



**Cassowary Coast Regional Council
Local Law No. 10 (Advertising Devices) 2022**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 10 (Advertising Devices) 2022*.

2 Purposes and how they are to be achieved

The purpose of this local law is to enable the local government to prevent or regulate **advertising devices** not regulated by the **planning scheme**.

The purpose is to be achieved by:

- (1) identifying **advertising devices** that do not require a **permit**;
- (2) identifying **advertising devices** that are prohibited;
- (3) providing for an application and approval process for all other **advertising devices**; and
- (4) making it an offence to display particular **advertising devices** without a permit.

3 Relationship with other laws

This local law is:

- (a) to be read in conjunction with *Local Law No.1 (Administration) 2022* which contains provisions and definitions that apply to all local laws;
- (b) made under the Chapter 3 of the **LGA** and s.66 of the **TORUM Act**;
- (c) not applicable to an **advertising device** on a State controlled road unless there is written agreement between **Council** and the Department of Transport and Main Roads;
- (d) an alternative development assessment process for **advertising devices** other than **advertising devices** which are regulated by the **planning scheme**; and
- (e) subject to appeals in relation to **advertising devices** being dealt with under the **Planning Act**.¹

¹ Amendments are proposed to the planning scheme to have the planning scheme align with the local law. Those amendments are required to undergo public consultation and the outcome of that public consultation cannot be known so that changes may ultimately be required to reflect the outcomes of that public consultation.

Part 2 Prescribed activity

4 Prescribed activity

The installation, erection or display of an **advertising device** is a **category 1 activity**.

5 Advertising devices that require a permit

(1) **Advertising devices:**

- (a) not regulated under the **planning scheme**;
 - (b) not prohibited under Part 3; or
 - (c) not permitted under Part 4,
- require a **permit**.

(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 10.5: Advertising Device](#).

6 .Additional criteria for granting a permit

(1) **Council** must assess the application against the additional criteria.

(2) The additional criteria are:

(a) the **advertising device** must:

- (i) be structurally sound;
- (ii) have dimensions that bear a reasonable relationship to the surrounding buildings and **premises** so that its presence is not unduly dominating or oppressive;
- (iii) be consistent in appearance with the building and natural features of the environment in which it is to be situated; and
- (iv) be consistent with the character and values of the environment in which it is to be situated.

(b) The **advertising device** must not be likely to:

- (i) harm public health or safety;
- (ii) cause property damage to public infrastructure;
- (iii) cause a nuisance;
- (iv) cause the obstruction or distraction of pedestrian or vehicular traffic;
- (v) cause environmental harm;
- (vi) be a detrimental impact on the amenity of the area, by reason of its location, construction or design; or

(vii) cause unreasonable obstruction of an existing view or vista.

7 Conditions that must be imposed on a permit

The following types of conditions must be imposed on a **permit** for an **advertising device**:

- (a) the **advertising device** must at all times be maintained in a safe condition so as to prevent personal injury or damage to property; and
- (b) when the **advertising device** is no longer needed for the purpose and in the circumstances in which it was permitted, it must be removed within the period identified on the **permit**.

8 Conditions that will ordinarily be imposed on a permit

The conditions of a **permit** may require:

- (a) the display of the **advertising device** to be generally in accordance with the application submitted to and approved by **Council**;
- (b) that the **advertising device** comply with any safety requirements specified in the **permit**;
- (c) the **advertising device** to be constructed of durable materials and maintained in good condition and repair, free from graffiti at all times;
- (d) the **advertising device** to be removed at the end of a stated period in the **permit**;
- (e) the **advertising device** to be restricted in its dimensions, content or location;
- (f) the **permit holder** to take specific measures to:
 - (i) prevent the loss of amenity or nuisance resulting from the installation, erection or display of the **advertising device**; and
 - (ii) ensure that the installation, erection or display of the **advertising device** does not cause unsafe movement or obstruction of pedestrian or vehicular traffic;
- (g) The **permit holder** is to:
 - (i) take out public liability insurance in the amount, commensurate with risk, nominated by **Council** and to name **Council** as an interested party on the policy; and
 - (ii) indemnify **Council** against claims for personal injury (including death) and damage to property (including economic loss) arising by, through, or in connection, with an **advertising device**.

Part 3 Prohibited advertising devices

9 Prohibited advertising devices

- (1) The following types of **advertising devices** are prohibited:
- (a) an **advertising device** that has a **beacon light** or a revolving or flashing light, but does not include electronic scrolling words or video imaging signs, and excludes emergency vehicles or other emergency devices authorised under a State Act;
 - (b) an **advertising device** affixed to, placed upon, or beside, a vehicle, apparently stopped on local government controlled area for the primary purpose of displaying the **advertising device**, but does not include:
 - (i) where the **advertising device** is permitted as an associated activity pursuant to a current local law permit for a **prescribed activity**;
 - (ii) where the advertisement is painted or affixed to a vehicle, and does not extend beyond the dimensions of the vehicle; or
For example – company logo painted on the panels of a company motor vehicle.
 - (iii) where the **advertising device** is affixed to the vehicle and projects from a vehicle and is authorised under a State Act.
*For example – an **advertising device** that is affixed to the roof of a taxi and projects above the roof.*
 - (c) aerial **advertising devices**; and
 - (d) **moveable advertising device**, that advertises goods or services of a commercial business, , if the **advertising device** is located on any local government controlled area or **road**, and exceeding more than one (1) device for each shop or business fronting a road.
- (2) It is an offence to install, erect or display a prohibited **advertising device**.
Maximum penalty – 50 penalty units.

Part 4 Advertising devices not requiring a permit

10 Type of advertising devices that do not require a permit

- (1) The following **advertising devices** do not require a permit:
- (a) the installation, erection or display of an **advertising device** that is visible from a **road** or other public place in accordance with section 11 below;
 - (b) the installation, erection or display of the **advertising device** by, or on behalf of, the local government including a **public information advertising device** and an **official advertising device**; or
 - (c) an **advertising device** assessed under the planning scheme.

- (2) With reference to Table 10.10, an **advertising device** identified in Column 1 by reference to its physical elements or an **advertising device** identified in Column 3 by reference to its purpose as assessed under the **planning scheme** in Column 2 or Column 4 respectively, must be assessed under the **planning scheme**.
- (3) All other **advertising devices** not assessed under the **planning scheme** are subject to this local law.

Table 10.10			
Column 1 Physical elements	Column 2 Assessed under	Column 3 Purpose	Column 4 Assessed under
Free-standing advertising device	Local law	Election advertising device	Local law
Illuminated advertising device	planning scheme	Estate entrance advertising device	planning scheme
Moveable advertising device	Local law	Home based business advertising device	planning scheme
Projecting advertising device	Local law	Off-premises advertising device	planning scheme
Pylon advertising device	planning scheme	On-premises advertising device	Local law
Under awning advertising device	Local law	Temporary advertising device	Local law
An advertising area of 6m x 3m or greater	planning scheme		
If requiring an approval as a Class 10b structure	planning scheme		

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11 Requirements for advertising devices without a permit

- (1) An **advertising device** identified in column 1 does not require a **permit** if installed, erected and displayed in accordance with the requirements in column 2.

Table 10.11	
Column 1	Column 2
Advertising device	Requirements
<p>All advertising devices including under awning advertising devices, projecting advertising devices and on-premises advertising devices</p>	<ul style="list-style-type: none"> (1) the activity being advertised on the advertising device must be able to be lawfully conducted on the relevant premises. (2) must be consistent with the character of the surrounding area and reflect the architecture and style of any buildings on the premises. (3) must not emit excessive glare or reflection. (4) must not be fixed to any tree, lighting standard, power pole or other infrastructure on any local government controlled area. (5) must not be exhibited upon or over a road or any land or public place controlled by Council, other than a footpath, (with the exception of election advertising devices, moveable advertising devices or temporary advertising devices, or other advertising devices exhibited in accordance with the prescribed parameters below. (6) where displayed on a local government controlled area or road, must not obstruct pedestrian movement or other uses of the area where the advertising device is being displayed; (7) if in an overhead position, must be located at least 2.4m above the ground level immediately below it. (8) must be fixed, maintained or removed so as not to endanger public safety. (9) must be safely placed so as not to cause obstruction.

Table 10.11	
Column 1	Column 2
Advertising device	Requirements
Temporary advertising devices	<p>Is a temporary advertising device on a local government controlled area or road, intended to announce an event of a temporary nature, or advertises a private garage sale, that:</p> <ul style="list-style-type: none"> (a) is displayed for 14 consecutive days or less, within any 90 day period prior to the event advertised on the advertising device; (b) is removed within 7 days after the event; (c) is not illuminated, flashing or revolving; (d) has an advertisement area not exceeding 1m²; (e) is displayed within the vicinity of the event; (f) be not located on a State-controlled road; and (g) do not number more than 8 signs advertising the same event within any 2 kilometre radius.
Temporary advertising device for Real estate	<p>The real estate advertisement must:</p> <ul style="list-style-type: none"> (a) advertise an event for a real estate agency; (b) have an advertisement area no more than 3m²; (c) not be positioned on a road, or building, other than adjacent to the premises being advertised; (d) be limited to one advertisement per street frontage; and (e) not be illuminated, flashing or revolving.
Temporary advertising device for Construction	<p>The construction advertisement must:</p> <ul style="list-style-type: none"> (a) contain only project details and real estate information; (a) only be exhibited during the period of construction; (b) not be greater than 2m in height; and (c) not be positioned on a road or building other than adjacent to the premises with the construction works.

Table 10.11	
Column 1	Column 2
Advertising device	Requirements
Advertising device for Road-side stall signs	Road-side stall sign must: <ul style="list-style-type: none"> (a) not be adjacent to a residential property; (b) be no larger than 1m² in face area; (c) not number more than 1 signs per stall; and (d) otherwise in accordance with a permit for the road-side vending.
Election advertising device	The election advertising device <ul style="list-style-type: none"> (a) area must not exceed 1m²; (b) must not be erected prior to an election date being announced for a Local, State or Federal election; (c) must not be erected earlier than 3 months before a local government election; (d) must be removed within seven (7) days after an election; (e) must not be attached to local government infrastructure or sign; and (f) must not be situated on the paved area of the road or on a traffic island.

- (2) The installation, erection and display must not be likely to:
- (a) harm public health and safety;
 - (b) cause property damage to public infrastructure;
 - (c) cause a nuisance;
 - (d) cause the distraction of pedestrian or vehicular traffic;
 - (e) obscure a motorists view that affects safe driving, particularly when an advertisement is proposed to be located on or near a street corner, intersection, medium strip or round-about;
 - (f) cause environmental harm;
 - (g) be a detrimental impact on the amenity of the area;
 - (h) cause the unreasonable obstruction of an existing view or vista; or
- (3) The installation, erection or display must;

- (a) be kept and maintained at all times in good order and free from graffiti; and
- (b) be structurally sound.

Part 5 Removal of advertising devices

12 Immediate removal of advertising device

- (1) **Council** may remove and dispose of an **advertising device** without notice to the owner, if:
 - (a) an **advertising device** is exhibited in contravention of this local law or a condition imposed under this local law and there are, in the opinion of an **authorised person**, adequate reasons for removing the **advertising device** immediately; or
 - (b) an **advertising device** creates, in the opinion of the **authorised person**, an immediate risk to life or property.
- (2) An adequate reason would include where the **advertising device** is offensive in nature or there is a flagrant disregard for this local law.

13 Remedy, repair or removal of advertising device

- (1) This section applies where an **authorised person** forms the opinion that an **advertising device** is:
 - (a) not in good order;
 - (b) in need of repair;
 - (c) unsightly;
 - (d) not permitted;
 - (e) prohibited;
 - (f) do not comply with terms of a **permit**;
 - (g) is otherwise unsafe or will cause safety issues; or
 - (h) does not otherwise comply with the local law.
- (2) The **authorised person** may, by **compliance notice**, given to the **responsible person** for the **advertising device**, require the **responsible person** to:
 - (a) repair it;
 - (b) make it in good order;
 - (c) remove it;
 - (d) make an application for a **permit** or approval under the **planning scheme** within a specified time; or
 - (e) a combination of paragraphs (a) to (d).

CERTIFICATION

This and the preceding 10 pages bearing my initials is a certified copy of Cassowary Coast Regional Council *Local Law No. 10 (Advertising Devices) 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