



**Cassowary Coast Regional Council
Local Law No. 6 (Bathing Reserves and Foreshores) 2022**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 6 (Bathing Reserves and Foreshores) 2022*.

2 Purpose

- (1) The purpose of this local law is to enhance the public safety and convenience of bathing reserves and **foreshores** placed under the **Council's** control through orderly management and regulation of activities within these reserves.
- (2) The purpose is achieved by providing for:
 - (a) the designation and management of safe, supervised bathing areas within bathing reserves and **foreshores**;
 - (b) the regulation of conduct and the use of **aquatic equipment** within bathing reserves and **foreshores**;
 - (c) the assignment of responsibility to life-saving clubs for managing, patrolling and supervising bathing reserves and **foreshores**;
 - (d) offences to enforce compliance with the purpose; and
 - (e) the appointment and powers of **authorised persons** to manage and enforce the regulation of conduct within bathing reserves and **foreshores**.

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 Chapter 3 of the **LGA**; and
- (c) otherwise in addition to, and does not derogate from, laws regulating land use planning.

4 Area of application

The area of application is identified in Schedule 1 of *Subordinate Local Law No. 6 (Bathing Reserves and Foreshores) 2022*.

Part 2 Bathing reserves, foreshore reserves and bathing areas

5 Official signs indicating existence of reserve

- (1) In areas where the **Council** proposes to regulate the use of a reserve under this local law, the **Council** must erect and maintain official signs in prominent positions on or adjacent to the **foreshore** to indicate the existence of the reserve.
- (2) **official signs** must be erected at the lateral boundaries of the area to be regulated.
- (3) The **official signs** must face both seawards and shoreward.

6 Bathing areas

- (1) An **authorised person** may mark out a bathing area within a reserve.
- (2) The area selected as a bathing area must be the part of the reserve that is, in the **authorised person's** opinion, the safest and most suitable for bathing in view of the prevailing conditions.
- (3) The bathing area is marked out by placing 2 patrol flags at different points on or adjacent to the **foreshore**.
- (4) The bathing area consists of the area defined by:
 - (a) an imaginary line between the 2 patrol flags;
 - (b) lateral boundaries extending seaward from each patrol flag at right angles from the imaginary line;
 - (c) an outer boundary parallel to, and 200 meters to the seaward side of, the imaginary line or the seaward distance from the seashore identified in each bathing reserve for the particular area; and
 - (d) where the boundary of the reserve is less than 200 meters to the seaward side of an imaginary line between the 2 patrol flags, then the boundary of the bathing area shall be the outer boundary of the reserve.
- (5) An **authorised person** may, in view of prevailing conditions, change the boundaries of a bathing area by changing the position of the patrol flags.
- (6) Patrol flags must not be exhibited if the bathing area is not under surveillance by a life-saving patrol.

7 Flags to inform bathers about prevailing conditions

- (1) This section applies if:
 - (a) an **authorised person** has marked out a bathing area under section 6; and
 - (b) in the **authorised person's** opinion, there are potentially hazardous conditions prevailing within the bathing area.

- (2) The **authorised person** must exhibit in a prominent position on or adjacent to the **foreshore** a yellow flag warning bathers of the potentially hazardous conditions.

8 Closure of bathing reserve

- (1) An **authorised person** may close a reserve or part of a reserve to bathing by erecting a red flag in a prominent position on or adjacent to the **foreshore**.

Example: The authorised person may close the bathing reserve if the prevailing conditions pose a risk to the lives of members of the public bathing in the reserve.

- (2) If patrol flags marking out a bathing area have been placed in position, the patrol flags must be removed on closure of the reserve or a part of the reserve in which the bathing area is situated.
- (3) A person must not bathe in a reserve or part of a reserve while the reserve or the relevant part of the reserve is closed to bathing.

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

- (4) Where a **permit** for a **prescribed activity** permits restrictions on access to any part of a reserve, the area set apart for the activity and the restrictions applying to access must be clearly indicated by **official signs** erected in prominent positions on the reserve.
- (5) A person must not contravene a restriction on access imposed under subsection (4).

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

Part 3 Reservation for training, competitions and special occasions

9 Reservation for life-saving training

- (1) An **authorised person** may:
 - (a) temporarily set apart the whole or a part of a reserve for life-saving training; and
 - (b) impose restrictions on access to the area set apart.
- (2) An **authorised person** may not set apart any part of a reserve for life-saving training exclusively, without a **prescribed activity permit** under this local law.
- (3) An area set apart under this section, and the restrictions applying to access, must be clearly indicated by signs erected in prominent positions on the reserve.

Part 4 Exclusive use activity

10 Prescribed activity

- (1) It is a **category 1 activity** to:
 - (a) set apart a reserve or a part of a reserve or **foreshore** for life-saving training on an exclusive basis; or
 - (b) use any part of a reserve or foreshore for the conduct of a surfing competition, a life-saving competition or another aquatic 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 6.10: Use of a Reserve or Foreshore](#).

11 Activities that do not require permit

Nil.

12 Additional criteria for the granting of permit

The **Council** will only grant a **permit** if:

- (a) the activity is appropriate in the reserve or **foreshore**; and
- (b) the facilities in the reserve or **foreshore** are adequate for the activity proposed in the application.

13 Conditions that must be imposed on a permit

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

- (a) prior to commencing the activity, the **permit holder** must:
 - (i) sign and return to **Council** a deed in a form prescribed by the **Council** indemnifying the **Council** in respect of any loss, damage, actions, claims or demands which may be incurred by the **Council** directly or indirectly through the granting of this **permit** or carrying out of the permitted activity;
 - (ii) take out and maintain a current public liability insurance policy in the name of the **permit holder**, noting the **Council** as an interested party, in the amount of \$20,000,000.00 per any one claim or such sum as determined by the **Council** from time to time and otherwise in a form satisfactory to the **Council**; and
 - (iii) ensure that the public liability insurance policy covers claims which may arise against the **Council** or the **permit holder** for personal injury and property damage resulting from the conduct of the activity; and that the policy is submitted to the **Council** for its prior consent.
- (b) where applicable a Certificate of Company Registration must be submitted to **Council** within 14 days from the date the **permit** is granted;

- (c) the activity must:
 - (i) only be carried out in the location specified in the **permit**; and
 - (ii) adhere to safety standards;
- (d) the **permit holder** must:
 - (i) adopt **best practice management** for the activity; and
 - (ii) comply with all reasonable directions of an **authorised person** in the time specified by the **authorised person**;
- (e) ensure that all areas used are left in a clean and tidy condition and litter is collected and lawfully disposed at a **Council waste facility**;
- (f) the **permit** does not provide the **permit holder** with any ongoing exclusive rights to undertake the activity at the approved sites;
- (g) the activity must only be conducted during the hours specified in the **permit**;
- (h) only approved equipment is to be used with the activity;
- (i) all reasonable and practicable steps are to be used to ensure that staff and customers access the permitted activity area by the designated access and egress points; and
- (j) the **permit holder** must comply with all reasonable directions given by the local government or an **authorised person** regarding the use of any **roads**, jetties, **foreshores** or other means of accessing the permitted activity area.

Part 5 Use of aquatic equipment in reserves

14 Prohibition of use of aquatic equipment in bathing areas

- (1) A person must not use **aquatic equipment** in a bathing area.
Maximum penalty for subsection (1)—20 penalty units.
- (2) However:
 - (a) this section does not prevent the use of **aquatic equipment** if its use at a place within a reserve is authorised under another law;
 - (b) a rubber float or board that does not give rise to risk of injury to other bathers may be used in a bathing area;
 - (c) if an **authorised person** authorises the use of other **aquatic equipment** in a bathing area, the equipment may be used subject to conditions fixed by the **authorised person** when giving the authorisation, with any such conditions relating to the safe use of the **aquatic equipment**, and the purpose for which the **aquatic equipment** is required; and

- (d) life-saving equipment may be used in a bathing area by members of a life-saving patrol for surveillance of the bathing area or to assist bathers in distress.

15 Prohibition and restrictions on use of aquatic equipment in reserves

- (1) The **aquatic equipment** identified in Column 2 of Schedule 2 of *Subordinate Local Law No. 6 (Bathing Reserves and Foreshores) 2022* is prohibited within a reserve or a particular part of a reserve identified in Column 1 of Schedule 2.
- (2) Notice of a prohibition imposed under subsection (1) must be included on the **official signs**.
- (3) The **aquatic equipment** identified in Column 2 of Schedule 3 of *Subordinate Local Law No. 6 (Bathing Reserves and Foreshores) 2022* is restricted within a reserve or a particular part of a reserve to the extent indicated in Column 3 of Schedule 3 in the area identified in Column 1 of Schedule 3.
- (4) Notice of a restriction imposed under subsection (3) must be included on the **official signs** or on notices adjacent to the **official signs**.
- (5) A person must not use **aquatic equipment** in contravention of a prohibition or restriction imposed under this section unless authorised to do so by an **authorised person** under section 16, or authorised under another law.

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

16 Reservation of areas for use of aquatic equipment

- (1) An **authorised person** may temporarily set apart a particular part of a reserve or **foreshore** for the use of **aquatic equipment** of a particular type.
- (2) A part of the reserve or **foreshore** set apart under this section must be defined by signs and flags or in some other way that clearly indicates the relevant part of the reserve and the use for which it is set apart.
- (3) If a part of a reserve or **foreshore** is set apart for the use of **aquatic equipment** of a particular type under this section, a person must not:
 - (a) use **aquatic equipment** of the relevant type in the reserve or **foreshore** outside the part of the reserve or **foreshore** set apart for its use; or
 - (b) use **aquatic equipment**, in the relevant part of the reserve or **foreshore**, that is not of the type for which the relevant part of the reserve is set apart.

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

Part 6 Behaviour in reserves

17 Dangerous objects

- (1) A person must not bring an item of **aquatic equipment** or other object into a reserve or **foreshore**, or use **aquatic equipment** or anything else in a reserve, if the item or object is dangerous.
Maximum penalty for subsection (1)—20 penalty units.
- (2) This section does not apply to life-saving equipment used by members of a life-saving patrol for surveillance of the reserve or to assist bathers in distress.

18 Prohibited equipment

- (1) A person must not have prohibited equipment in a bathing reserve or **foreshore**.
Maximum penalty for subsection (1)—20 penalty units.
- (2) In this section:
prohibited equipment means:
 - (a) a spear gun;
 - (b) a fishing spear; and
 - (c) glassware.

19 Dangerous conduct

A person must not use **aquatic equipment** or anything else in a reserve or **foreshore** in a way that creates a risk to the safety of others.
Maximum penalty—20 penalty units.

20 Emergency evacuation alarm

- (1) If an emergency evacuation alarm is given, a person within a reserve:
 - (a) must leave the water as soon as practicable; and
 - (b) must not enter or re-enter the water until the all-clear is given.Maximum penalty for subsection (1)—20 penalty units.
- (2) An emergency evacuation alarm is given by:
 - (a) the prolonged ringing of a bell or sounding of a siren; and
 - (b) the exhibition of a red flag.
- (3) The all-clear is given by:
 - (a) a short ringing of the bell or sounding of the siren; and
 - (b) the replacement of the red flag by a yellow flag.
- (4) An emergency evacuation and the all-clear may also be given in ways recognised by Surf Life Saving Queensland.

Example:

The emergency evacuation alarm may be given by holding up a red and white quartered flag and the all-clear may be given by taking down the flag when the danger has passed.

21 False alarms

A person must not, without the authority of an **authorised person**:

- (a) give an emergency evacuation alarm or do anything likely to be reasonably interpreted as an emergency evacuation alarm; or
- (b) give the all-clear after an emergency evacuation alarm or do anything likely to be reasonably interpreted as the all-clear after an emergency evacuation alarm.

Maximum penalty for subsection 21 - 50 penalty units.

Part 7 Life-saving clubs and authorised persons

22 Recognised life-saving clubs

- (1) The **Council** may, after consultation with interested life-saving clubs, assign to a life-saving club the responsibility for patrolling a bathing reserve, **foreshore** or a particular part of a reserve.
- (2) The responsibility:
 - (a) may be assigned on conditions the **Council** considers appropriate; and
 - (b) may only be assigned with the agreement of the club to which the responsibility is assigned.

23 Enclosure for life-saving patrols

- (1) A recognised life-saving club may make Application on [Approved Form 6.23: Exclusive Use Life Saving Club Area](#);
- (2) The **Council** may give written approval to enclose a part of a reserve or foreshore for the exclusive use of members of life-saving patrols subject to conditions.

24 Distinctive clothing

A member of a life-saving patrol must wear a distinctive uniform appropriate to the member's rank in a design approved by Surf Life Saving Queensland.

25 Power to remove or reduce danger

- (1) If a person brings a dangerous object or dangerous item of **aquatic equipment** onto a reserve or foreshore, an **authorised person** may direct the person to take specified action to remove or reduce the danger posed by the object or item.

Example:

If a person brings a beach umbrella onto a bathing reserve and the umbrella appears likely to blow away, an authorised person might direct the person to take specified action to secure the umbrella.

- (2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—20 penalty units.

26 Power to stop dangerous and antisocial conduct

- (1) If a person behaves in a reserve in a way that endangers the safety of the person or someone else, or causes a nuisance to someone else, an **authorised person** may direct the person to stop the behaviour.

- (2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—20 penalty units.

27 Power to require bathers to leave water

- (1) An **authorised person** may give a direction to a bather to leave the water if:

- (a) the reserve or **foreshore** or the relevant part of the reserve or **foreshore**, is closed to bathing;
- (b) an emergency evacuation alarm has been given; or
- (c) there is some other risk to the bather's safety.

- (2) A person must comply with a direction under this section.

Maximum penalty for subsection (2)—20 penalty units.

28 Seizure and detention of dangerous objects and prohibited equipment

- (1) This section applies if, in a reserve or **foreshore**, a person:

- (a) possesses, uses or has used a dangerous object or dangerous item of **aquatic equipment**;
- (b) uses or has used an object in a dangerous way; or
- (c) has prohibited equipment.

- (2) An **authorised person** may seize the object, item or equipment (the seized thing).

- (3) The **authorised person** must give the person from whom the seized thing is taken a receipt:

- (a) stating the nature of the seized thing;
- (b) stating the date and time of seizure;
- (c) stating a period (which must be at least 1 hour and not more than 6 months) for which the seized thing is to be detained; and
- (d) stating a place where the seized thing may be reclaimed.

- (4) The seized thing must, if not reclaimed on the day on which it was seized, be delivered into the custody of the **Council** or the life-saving club of which the **authorised person** is a member.
- (5) The **Council** or the relevant life-saving club must take all reasonable measures to ensure the safe custody of the seized thing.
- (6) At the conclusion of the period fixed for its detention under subsection (3)(c), if the seized thing is in the custody of a life-saving club it must be delivered into the custody of the **Council**.
- (7) At the conclusion of the period fixed for its detention under subsection (3)(c), the seized thing must be dealt with by the **Council** as an impounded item under *Local Law No.1 (Administration) 2022* section 50.

Part 8 Miscellaneous

29 Compliance with Australian standards

- (1) The flags and signs to be used for the purposes of this local law should comply with any relevant Australian Standard issued or approved by the Standards Association of Australia.
- (2) However, non-compliance with an applicable standard does not invalidate anything done under this local law.

30 Obstruction of authorised persons and life-savers

- (1) A person must not obstruct an **authorised person** or a member of a life-saving patrol in the conduct of their duties.
Maximum penalty for subsection (1)—50 penalty units.
- (2) A person must not use insulting or abusive language to an **authorised person** or a member of a life-saving patrol.
Maximum penalty for subsection (2)—20 penalty units.

31 Interference with flags and life-saving equipment

- (1) A person must not, without the approval of an **authorised person**, damage, destroy or interfere with a sign or flag erected or placed under this local law.
Maximum penalty for subsection (1)—50 penalty units.
- (2) A person must not, without the approval of an **authorised person**, interfere with life-saving equipment on a reserve.
Maximum penalty for subsection (2)—50 penalty units.

32 Subordinate local laws

The **Council** may make subordinate local laws:

- (a) to identify the bathing reserves and **foreshore** reserves to which this local law applies; and

- (b) to prohibit or restrict the use of **aquatic equipment** in bathing reserves and **foreshore** reserves

CERTIFICATION

This and the preceding 11 pages bearing my initials is a certified copy of Cassowary Coast Regional Council *Local Law No. 6 (Bathing Reserves and Foreshores) 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