



**Local Laws Review**

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**Iconic Queensland Place of Douglas  
- Iconic Values Impact Report**

# Iconic Queensland Place of Douglas - Iconic Values Impact Report

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## 1. Background

Cairns Regional Council is required by the Local Government Reform Implementation Regulation 2008 and the Local Government Act 2009 to prepare new local laws for the merged local government area.

Council has chosen to utilise the suite of Model Local Laws. In accordance with section 26 (7) of the Local Government Act the Model Local Laws are approved and gazetted by the minister as a Local Law suitable for adoption by all local governments. The new local laws will supersede the current Local Laws.

Some of Council's current Local Laws have been declared under the *Iconic Queensland Places Act 2008* as Local Laws that protect the Iconic Values for the declared Iconic Queensland Place of Douglas.

The following declared Local Laws will be repealed during the Local Laws review:

Local law No. 8	Commercial Recreation Activities;
Local law No. 9	Foreshores;
Local law No. 18	Parks and Reserves;
Local law No. 30	Ferries;
Local law No. 32	Jetties, Barge Loading Rams and Boat Ramps;
Local law No. 34	Tramways;
Local law No. 35	Bridges;
Local law No. 44	Port Douglas Boat Harbour;
Local law No. 56	Vegetation Management; and
Local law No. 59	Commercial Use of Roads.

Pursuant to section 61 of the *Iconic Queensland Places Act 2008*, this report is required. The purpose of the report is to evaluate the effect repealing the above mentioned local laws and replacing them with the Model Local Laws will have on the Iconic Values of the Iconic Queensland Place of Douglas.

With the exception of Local Law No. 56, the requirements of the above Local Laws are generally transferred across to the Model LL's / subordinate LL's. The provisions of the Local Government Act prevent a new Local law being made about a development process. As vegetation management is a development process (operational work) its regulation can not be dealt under a Local Law. Vegetation management is intended to be regulated through a Temporary Local Planning Instrument, as an interim measure prior to the adoption of a new planning scheme. The rescission of Local Law 56 is addressed under a separate Iconic Impact Assessment and will not be further addressed within this assessment.

## 2. Declaration and Supporting Information

In 2008, the State Government introduced a number of reforms in local government, including amalgamations significantly reducing the number of Councils state-wide. Prior to the formalisation of amalgamations, Councils including the former Douglas Shire and Noosa Shires sought assurances from the Government that protections enshrined in planning schemes and policies developed with community input would not be undermined via the amalgamation process.

In response to these submissions, the State Government in February 2008 presented the *Iconic Queensland Places Bill 2008*. The Bill, debated in Parliament on 12, 27 and 28 February 2011, was:

*"an important measure in protecting the characteristics and qualities which contribute to Queensland's iconic status. Queensland is renowned for its character and beauty, and it is a priority of this government to ensure that Queensland's distinctive characteristics will remain for future generations."*<sup>1</sup>

In regard to the declaration of Local Laws as 'Iconic' for the purposes of the proposed legislation, it was noted that:

*"local laws that are considered to contribute to the iconic nature of the area are identified. To ensure that the iconic values that are protected by those local laws are considered in further local law development, the bill modifies the requirements for changing or extending those identified local laws. If changes are proposed to those local laws, the local government is required to prepare an impact report which evaluates these effects and must consider the effect the changes will have on the place's iconic value."*<sup>2</sup>

In regard to the iconic values protected by declared local laws for the former Douglas Shire Council area, assistance is provided within the Iconic Values Report: Douglas Shire prepared by Planning Far North ('PFN') (March 2008). In providing clarification as to the basis for declaration of the Planning Scheme and various Local Laws as 'Iconic', PFN notes:

*"The local laws deal primarily with process and operational matters. However, many of the local laws identified above, enable Council to control activities which have the potential to detrimentally impact on the Iconic Values of the Shire.*

*Most of the local laws have not been updated in recent times (local law 57, being the exception).*

*The updating of all the local laws, listed above, to include a specific reference to protecting the Iconic Values of the Shire, in the object, is recommended.*

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<sup>1</sup> Per Hon Paul Lucas MP Second Reading Speech (Hansard 12 February 2008, p 65)

<sup>2</sup> Ibid p 66

*While the ten local laws, above, deal with process and operational matters, many of the operational matters have the potential, if not managed properly by Council, to impact on the Iconic Values of the Shire. The implementation of, and adherence to, these local laws by Council and recognition that they can assist in protecting the Iconic Values of the Shire is therefore, important."*

Additional detail in regard to the importance of each Iconic Local Law in the protection of the Iconic Values of the former Douglas Shire is provided within Section 3.1 below.

### **3. Impacts of repealing the Local Laws that Protect the Iconic Values of the Iconic Queensland Place of Douglas and replacing them with Model Local Laws**

The following section evaluates the effect of repealing the existing Local Laws that protect the Iconic Values in the Iconic Queensland Place of Douglas and replacing them with Model Local Laws and Subordinate Local Laws.

#### **3.1 Local Laws that protect the Iconic Values of the Iconic Queensland Place of Douglas that are proposed to be repealed and replaced**

The following Local Laws will be repealed and replaced within the suite of Model Local Laws and Subordinate Local Laws:

Local law No. 8	Commercial Recreation Activities;
Local law No. 9	Foreshores;
Local law No. 18	Parks and Reserves;
Local law No. 30	Ferries;
Local law No. 32	Jetties, Barge Loading Ramps and Boat Ramps;
Local law No. 34	Tramways;
Local law No. 35	Bridges;
Local law No. 44	Port Douglas Boat Harbour; and
Local law No. 59	Commercial Use of Roads.

The following outlines the objectives of the current Local Laws which will be repealed and the provisions within the proposed Model Local Laws and / or Subordinate Local Laws which will replace them.

##### Local law No. 8: Commercial Recreation Activities

The object of the local law is to provide for the regulation of commercial activities on public land within the former Douglas Shire. The local law requires a permit to be obtained prior to the operation of a commercial recreation activity upon Local Government controlled land and also provides for enforcement in the event of non compliance.

As noted within PFN's Report (March 2008), *"foreshores, beaches and waterways contribute to the Iconic Values of the Shire."*

#### Local law No. 9: Foreshores

The purpose of this local law is to regulate behaviours and general conduct within gazetted foreshores. Additionally the local law details prohibited activities on foreshores. All foreshores within the former Douglas Shire Council have been gazetted as being under the control of the governor in Council.

PFN's Report (March 2008) confirms that *"foreshore areas contribute to the Iconic Values of the Shire."*

#### Local law No. 18: Parks and Reserves

The purpose of this local law is to regulate access to parks and reserves, protect the safety of users, preserve features of the natural and built environment and provide regulation for restriction on activities within parks and reserves.

It has been noted that *"parks and reserves contribute to the Iconic Values of the Shire."*<sup>3</sup>

#### Local law No. 30: Ferries

The purpose of this local law is to provide a framework for establishing a licence and the continuation of a licence for the operation of a ferry or ferries. The local law also establishes the responsibilities of the ferryman, passengers and the operation of ferry premises and fares.

*"The Daintree Ferry crossing is Iconic in the Shire and its retention and ongoing efficient operation must be protected."*<sup>4</sup>

#### Local law No. 32: Jetties, Barge Loading Ramps and Boat Ramps

The purpose of this local law is to regulate the use of jetties, barge landing ramps and the people, vessels and vehicles using them.

PFN (March 2008) notes that *"jetties and boat ramps in the Shire are of significant recreational value to locals and to tourists. They are a public asset, which contributes to the recreational values of the Shire."*

#### Local law No. 34: Tramways

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<sup>3</sup> Per PFN (March 2008) p29

<sup>4</sup> Ibid p30

The purpose of this local law is to provide a framework for Council to grant a permit to a person or entity for the construction, management or operation of a tramway for the hauling of cane, other agricultural products, or natural resources over a road or bridge within the area. The local law also provides for terms, fees and conditions for permits issued under the local law.

This local law is Iconic, as *"[t]he tramways are an integral part of the sugar industry and, in association with the broad acres of sugar cane, contribute significantly to the scenic amenity and character of the cane growing area of the Shire.*

*The rural areas of the Shire and the intrinsic elements of the rural area, such as the tramways, contribute to the Iconic Values of the Shire."*<sup>5</sup>

#### Local law No. 35: Bridges

The purpose of this local law is to provide for load limits and regulate the conduct of vehicles and persons on bridges.

PFN (March 2008) notes that *"The wooden bridges in the Shire contribute to the rural character and their protection is sought by the community.*

*Limiting heavy vehicles on these bridges protects them from being upgraded and ensures their retention as Iconic elements in the rural landscape."*

#### Local law No. 44: Port Douglas Boat Harbour

The purpose of this local law is to provide for the granting of moorings and the conduct and behaviour of persons and vessels within the Port Douglas Boat Harbour.

This local law is Iconic as *"The Port Douglas Boat Harbour is important historically, recreationally and economically and its efficient function is important to the Shire.*

*The Port Douglas Boat Harbour is an Iconic element in the Shire."*<sup>6</sup>

#### Local law No. 59: Commercial Use of Roads

The purpose of the local law is to regulate commercial uses and the soliciting of business on roads. The local law also establishes a framework for issuing permits and undertaking enforcement action.

It has been noted that this local law is Iconic as *"Controlling and limiting the commercial use of roads, is important in protecting the rural character of the Shire and protecting the amenity of urban areas, both of which contribute to the Iconic Values of the Shire."*<sup>7</sup>

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<sup>5</sup> Ibid

<sup>6</sup> Ibid p31

<sup>7</sup> Ibid p33

## Transition to Model Local Laws

It is noted that since the introduction of the *Iconic Queensland Places Act 2008*:

1. The *Local Government Reform Implementation Regulation 2008* has become effective, providing certain targets and requirements for amalgamated local authorities, including review and repeal of existing local laws, and / or creation of new local laws;
2. The *Iconic Queensland Places Act 2008* has been subject to a review, with a recommendation that the legislation be repealed, and Iconic Panels be re-instated or established within the Integrated Development Assessment System framework pursuant to the *Sustainable Planning Act 2009*;
3. The *Local Government Act 2009* was implemented, amending the framework within which local authorities in Queensland operate.

Importantly, as part of the Local Laws Project, it has been decided to utilise the Model Local Laws and Subordinate Local Laws framework for the Cairns Regional Council area. This decision has been made for a number of reasons, including:

- a. Stringent consultation undertaken by the State to develop the Model Local Laws;
- b. Opportunities for savings to the organisation, both in terms of ongoing review by the State in regard to the Models, and also in regard to opportunities for amendment to the Subordinates by resolution; and
- c. Drafting style and layout that is consistent with current legislative drafting requirements.

Therefore, whilst it is noted that PFN recommended<sup>8</sup> that update to the local laws should include "*a specific reference to protecting the Iconic Values of the Shire, in the object...*", protection of Iconic Values has been enshrined within the operational provisions within the Subordinate Local Laws, rather than the Object of the laws proper. Council does not have the capacity to amend the Model Local Laws to include such an Object.

Under the Model Local Law framework activities on or within Council controlled areas or roads are regulated under Model Local Law 1: Administration (MLL1) and Subordinate Local Law 1: Administration (SLL1) and Model Local Law 4: Local Government Controlled Areas, Facilities and Roads (MLL4) and Subordinate Local Law 4: Local Government Controlled Areas, Facilities and Roads (SLL4).

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<sup>8</sup> Ibid p33

A description of these proposed local laws, and relevant provisions within same, is provided below for reference.

#### *Model & Subordinate Local Law 1*

The Model and Subordinate Local Law 1 provide a legal and procedural framework for the administration, implementation and enforcement of the Local Laws and Subordinate Local Laws. SLL1 nominates activities which are prescribed activities which require a permit in order to initiate them. This includes activities to be undertaken on Council areas or roads.

Of particular relevance to the transition of the current local laws are the activities which are prescribed activities of SLL1 contained within the following schedules:

- Schedule 6: Public place activities that are prescribed activities;
- Schedule 7: Alteration or improvement to local government controlled areas and roads;
- Schedule 8: Commercial use of local government controlled areas and roads; and
- Schedule 13: Operation of cane railways.

These schedules also provide requirements for permits to be obtained and the standard conditions which are applicable to approvals.

#### *Model & Subordinate Local Law 4*

The proposed Model and Subordinate Local Law 4 provide for the protection of health and safety of persons using local government controlled land, facilities, infrastructure and roads. Additionally they preserve the features and amenity of local government controlled land, facilities, infrastructure and roads. This is achieved through the regulation of behaviours and activities by providing for the prohibition of certain inappropriate activities and behaviours and restriction on certain activities and behaviours within the SLL4.

All the above listed declared local laws relate to activities and behaviours within / on Council controlled facilities, areas or roads. Therefore MLL 4 and SLL 4 is the most relevant when detailing the correlation between the current and proposed local laws. Operationally, the controls on activities and behaviours within current Local Laws have been transitioned into new legislative framework, which is consistent with the reform requirements.

It is noted that some of the current Local Laws relate to Council facilities which are now operated under lease agreements. The lease agreements are created and managed outside the local laws framework. Where lease agreements make the provisions of the Local Laws redundant, the provision have not been transitioned.

## 3.2 Impact on Declared Iconic Values

The Declared Iconic Values for various features within and around the former Douglas Shire are confirmed within the Gazettal Notification of these values, dated 20 June 2008. Assistance in explaining and describing these values further, particularly in respect to the interaction between specific values and the local laws, has been obtained through review and analysis of PFN's Report (March 2008). 'Additional commentary' in regard to these values has been obtained from this Report.

### 3.2.1 Biodiversity Values

#### Declared Values

*Woodlands, mangrove forests, vegetated sand dunes/swale systems, reefs, foreshore areas, intertidal seagrass beds, estuarine river/creek systems, lowland rainforests and mountain ranges.*

*Areas of important remnant/riparian habitat and areas of considerable biodiversity value occur along the coastal plain and are subject to considerable development pressure.*

#### Additional Commentary

*The diversity of landscape and natural environments within the Shire [many of which are of International Significance]. Ranging from woodlands to mangrove forests, to vegetated sand dunes / swale systems, reefs, foreshore areas, intertidal seagrass beds and estuarine river / creek systems to lowland rainforests and mountain ranges. Some of these areas / systems are located in the WHAs but many are located outside the WHAs and are exposed to development pressure.*

#### Discussion

Whilst the declared local laws do not pertain primarily to the protection of the aforementioned biodiversity values, but rather, relate to the regulation of behaviour, conduct and activities within Council controlled areas, it is noted that these behaviours, activities and conduct may affect the Iconic Values of the region, particularly in Council controlled areas such as foreshores, parks, reserves and recreational facilities.

Model Local Law and Subordinate Local Law 1, together with Model Local Law and Subordinate Local Law 4 include a framework to manage behaviours, activities and conduct within Council controlled areas in a manner that is largely the same as the declared Iconic Local Laws.

It is therefore considered that the transition from existing local laws to new local laws will not detrimentally impact on the declared iconic values (biodiversity values) of the Iconic Queensland Place of Douglas.

### 3.2.2 Landscape & Scenic Values

#### Declared Values

*Mountainous topography, luxuriant rainforest, wilderness areas, steep escarpments, the coastal plain, scenic coastline.*

*Diversity in landscape elements – sand dunes, mangrove forests, wetlands, creek and river estuaries, fringing coral reefs and coral islands, sandy beaches, to rugged mountain ranges and broad expanse of agricultural land with smaller areas of cattle grazing and horticulture.*

#### Additional Commentary

*Both natural and man-made landscapes, the visually dominant and expansive natural / rural areas which have a distinct and clear boundary / interface with urban / settlement areas. In combination, these landscape elements create a unique landscape mosaic that is Douglas Shire. This landscape mosaic has a low threshold for absorbing visual change or development impacts.*

...

*Scenic foreshores, for example: the foreshore area between Dayman [Rocky Point] Point and the mouth of the Daintree River. These beach foreshore areas constitute the largest area of public land in the Shire managed by the Council.*

#### Discussion

Whilst the declared local laws do not pertain primarily to the protection of the aforementioned values, but rather, relate to the regulation of behaviour, conduct and activities within Council controlled areas, it is noted that these behaviours, activities and conduct may affect the Iconic Values of the region, particularly in Council controlled areas such as foreshores, parks, reserves and recreational facilities.

Model Local Law and Subordinate Local Law 1, together with Model Local Law and Subordinate Local Law 4 include a framework to manage behaviours, activities and conduct within Council controlled areas in a manner that is largely the same as the declared Iconic Local Laws.

It is therefore considered that the transition from existing local laws to new local laws will not detrimentally impact on the declared iconic values (biodiversity values) of the Iconic Queensland Place of Douglas.

### 3.2.3 Indigenous Cultural Heritage Significance

#### Declared Values

*Known sacred / spiritual / burial / story / meeting / ceremonial places / sites, which encapsulate the Indigenous cultural / landscape values.*

#### Discussion

The declared local laws which are the subject of review and transition to new local laws do not pertain directly to the declared iconic values for indigenous cultural heritage significance.

However, it is noted that Model Local Law and Subordinate Local Law 1, together with Model Local Law and Subordinate Local Law 4 include a framework to manage behaviours, activities and conduct within Council controlled areas in a manner that is largely the same as the declared Iconic Local Laws. It is therefore considered that the protection afforded to Indigenous Cultural Heritage Significance Values in a general sense will continue to be afforded under the Model Local Laws framework.

Additionally, these values are protected under the *Aboriginal Cultural Heritage Act* at a State level and the *Environmental Protection and Biodiversity Conservation Act* at a Federal level.

It is considered that the transition to new local laws will not detrimentally impact on the declared iconic values (indigenous cultural heritage significance) of the Iconic Queensland Place of Douglas.

### 3.2.4 Urban Areas

#### Declared Values

*Highly defined urban footprint boundaries contain urban development to designated towns, villages and settlement areas.*

#### Discussion

Whilst the declared local laws do not pertain directly to the defined urban footprint boundaries within the Shire, their regulation of behaviour, conduct and activities within Council controlled areas may affect the Iconic Values of the region, particularly in Council controlled areas such as foreshores, parks, reserves and recreational facilities.

Model Local Law and Subordinate Local Law 1, together with Model Local Law and Subordinate Local Law 4 include a framework to manage behaviours, activities and conduct within Council controlled areas in a manner that is largely the same as the declared Iconic Local Laws.

It is therefore considered that the transition from existing local laws to new local laws will not detrimentally impact on the declared iconic values (biodiversity values) of the Iconic Queensland Place of Douglas.

### **3.2.5 Built Environment**

#### **Declared Values**

*The built environment values are characterised by:*

- *low rise buildings (Port Douglas – very select areas limited to 3 storeys);*
- *low scale buildings and visually dominant native/tropical vegetation, surrounded by rural & mountain landscapes;*
- *no major through roads in, no traffic lights and no proliferation of advertising signage;*
- *development of a tropical architectural style, particularly in Port Douglas;*
- *containment of tourist development, primarily in Port Douglas, where it is low key and subservient to the environment;*
- *low rise coastal settings with limited views of urban development along the beachfront at Port Douglas;*
- *historical buildings and monuments in Port Douglas, consolidating the town centre near the harbour, maintaining open space between the Boat Harbour and Wharf Street, maintaining low speed, narrow local roads*

#### **Additional Commentary**

*Achieving a viable balance between the environment, tourism and development to meet the aspirations of local residents.*

...

*The stewardship by local residents of the local environment and in understanding and appreciating the natural / environmental values of the Shire and resident appreciation for local recreational assets, such as areas for boating, fishing and swimming in local creeks and rivers.*

...

*The rainforest setting of, and the unique rainforest experience offered to tourists in, the settlement areas and townships north of the Alexandra Range - Forest Creek, Cape Kimberly, Cow Bay, Diwan, Cooper Creek and Cape Tribulation, with access to this area limited to the Daintree Ferry crossing, which provides a sense of arriving in a special place.*

...

*Protecting vistas/views and topographical and coastal features which are important in balancing the competing interests of development and the built environment and maintaining the natural beauty of the Shire. Including limited views of urban development along the beachfront (when viewed from the*

*beaches) at Port Douglas and at beach townships and coastal settlement areas.*

## **Discussion**

Whilst the declared local laws do not pertain directly to built environment values, but rather, relate to the regulation of behaviour, conduct and activities within Council controlled areas, it is noted that these behaviours, activities and conduct may affect the Iconic Values of the region, particularly in Council controlled areas such as foreshores, parks, reserves and recreational facilities.

Model Local Law and Subordinate Local Law 1, together with Model Local Law and Subordinate Local Law 4 include a framework to manage behaviours, activities and conduct within Council controlled areas in a manner that is largely the same as the declared Iconic Local Laws.

Importantly, it is noted that the Ferry Local Law is not being transitioned across into the Model Local Law framework. Operation of and protection for the Ferry is maintained by Council, through leasing arrangements with the operator. The terms of the lease provide for appropriate minimum standards and requirements in the ongoing operation of this facility.

In addition, in regard to the potential de-commissioning of the Ferry and construction of a bridge, analysis indicates that approval requirements and current state government department policy would likely severely inhibit, if not prohibit, opportunities for Council to undertake such a project.

It is therefore considered that the transition from existing local laws to new local laws will not detrimentally impact on the declared iconic values (biodiversity values) of the Iconic Queensland Place of Douglas.

## **4. Conclusion**

This report has been prepared for the purposes of addressing the impacts of the new local laws on the declared iconic values of the Iconic Queensland Place of Douglas.

It has been noted that *"The Iconic Values of the Douglas Shire are best summed up by a statement made by Chenoweth and Associates in 1992 ..... "where the general perception is, that nature dominates human endeavour over most of the Shire."*<sup>9</sup>

It is considered that the local laws the subject of this report pertain to the regulation of behaviour, conduct and activities within Council controlled areas. It is considered that the transition to new local laws will, by and large, not affect the declared iconic values of the Iconic Queensland Place of Douglas.

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<sup>9</sup> Ibid p6

Regulatory requirements in existing local laws are predominantly transitioned into the new local laws. The practical affect of the proposed change is likely to be minimal, if any.