



# **Noosa Shire Council**

## **Local Law No 4**

### **(Local Government Controlled Areas, Facilities and Roads) 2015**

# Noosa Shire Council Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2015

## Contents

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<b>Part 1</b>	<b>Preliminary.....</b>	<b>3</b>
	1 Short title.....	3
	2 Purpose and how it is to be achieved.....	3
	3 Definitions—the dictionary.....	3
	4 Relationship with other laws.....	3
<b>Part 2</b>	<b>Use of local government controlled areas, facilities and roads.....</b>	<b>4</b>
	5 Prohibited and restricted activities.....	4
	6 Motor vehicle access to local government controlled areas.....	4
	7 Opening hours of local government controlled areas.....	5
	8 Power of closure of local government controlled areas.....	6
<b>Part 3</b>	<b>Matters affecting roads.....</b>	<b>7</b>
	9 Power to require owner of land adjoining road to fence land.....	7
	10 Numbering of premises and allotments adjoining a road.....	8
<b>Part 3A</b>	<b>Protection of vegetation.....</b>	<b>8</b>
	10A Protection of vegetation on local government controlled areas and roads.....	8
<b>Part 4</b>	<b>Miscellaneous.....</b>	<b>9</b>
	11 Subordinate local laws.....	9
<b>Schedule</b>	<b>Dictionary.....</b>	<b>10</b>



## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Noosa Shire Council Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2015*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to—
  - (a) protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads; and
  - (b) preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads.
- (2) The purpose is to be achieved by providing for—
  - (a) the regulation of access to local government controlled areas; and
  - (b) the prohibition or restriction of particular activities on local government controlled areas or roads; and
  - (c) miscellaneous matters affecting roads.

### 3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

### 4 Relationship with other laws<sup>1</sup>

This local law is—

- (a) in addition to and does not derogate from laws<sup>2</sup> regulating the use of trust land and roads; and
- (b) is to be read with *Local Law No. 1 (Administration) 2015*.

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<sup>1</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

<sup>2</sup> Other legislation that may be relevant in the application of this local law includes the *Land Act 1994*, the *Land Regulation 1995* and the *Land Protection (Pest and Stock Route Management) Act 2002*.



## Part 2 Use of local government controlled areas, facilities and roads<sup>3</sup>

### 5 Prohibited and restricted activities

- (1) The local government may, by subordinate local law, declare an activity to be—
  - (a) prohibited in a local government controlled area or road (a ***prohibited activity***); or
  - (b) restricted in a local government controlled area or road (a ***restricted activity***).

*Example for paragraph (a)—*

The local government may declare that the lighting of fires is a prohibited activity in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

*Example for paragraph (b)-*

The local government may declare that the playing of sport generally, or the playing of certain sports, is a restricted activity in that it is restricted to particular times of the day, week, month or year in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

- (2) The local government must take reasonable steps to provide notice to members of the public regarding restricted activities declared for local government controlled areas or roads.
- (3) In this section—

***reasonable steps*** may include the display of a notice at a prominent place within each local government controlled area for which a declaration under subsection (1) has been made, stating—

  - (a) if the declaration relates to the whole area—the restricted activities for the area; and
  - (b) if the declaration relates to a part of the area—the restricted activities and a description of the part of the area to which the declaration applies; and
  - (c) in general terms, the provisions of subsection (4).
- (4) A person must not engage in a prohibited activity or a restricted activity.

Maximum penalty - 20 penalty units

### 6 Motor vehicle access to local government controlled areas

- (1) A ***motor vehicle access area*** is an area within a local government controlled area that is—

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<sup>3</sup> Local Law No. 1 (Administration) 2015 deals with activities on local government controlled areas and roads that require the local government's approval, such as commercial use of local government controlled areas and roads, alterations or improvements to local government controlled areas, and other miscellaneous regulated activities.



- (a) a car park or roadway for which there is no sign or traffic control device indicating that vehicles owned by members of the public are excluded; or
  - (b) declared under a subordinate local law for this paragraph as a motor vehicle access area.
- (2) For the purposes of *Local Law No.1 (Administration) 2015*, section 5(b), it is a prescribed activity<sup>4</sup> to bring a motor vehicle onto or drive a motor vehicle on any part of a local government controlled area that is not a motor vehicle access area.
- (3) The local government may, by subordinate local law, declare a specific type of motor vehicle (a ***prohibited vehicle***) as prohibited in a specified motor vehicle access area.
- (4) For the purposes of *Local Law No.1 (Administration) 2015*, section 5(b), it is a prescribed activity<sup>5</sup> to bring a prohibited vehicle onto or drive a prohibited vehicle on the specified motor vehicle access area.
- (5) However, subsections (2) and (4) do not apply for an emergency vehicle.
- (6) The local government must take reasonable steps to provide notice to members of the public regarding—
  - (a) declarations of motor vehicle access areas under subsection (1)(b); and
  - (b) declarations of prohibited vehicles under subsection (3).
- (7) In this section—

***emergency vehicle*** includes the following—

  - (a) an ambulance;
  - (b) a fire-engine;
  - (c) a police vehicle;
  - (d) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.

***reasonable steps*** include, as a minimum, the display of a notice at a prominent place within each declared motor vehicle access area stating—

  - (a) a description of the declared motor vehicle access area; and
  - (b) a description of prohibited vehicles for the area; and
  - (c) in general terms, the provisions of subsections (2) and (4).

## 7 Opening hours of local government controlled areas

- (1) The local government may, by subordinate local law, declare the times when a local government controlled area is open to the public (the ***opening hours***).
- (2) A person must not enter or remain in a local government controlled area outside

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<sup>4</sup> *Local Law No.1 (Administration) 2015*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

<sup>5</sup> See footnote 3.



the opening hours unless the person is authorised to do so by the chief executive officer<sup>6</sup>.

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

- (3) If the local government declares the opening hours for a local government controlled area under subsection (1), it must place a notice showing the opening hours at each public entrance to the area.

## **8 Power of closure of local government controlled areas**

- (1) The local government may, by resolution, temporarily close a local government controlled area to public access—
- (a) to carry out construction, maintenance, repair or restoration work; or
  - (b) to protect the health and safety of a person or the security of a person's property; or
  - (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 local government as soon as practicable after the local government becomes satisfied that the reason for making the resolution no longer exists.
- (3) The local government may, by subordinate local law, permanently close a local government controlled area 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; or
    - (ii) to enable the restoration or rehabilitation of the area; or
    - (iii) to protect a breeding area for native wildlife; or
    - (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;
  - (e) the orderly or proper management of the area.

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<sup>6</sup> See definition of *chief executive officer* in the Act, schedule 4.





- (4) If the local government closes a local government controlled area under subsections (1) or (3), it must place at each public entrance to the area a notice of the closure, including a statement of the duration of the closure.

*Example—*

If the local government closes an area that is part of a wider local government controlled area, it must place notices at each public entrance to the closed area.

- (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.

- (6) In this section—

*significant Aboriginal area* see the *Aboriginal Cultural Heritage Act 2003*, section 9.

*significant Torres Strait Islander area* see the *Torres Strait Islander Cultural Heritage Act 2003*, section 9.

## Part 3 Matters affecting roads

### 9 Power to require owner of land adjoining road to fence land

- (1) This section applies if, in the local government's opinion, it is necessary for land adjoining a road to be fenced to prevent the risk of—
- (a) animals escaping from the land onto the road; or
  - (b) interference with the safe movement of traffic or the safe use of the road.
- (2) The local government may, by giving a compliance notice<sup>7</sup> to the owner—
- (a) if the land is not currently fenced—require the owner to fence the land; or
  - (b) if a current fence on the land is in disrepair—require the owner to repair or replace the fence.
- (3) The local government may, by subordinate local law, set out the minimum standards with which the fence must comply.
- (4) In this section—

*animal* does not include a native animal, feral animal or pest animal.

*feral animal* see *Animal Care and Protection Act 2001*, section 42.

*pest animal* see *Animal Care and Protection Act 2001*, section 42.

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<sup>7</sup> See *Local Law No.1 (Administration) 2015*, section 27, regarding the requirements for compliance notices.



## 10 Numbering of premises and allotments adjoining a road<sup>8</sup>

- (1) An owner of land must not adopt a number for a building or allotment that is inconsistent with a numbering system adopted by the local government under this section.

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

- (2) An owner of land (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.

## Part 3A Protection of vegetation

### 10A Protection of vegetation on local government controlled areas and roads

- (1) A person must not, without lawful excuse, interfere with vegetation on a local government controlled area or road.

Maximum penalty for subsection (1) — 850 penalty units.

- (2) However, subsection (1) does not apply if the person is—

- (a) an employee of the local government acting in the course of the employee's duties; or
- (b) authorised by the local government to interfere with the vegetation.

*Example for paragraph (a)—*

A local government employee engaged in pruning or trimming trees or removing dead or damaged vegetation from a local government controlled area or a road.

*Example for paragraph (b) —*

A member of a community group who is authorised by the local government to undertake weed clearing in a local government controlled area.

- (3) If a person is convicted of an offence against subsection (1), the court in which the conviction is made shall have jurisdiction to make an order, in addition to the imposition of a punishment for the conviction, requiring the person to pay to the local government —

- (a) an amount to compensate the community for the value of the vegetation interfered with as if the value of the vegetation was a debt; and
- (b) the amount of any cost or expense incurred, or to be incurred, by the local government in rectifying the damage caused by the person's interference with the vegetation.

*Example for paragraph (b) — the local government may incur costs and expenses in rectifying damage caused by a person's interference with vegetation, including —*

- Revegetating the area at which the interference with the vegetation occurred to the same state as before the vegetation was interfered with.
- Installing a screen to protect vegetation planted by the local government to replace vegetation interfered with by the person.

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<sup>8</sup> See the Act, section 60, regarding control of roads by a local government.





- (4) Subsection (3) does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.
- (5) In this section, *interfere*, with vegetation, means to engage in any activity damaging or leading to the death, disfigurement or mutilation of the vegetation, and includes any of the following —
- (a) the poisoning (including by contamination) of the vegetation;
  - (b) the spilling of oil, petroleum, paint, cement, mortar or other deleterious substances onto the root zone of the vegetation;
  - (c) the cutting or tearing of branches or roots of the vegetation other than in the course of pruning permitted under this local law;
  - (d) the ringbarking of the vegetation;
  - (e) the scar barking of the vegetation;
  - (f) the fixing of any object into living tissue, or surrounding bark, of the vegetation;
  - (g) the damaging of the root zone of the vegetation by compaction, excavation or filling;
  - (h) the uprooting or displacing of the vegetation;
  - (i) the effecting of any hydrological scheme which causes the drainage or flooding of the vegetation;
  - (j) the burning, scorching, singeing, or damaging, by radiant heat, of the vegetation.

## Part 4                      Miscellaneous

### 11 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the declaration of prohibited activities or restricted activities;<sup>9</sup> or
- (b) the declaration of motor vehicle access areas;<sup>10</sup> or
- (c) the declaration of prohibited vehicles;<sup>11</sup> or
- (d) the opening hours for a local government controlled area;<sup>12</sup> or
- (e) closing a local government controlled area to public access;<sup>13</sup> or
- (f) minimum standards for fences on land adjoining a road.<sup>14</sup>

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<sup>9</sup> See section 5(1).

<sup>10</sup> See section 6(1).

<sup>11</sup> See section 6(3).

<sup>12</sup> See section 7(1).

<sup>13</sup> See section 8(3).

<sup>14</sup> See section 9(3).



## Schedule Dictionary

### Section 3

**local government controlled area** see *Local Law No.1 (Administration) 2015*, schedule 1.

**road** see *Local Law No.1 (Administration) 2015*, schedule 1.

#### CERTIFICATION

This and the preceding 9 pages bearing my initials is a certified copy of the consolidated version of *Noosa Shire Council Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2015* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Noosa Shire Council by resolution dated the 16<sup>th</sup> day of August 2018.

  
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Chief Executive Officer

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