevant legislation, Australian standards and / or the FNQROC Development Manual.

27 Conditions that will ordinarily be imposed

- (1) Conditions addressing the following matters will ordinarily be imposed on a **permit**, where applicable:
 - (a) alterations or improvements must comply with Crime Prevention through Environmental Design Policy guidelines (CPTED);
 - (b) limit the activity to certain hours of operation;
 - (c) lodgment of sufficient security to ensure performance;
 - (d) engage 'Dial before you dig' to ensure proposed activity does not conflict with services;
 - (e) ensure that any works constructed pursuant to a **permit** issued under this Part are maintained in good order and repair and are not allowed to become:
 - (i) a nuisance to any person;
 - (ii) a danger to any person or property; or
 - (iii) create a potential danger to public safety for all **road** users;
 - (f) must be carried out by a qualified arborist; and
 - (g) must comply with:
 - (i) Australian Standard Pruning of amenity trees AS 4373-2007;
 - (ii) Australian Standard Protection of trees on development sites AS4970-2009; and
 - (iii) FNQROC Development Manual.

Part 7 Mooring

28 Prescribed activity

- (1) Mooring a vessel at a **mooring site** is a **prescribed activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 4.28: Mooring](#).

29 Activities that do not require permit

The following activities do not require a **permit**:

- (a) mooring is for a recreational purpose and will be for a period of less than 20 minutes at a mooring in accordance with an **official advertising device**;

- (b) where in an emergency and then for a maximum period of 3 days;
- (c) where the **vessel** is in distress such that repairs are required and then only to effect the minimum repairs necessary to enable the **vessel** to be moved elsewhere for a maximum period of 7 days;
- (d) the mooring of a **vessel** is permitted by an **official advertising device**;
or
- (e) pursuant to a **permit** to operate a **general activity**.

30 Additional criteria for the granting of permit

- (1) **Council** must assess the application against the **additional criteria**.
- (2) The **additional criteria** are:
 - (a) the availability of the **mooring site**;
 - (b) the proposed use of the **mooring site**;
 - (c) the suitability of the **vessel** for the **mooring site**;
 - (d) whether the proposed **permit holder** and any other **responsible person** holds a ship masters or recreational boat operators licence;
 - (e) whether the **vessel** may cause damage to the **mooring site** or other vessels at the mooring site;
 - (f) whether the vessel has appropriate insurance; and
 - (g) whether the **vessel** has a **vessel** registration certificate.

31 Conditions that must be imposed on a permit

The following type of conditions must be imposed on a **permit**, where applicable:

- (a) when an **authorised vessel** is moored at a **mooring site**, the **responsible person** must ensure that the vessel registration certificate and identification marks are clearly displayed on the **authorised vessel**;
- (b) the **responsible person** must ensure that the **authorised vessel** and all associated mooring lines and tackle are inspected frequently and maintained in a seaworthy condition at all times;
- (c) the **responsible person** must not transfer or **permit** or cause the transfer of fuel from or to the **authorised vessel** without the prior written approval of the **Council**;¹
- (d) if a **mooring site** is to be unoccupied for more than one month, a **responsible person** must advise **Council** of that vacancy;
- (e) the **responsible person** must ensure that the mooring of the **authorised vessel**:

¹ Nothing in these local laws derogates from the requirement to comply with transfer operations under the *Transport Operations (Marine Pollution) Act 1995*.

- (i) is conducted in a competent manner, without negligence;
 - (ii) does not cause nuisance or damage to any person or property;
 - (iii) does not cause danger, offence or annoyance to other persons;
 - (iv) does not cause a navigation hazard or hazard to the environment; and
 - (v) does not cause risk to the health or safety to any person: as far as practicable;
- (f) the **responsible person** must ensure that the **mooring site** and **authorised vessel** is kept clean and tidy at all times;
- (g) the **responsible person** must comply with:
 - (i) any direction given by an **authorised person** for the purposes of ensuring the safety, security or proper management of **mooring sites**;
 - (ii) any direction of a harbour master; and
 - (iii) any direction given by any government or regulatory agency in relation to the **authorised vessel**;

whenever the **responsible person** is carrying out an activity or exercising a right under a **permit**,

- (h) the **responsible person** must have a copy of the **permit** in their possession, available for inspection on request by **Council** or member of the police force; and
- (i) no:
 - (i) maintenance other than maintenance that cause no discharge or deposit of any materials or waste on land or into waters;
 - (ii) repair,
 - (iii) installation,
 - (iv) modification; or
 - (v) construction works

are permitted to an **authorised vessel** at the **mooring site** without prior written approval of the **Council**.

32 Conditions that will ordinarily be imposed on a permit

The following type of conditions will ordinarily be imposed on a **permit**, where applicable:

- (a) the **permit holder**, its contractors or agents may be required to give specified indemnities, warranties and to take out specified insurance;
- (b) the **permit holder** will pay a bond

Part 8 Bringing or driving motor vehicles onto local government controlled areas

33 Prohibited activity

Bringing the vehicles identified in Column 1 of Schedule 5 of *Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022* onto the local government controlled areas identified in Column 2 of Schedule 5 of *Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022* is a prohibited activity.

34 Activities that do not require a permit

Access to a local government controlled area by:

- (a) an authorised contractor for the purposes of repairing or maintaining a **Council** infrastructure;
- (b) **emergency vehicles**; and
- (c) the vehicles identified in Column 1 of Schedule 6 of *Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022* onto the local government controlled areas identified in Column 2 of Schedule 6 of *Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022*.

does not require a **permit**.

Part 9 Miscellaneous

35 Opening hours of local government controlled areas

- (1) The opening hours for a local government controlled area are the hours specified by an **official advertising device**.
- (2) A person must not enter or remain in a local government controlled area outside the time specified unless the person is authorised to do so by the chief executive officer.

Maximum penalty for subsection (3)—20 penalty units

36 Power of closure of local government controlled areas

- (1) The **Council** may, by resolution, temporarily close a local government controlled area to public access:
 - (a) to carry out construction, maintenance, repair or restoration work;
 - (b) to protect the health and safety of a person or the security of a person's property;
 - (c) because of a fire or other natural disaster; or
 - (d) to conserve or protect the cultural or natural resources of the area or native wildlife.

- (2) A resolution under subsection (1):
 - (a) must state a period, not greater than 6 months, during which the area will be closed; and
 - (b) must be revoked by the **Council** as soon as practicable after the **Council** becomes satisfied that the reason for making the resolution no longer exists.
- (3) Schedule 7 of *Subordinate Local Law No.4 (Local Government Controlled Areas and Roads) 2022* identifies areas the local government has permanently closed to public access for any of the following reasons:
 - (a) the conservation of the cultural or natural resources of the area, including, for example:
 - (i) to protect significant cultural or natural resources;
 - (ii) to enable the restoration or rehabilitation of the area;
 - (iii) to protect a breeding area for native wildlife;
 - (iv) to manage a **significant Aboriginal area** in the area in a way that is consistent with Aboriginal tradition; or
 - (v) to manage a **significant Torres Strait Islander area** in the area in a way that is consistent with Island custom;
 - (b) protection of the health and safety of members of the public;
 - (c) protection of a facility or service in the area, including, for example, infrastructure, water supply facilities or power generating equipment;
 - (d) protection of the amenity of an area adjacent to the area; or
 - (e) the orderly or proper management of the area.
- (4) If the **Council** closes a local government controlled area under subsections (1) or (3), it must place at each public entrance to the area an **official sign**.
- (5) A person must not enter or remain in a local government controlled area while it is closed to public access under this section, unless the person is authorised to do so by the chief executive officer.

Maximum penalty for subsection (5)—20 penalty units.

37 Power to require owner of land adjoining road to fence land

- (1) This section applies if, in the **authorised officer's** opinion, it is necessary for **premises** adjoining a **road** to be fenced to prevent the risk of:
 - (a) **animals** or **plants** escaping from the **premises** onto the **road**; or
 - (b) interference with the safe movement of traffic or the safe use of the **road**.

- (2) The **authorised person** may, by giving a **compliance notice** to the owner:
 - (a) if the **premises** is not currently fenced—require the owner to fence the **premises**; or
 - (b) if a current fence on the **premises** is in disrepair—require the owner to repair or replace the fence.
- (3) The minimum standards with which the fence must comply are:
 - (a) it must be structurally sound;
 - (b) 1.2 m high;
 - (c) extend across the whole of the **road** frontage except for gates for the driveway and walking path; and
 - (d) must have gates for the driveway and walking path that are able to be securely fastened.

38 Numbering of premises and allotments adjoining a road

- (1) A **responsible person** of **premises** must not adopt a number for the **premises** that is inconsistent with a numbering system adopted by the **Council**.

Maximum penalty for subsection (1) --10 penalty units.

- (2) A **responsible person** of **premises**, other than vacant land, must display the number allocated so as to be easily identified from the adjoining **road**.

Maximum penalty for subsection (2) --10 penalty units.

39 Detailed Area Management Plans

Where the **Council** prepares detailed management plans, identified in Schedule 8 of the *Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022*, for local government controlled areas or **roads** those detailed management plans may explicitly provide for the operation of sections of this local law to be varied or suspended by operation of the plan.

Part 10 Subordinate Local laws

40 Subordinate local laws

The local government may make subordinate local laws:

- (a) Identifying
 - (i) Local government controlled areas and **roads**;
 - (ii) Roadside vending areas;
 - (iii) Permanent closure areas; and

- (iv) Vehicles allowed without a permit in certain **local government controlled area**;
- (b) Specifying prohibited activities;
- (c) Specifying restricted activities;
- (d) Prohibiting vehicles in certain L.G.C.A.; and
- (e) Attaching Detailed Area Management Plans.

Part 11 Repeals

41 Repeal

This local law repeals -

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

CERTIFICATION

This and the preceding 23 pages bearing my initials is a certified copy of Cassowary Coast Regional Council *Local Law No. 4 (Local Government Controlled Areas and Roads) 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