

Appendix C
Continuing Local Laws

**Cairns Regional Council
Control of Advertising (Application of Continuing Local
Law) Local Law 2011**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Cairns Regional Council Control of Advertising (Application of Continuing Local Law) Local Law 2011*.

Part 2 Application of continuing local law

2 Continuing local law applied

Pursuant to section 13(2) of the *Local Government Reform Implementation Regulation 2008*, Cairns Regional Council applies *Local Law No. 28 (Control of Advertising)* of Cairns City Council to the whole of the local government area of Cairns Regional Council without changes.

Certification

This and the preceding page bearing my initials is a certified copy of *Cairns Regional Council Control of Advertising (Application of Continuing Local Law) Local Law 2011* made in accordance with the provisions of the *Local Government Act 2009*, by Cairns Regional Council by resolution dated the day of 2011.

.....
Chief Executive Officer

LOCAL LAW NO. 28
(CONTROL OF ADVERTISING)

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PART 1 - PRELIMINARY

1. Citation

This local law may be cited as Local Law No. 28 (Control of Advertising).

2. Commencement

This local law commences on the date on which a notice of the making of this local law is published in the gazette.

3. Object

The object of this local law is to ensure that advertisements and associated structures complement or, at least, do not unreasonably detract from, desirable characteristics of the natural and built environment in which the advertisements are exhibited.

4. Relationship with Other Laws

This local law is in addition to, and does not derogate from other laws about the control of advertising, including but not limited to:

- (a) the Integrated Planning Act 1997; and
- (b) the Transport Infrastructure Act 1994.

5. Definitions

In this local law:

"advertisement" means an advertisement or sign that is visible from a road or other public place and includes a structure that forms part of the advertisement or sign, or to which it is attached, or on which it is exhibited;

"advertiser" means a person:

- (a) by whom an advertisement is exhibited; or
- (b) whose business or place of business is advertised by the advertisement;

and includes a person who manages and controls, or has power to manage or control, the place in which the advertisement is exhibited;

"environmental protection policy" means an environmental protection policy under the *Environmental Protection Act 1994*¹;

"permitted advertisement" means an advertisement classified as a permitted advertisement under Part 3 (Permitted Advertisements).

¹ Under Chapter 2 of the *Environmental Protection Act 1994*, the Minister responsible for the administration of that Act may prepare environmental policies about the environment or anything that affects or may affect the environment (See section 24 of that Act).

PART 2 - LOCAL LAW NO. 1 (ADMINISTRATION)

6. Administration Local Law

- (1) This local law must be read with Local Law No. 1 (Administration).
- (2) Where there is an inconsistency between this local law and Local Law No. 1 (Administration), this local law will apply.

PART 3 - EXHIBITION OF ADVERTISEMENTS

7. Unlawful Exhibition of Advertisements

- (1) An advertiser must not exhibit an advertisement in the Area unless:
 - (a) the advertisement is a permitted advertisement; or
 - (b) the advertiser has an approval for the exhibition of the advertisement from the Council.
- (2) If an advertiser exhibits an advertisement in contravention of subsection (1), the advertiser is guilty of an offence.

Maximum penalty-50 penalty units.

PART 4 - PERMITTED ADVERTISEMENTS

8. Classification of Advertisements

- (1) The Council may, by local law policy:
 - (a) classify advertisements by reference to criteria stated in the local law policy as permitted advertisements; or
 - (b) vary or revoke an earlier classification under this section.
- (2) The classification of advertisements as permitted advertisements may be based on 1 or more of the following criteria:
 - (a) the nature, dimensions, design, structural form or other physical characteristics of the advertisement;
 - (b) the content of the advertisement;
 - (c) the part of the Area in which the advertisement is to be exhibited;
 - (d) the positioning of the advertisement in relation to:
 - i) a lot boundary; or
 - ii) a building; or
 - iii) a road, footpath or other thoroughfare; or
 - iv) another physically identifiable point or line;

- (e) other criteria stated in the relevant local law policy.

9. Conditions on which Advertisements are Classified as Permitted Advertisements

- (1) The Council may, by local law policy, prescribe conditions on which advertisements of a particular class are classified as permitted advertisements.
- (2) The conditions may, for example:
 - (a) require the advertiser to give the Council written notice containing specified information before, or within a specified period after, the advertisement is exhibited;
 - (b) require that a registration number allocated by the Council be affixed to the advertisement for as long as it is exhibited.

10. Compliance with Conditions of Classification

If an advertiser exhibits a permitted advertisement, and a condition on which the advertisement is classified as a permitted advertisement is not complied with, the advertiser is guilty of an offence.

Maximum penalty-50 penalty units.

PART 5 - ADVERTISING APPROVALS

11. Application for Approval

- (1) An application for an approval for the proposed exhibition of an advertisement in the area must set out:
 - (a) full details of the advertisement, including its contents, its design, its dimensions and its construction; and
 - (b) full details of when, where and how the advertisement is to be exhibited;
 - (c) any other information required by a local law policy.
- (2) If a development approval is required for the advertisement under the *Integrated Planning Act 1997*, the application must be accompanied by evidence that the relevant approval has been granted, or an application for the relevant approval has been made.
- (3) If an advertisement is to be exhibited in a place that is not controlled by the advertiser, the application must be accompanied by the written consent of the owner and occupier of the place.

12. Criteria for Approval

- (1) In deciding whether to grant an approval for an advertiser to exhibit an advertisement, the Council must have regard to:
 - (a) relevant submissions made by interested persons; and
 - (b) the public interest; and

- (c) relevant Commonwealth, State or Council plans, proposals or agreements affecting the part of the area in which the advertisement is to be situated.
- (2) The Council may only grant an approval for an advertiser to exhibit an advertisement if:
- (a) the advertisement is structurally sound; and
 - (b) the advertisement causes no significant obstruction of, or distraction to, vehicular or pedestrian traffic²; and
 - (c) the exhibition of the advertisement is consistent with applicable environmental protection policies; and
 - (d) the dimensions of the advertisement bear a reasonable relationship to the dimensions of surrounding buildings and lots so that:
 - i) its presence is not unduly dominating or oppressive; and
 - ii) it does not unreasonably obstruct existing views; and
 - (e) the advertisement is consistent, in colour and appearance, with buildings and natural features of the environment in which it is to be situated; and
 - (f) the advertisement is in other respects consistent with the character and values of the environment in which it is to be situated; and
 - (g) the approval is consistent with the local law policies.
- (3) The Council may, by local law policy:
- (a) prescribe criteria Council must have regard to in deciding whether to grant or refuse an approval for the exhibition of advertisements; or
 - (b) prohibit specified classes of advertisements, or prohibit the exhibition of advertisements in circumstances of a specified class.

13. Term of Approval

- (1) An approval is granted for a term specified in the approval.
- (2) The Council may, from time to time, on application by the advertiser, renew an approval for a further term.
- (3) The term for which an approval is granted or renewed is to be:
 - (a) fixed as required by a relevant local law policy; or
 - (b) in the absence of a relevant local law policy - decided by the Council when it grants the approval or the renewal.

² A Council in granting a permit to an advertiser to exhibit an advertisement is bound by section 41 of the *Transport Infrastructure Act 1994*, to the extent to which that section applies

14. Conditions of Approval

- (1) An approval may be granted on conditions the Council considers appropriate.
- (2) The conditions may, for example:
 - (a) regulate the materials out of which the advertisement is to be constructed; or
 - (b) regulate the dimensions of the advertisement; or
 - (c) require the periodic painting or external treatment of the advertisement; or
 - (d) require the securing of the advertisement in a specified way; or
 - (e) regulate the positioning of the advertisement in relation to the boundaries of land, or a building or structure, on which it is situated or a road or other public place; or
 - (f) regulate how the advertisement is to be illuminated and the intensity of illumination.
- (3) However, the conditions of the approval must be consistent with the conditions of any statutory authorisation or approval for the establishment of the advertisement.
- (4) The Council may, by local law policy, prescribe conditions that may be imposed on an approval.

15. Compliance with Conditions of Approval

The advertiser must ensure that the conditions of approval are complied with.

Maximum penalty-50 penalty units.

PART 6 - ENFORCEMENT

16. Obligation to Maintain

- (1) If Council is of the opinion that an advertisement is not in good order and repair, or is unsightly, the Council may, by notice in writing, require the advertiser to carry out specified work to put the advertisement into good order or repair, or to remedy the unsightly condition of the advertisement.
- (2) An advertiser must comply with a notice under subsection (1) within the time allowed in the notice.

Maximum penalty-50 penalty units.

- (3) However, if an advertiser removes an advertisement within the time allowed in the notice, the advertiser is taken to have complied with the notice.

17. Removal of Advertisements Unlawfully Exhibited

- (1) If an advertisement is exhibited in contravention of this local law or a condition imposed under this local law, the Council may, by written notice to the advertiser,

require the advertiser to remove the advertisement within a time specified in the notice.

- (2) The Council may withdraw a notice under this section if, within the time allowed for removal of the advertisement, the advertiser obtains the necessary approval for exhibition of the advertisement or takes other necessary action to ensure that the advertisement is lawfully exhibited.
- (3) An advertiser must comply with a notice under subsection (1) within the time allowed in the notice.

Maximum penalty-50 penalty units.

18. Notice to Remove in Other Cases

- (1) If:
 - (a) the character of a particular part of the area changes as a result of commercial or residential development or for another reason, and the exhibition of an advertisement is no longer consistent with the character of the relevant part of the area; or
 - (b) an advertisement is exhibited in a particular part of the area and the advertisement, in conjunction with other advertisements exhibited by the same or other advertisers, seriously detracts from the character of the relevant part of the area,

the Council may, by written notice, require the advertiser to remove the advertisement.

- (2) An advertiser must comply with a notice under subsection (1) within the time allowed in the notice.

Maximum penalty-50 penalty units.

19. Council's Powers on Default

If a person fails to comply with a notice under this Part within the time allowed in the notice, the Council may remove and dispose of the advertisement.

20. Removal without Notice

- (1) If:
 - (a) an advertisement is exhibited in contravention of this local law or a condition imposed under this local law and there are, in the opinion of the Council, adequate reasons for removing the advertisement immediately; or
 - (b) an advertisement creates, in the opinion of the Council, a risk to life or property,

the Council may remove and dispose of the advertisement.

21. Powers of Entry and Cost Recovery

- (1) The Council may enter land to carry out work under this Part:
 - (a) under section 1066 of the Act, if the advertiser is the owner or occupier of the relevant land; or
 - (b) under section 1070 of the Act, if the advertiser is not the owner or occupier of the relevant land³.
- (2) If the advertiser is the owner of the relevant land, the amount properly and reasonably incurred by the Council in having work carried out under this Part is recoverable (together with interest) under sections 1066, 1067 and 1068 of the Act.
- (3) If the advertiser is not the owner of the relevant land, the amount properly and reasonably incurred by the Council is recoverable as a debt from the advertiser together with interest on the same basis as applies to an owner of land under section 1067 of the Act.⁴

PART 7 - MISCELLANEOUS

22. Council Advertisements

The Council may itself exhibit advertisements without approval under this local law.

23. Interference with Council Advertisements

A person must not remove, alter, deface or otherwise interfere with an advertisement exhibited by the Council.

Maximum penalty-50 penalty units.

24. General Defence to Charge of Unlawful Exhibition of Advertisement

If a person is charged with exhibiting an advertisement in contravention of this local law, it is a defence for the defendant to prove that the advertisement was exhibited without the defendant's knowledge or consent.

PART 8 - LOCAL LAW POLICIES

25. Local Law Policies

The Council may make local law policies in relation to those matters about which this local law specifically allows for the making of local law policies.

³ A magistrate may make an order for entry to the land under section 1063 (Order on occupier who refuses entry) if the occupier refuses to permit entry

⁴ Section 1067(2) of the Act provides for the payment of interest on the same basis as for an overdue rate.

**LOCAL LAW POLICY
NO. 6
(CONTROL OF
ADVERTISING)**

This local law policy is to be read with Local Law No. 28 (Control of Advertising).

Made by Council resolution on 17 January 2000.

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1. CITATION

This local law policy may be cited as Local Law Policy No. 6 (Control of Advertising).

2. OBJECTS

The objects of this local law policy are to provide the detailed information called upon by Local Law No. 28 (Control of Advertising) to ensure that advertisements and associated structures compliment or, at least, do not unreasonably detract from, desirable characteristics of the natural and built environment in which the advertisements are exhibited.

3. DEFINITIONS

"Act" means an Act of the Queensland Parliament;

"advertisement area" means the total area of an advertisement;

"advertising hoarding" means an off-site advertisement with an advertisement area exceeding 10m². The term includes:

- (a) a framework;
- (b) a signboard;
- (c) a noticeboard;
- (d) a wall;
- (e) a fence; or
- (f) another structure or erection,

used or intended to be used for the display of an advertisement whether or not such display is illuminated;

"aerial advertising device" means a fixed or captive balloon, kite, or inflated advertisement;

"ancillary / business advertisement" means an advertisement which provides information about a business or commercial enterprise or industry conducted on-site. The information may include:

- (a) the use of the site (including the proposed future use of the land);
- (b) the use of a building on the land;
- (c) goods manufactured or offered for sale or hire on the land;
- (d) services offered on the land;
- (e) the name and address of the owner or occupier of the land;
- (f) where a number of persons are carrying on different businesses on the land, an advertisement identifying the place;

where an event or activity is to be conducted on the land, information about the event or activity;

"animated or moving advertisement" means an advertisement that has moving parts or which rotates or revolves. The term includes advertisements containing chasing or running bulbs, reader boards (electronic variable message) and similar features;

"arcade directory advertisement" means a freestanding advisory advertisement located in front of an entrance to an arcade of shops which lists businesses located within the arcade;

"bank advertisement" means any advertisement projecting from the wall or face of a building or structure where the dimensions of the projection exceed the vertical dimension of the advertisement;

"banner advertisement" means any advertisement:

- (a) suspended from any structure, tree or pole;
- (b) with or without supporting frame work; and
- (c) displaying an advertisement applied to paper, plastic or similar material or fabric of any kind.

The term excludes symbolic flags of any institution or business;

"beacon light" means any light with one or more beams, capable of being directed in one or more directions or capable of being revolved automatically. The term includes:

- (a) a strobe or occulting light;
- (b) any other high density discharge lamp;
- (c) any device capable of converting light of mixed frequencies into an intense beam of light; and
- (d) any other similar light emitting appliance;

"bed and breakfast advertisement" means an advertisement used to identify a dwelling house approved by Council to offer bed and breakfast accommodation;

"bunting" includes decorative flags, pennants and streamers;

"Central Business Environment" means all land included in the Central Business Environment as shown on figure 2 in Section 4.3.2 of the Planning Scheme for the Part of the City of Cairns and the area occupied by the Cairns Central Complex and Cairns Railway Station;

"Commercial Environment" means land within the following planning scheme zones and which is outside the Central Business Environment or a Designated Character Area:

- (a) Business;
- (b) Commercial;
- (c) Local Shopping;

- (d) Tourist Facilities; and
- (e) Trades and Services.

"Community Environment" means land within the following planning scheme zones and which is outside the Central Business Environment or a Designated Character Area:

- (a) Open Space;
- (b) Sport and Recreation;
- (c) Conservation;
- (d) Special Purposes;

"construction advertisement" means a temporary advertisement used to identify the name of a development or developer during the construction of a development.

"Designated Character Area" means an area containing land in various zones, as delineated on a map in Schedule 7;

"directional estate advertisement" means an off-site advertisement, not being an advertising hoarding, and used to indicate the location of an industrial or residential development display home village;

"estate entrance advertisement" means an advertisement placed or erected at the entrance to an industrial or residential development, identifying the particular development;

"estate sales office" means any premises including a caravan or relocatable home on which a sign is exhibited for the promotion and/or sale of land within an industrial or residential development, where the use of such facilities shall not be more than two (2) years from the date of commencement, unless approved by Council;

"fascia advertisement" means an advertisement which is affixed to, posted or painted on a fascia of a building, such that the advertisement protrudes no more than 100mm from the surface to which it is attached;

"freestanding advertisement" means an advertisement which:

- (a) is erected on a pole or poles, or on a pylon structure ("a freestanding pole advertisement"); or
- (b) a solid, free standing structure, and

does not form part of any building or other structure.

"home occupation advertisement" means an advertisement, not exceeding 0.3m² in area, displayed at a dwelling, that advertises the home occupation carried on in the dwelling;

"illuminated advertisement" means an advertisement illuminated or designed for illumination by electricity or other means of artificial illumination either internally or externally;

"Industrial Environment" means land within the following planning scheme zones:

- (a) Light Industry;

- (b) General Industry;
- (c) Waterfront Industry;
- (d) Industry;
- (e) Noxious and Hazardous Industry;
- (f) Flammable Industry;

"off-site advertisement" means an advertisement, either freestanding or affixed to a building or structure, that is intended to promote goods, services, a business, commercial enterprise or industry not available or conducted on-site;

"over-awning advertisement" means an advertisement which is located on top of an awning, verandah or canopy with no part of the advertisement projecting above the roofline or beyond the awning, canopy or verandah edge;

"planning scheme" means the Planning Schemes for the:

- (a) Balance of the City of Cairns gazetted on 29 November 1996;
- (b) Part of the City of Cairns gazetted on 31 January 1997;
- (c) Douglas Shire Council gazetted on 6 June 1981; and
- (d) Mareeba Shire Council gazetted on 19 June 1982

operating within the new area created by the *Local Government (Cairns, Mulgrave) Regulation 1994*;

"political advertisement" means a temporary advertisement exhibited for the purposes of an election;

"portable advertisement" means a freestanding moveable advertisement placed on the footpath, road reserve or other public place. The term includes sandwich and spinning boards;

"projecting advertisement" means an advertisement attached to and protruding more than 100mm either vertically, or horizontally from a building or structure, but not attached to the roof of a building or structure;

"public information advertisement" means an advertisement erected or displayed to indicate the location of a public building, service or place of interest, and which carries no other information or advertisement;

"real estate advertisement" means a temporary advertisement on-site, advising of the owner's intention to sell, lease, tender or auction the land and/or building;

"Residential/Rural Environment" includes land within the following planning scheme zones:

- (a) Hillsides Residential;
- (b) Residential;

- (c) Medium Density Residential;
- (d) Residential 1;
- (e) Residential 2;
- (f) Residential 3;
- (g) Low Density Residential;
- (h) Village;
- (i) Rural;
- (j) Non-urban;

"revolving flashing light" means an advertisement containing flashing lights for example flashing lights similar to those used on emergency vehicles;

"temporary advertisement" means an advertisement which, by its nature, is intended to be in place for only a limited amount of time, not exceeding three months. The term includes:

- (a) a political advertisement;
- (b) a real estate advertisement; or
- (c) an advertisement for the sale, lease, tender or auction of a product;

"transom advertisement" means an advertisement attached to the transom of a doorway in a building;

"undefined advertisement" means an advertisement which is not defined in the local law or local law policy;

"under awning advertisement" means an advertisement which is attached to the underside of an awning, verandah, or canopy;

"vehicle" means any air cushion vehicle, articulated vehicle, bicycle, caravan trailer, commercial vehicle, motor car, motor cycle, motor omnibus, motor truck, motor utility, truck, motor vehicle, omnibus, side car, tractor, trailer, tricycle or vehicle as defined in section 9 of the *Traffic Act*;

"wall advertisement" means an advertisement which is affixed to, posted or painted on a wall surface of a building, such that the advertisement protrudes no more than 100mm from the wall to which it is attached. The term excludes fascia, or transom advertisements;

"window advertisement" means an advertisement which is attached to or displayed on the exterior or interior surface of a window. The term includes a device which is suspended from the window frame and may also be illuminated, and excludes product displays or showcases viewed by pedestrians.

4. CLASSIFICATION OF ADVERTISEMENTS - SECTION 8

For the purposes of Section 8 of the Local Law an advertisement is a permitted advertisement if the advertisement:

- (a) is exhibited pursuant to an Act;
- (b) is a public notice displayed by a government department, public authority or local government;
- (c) identifies the functions or property of a government department, public authority or local government;
- (d) is a properly displayed National, State, or institutional flag;
- (e) has an advertisement area not exceeding 2m² providing information about a place of worship, club, or charitable institution provided it is not animated or internally illuminated;
- (f) is an advertisement on motor vehicles used principally for the conveyance of goods and passengers;
- (g) is a temporary advertisement on private property which is intended to announce a local event of a religious, educational, cultural, social or recreational nature or relating to any temporary matter in connection with such an event;
- (h) is an advertisement designated under "permitted advertisements" in the Central Business Environment as in Schedule 1;
- (i) is an advertisement designated under "permitted advertisements" in the Commercial Environment in Schedule 2;
- (j) is an advertisement designated under "permitted advertisements" in the Community Environment in Schedule 3;
- (k) is an advertisement designated under "permitted advertisements" in the Industrial Environment in Schedule 4;
- (l) is an advertisement designated under "permitted advertisements" in Residential Rural Environment in Schedule 5;
- (m) is an advertisement designated under "permitted advertisements" in the Designated Character areas identified in Schedule 6.

5. CONDITIONS ON WHICH ADVERTISEMENTS ARE CLASSIFIED AS PERMITTED ADVERTISEMENTS - SECTION 9(1)

For the purposes of Section 9(1) of the Local Law the following conditions may be prescribed on permitted advertisements of a particular class:

5.1 All Advertisements

- (a) Advertisements overhanging a footpath must provide a minimum clearance of 2.5m between the lowest part of the advertisement and the footpath.

- (b) Where there are a number of advertisements on-site, the contents of each advertisement must be coordinated and compatible with the other advertisements on site and reflect the architecture and style of any buildings or structures on the site;
- (c) Advertisements must be designed so as not to detrimentally affect the amenity of the site or the locality, by reason of their location, construction or design;
- (d) Advertisements must not emit excessive glare or reflection from internal or external illumination;
- (e) Advertisements must be constructed of durable materials and maintained in good condition at all times;
- (f) Advertisements must be constructed in a workmanlike manner, so as not to endanger public safety;
- (g) No support, fixing, suspension or other systems required for proper installation of an advertisement shall be exposed unless constructed as an integral feature of an advertisement;
- (h) All electrical services and systems required for advertisements must comply with relevant Australian standards;
- (i) Advertisements must not be able to be misconstrued as a traffic control device or obscure motorist's view of a traffic control device;
- (j) Advertisements must not obscure a motorist's view in any way, particularly when an advertisement is proposed to be located on or near a street corner or junction;
- (k) Street numbers not already displayed on the premises must be displayed on advertisements;
- (l) Advertisements must be consistent with the character of the surrounding area and pose no hazard to pedestrians or distraction to motorists;

5.2 Bed and Breakfast Advertisements

- (a) The advertisement area must not exceed 0.25m²;
- (b) The advertisement must not be illuminated by an incandescent globe with a wattage exceeding 40 watts;

5.3 Construction Advertisements

- (a) Must not be animated or internally illuminated;
- (b) The advertisement must be removed when construction work is completed;

5.4 Estate Entrance Advertisement / Estate Sales Office

- (a) Details of the advertisement must be provided with applications for reconfiguration of a lot;

5.5 Home Occupation Advertisements

- (a) Advertisements are to be limited to one advertisement per premises;
- (b) The advertisement area must not exceed 0.3m²;
- (c) Must not be illuminated or displayed at a greater height than 2.0m above ground level.

5.6 Political Advertisements

- (a) The advertisement area must not exceed 0.6m²;
- (b) The advertisement must not be erected prior to an election date being announced;
- (c) The advertisement must be removed within one week after an election.

5.7 Real Estate Advertisements

- (a) A real estate advertisement must be displayed on the property or premises for sale, lease, tender or auction only, and shall be removed within a reasonable period after sale or lease of the property or premises;
- (b) The maximum height of the advertisement must not exceed 3.6 metres;
- (c) Advertisements are limited to one advertisement per street frontage.

5.8 Transom Advertisements

- (a) Must not extend below the head of a doorway;
- (b) Must not project more than 100mm from a wall.

6. CRITERIA FOR APPROVAL - SECTION 12(3)(a)

For the purposes of Section 12(3)(a) of the Local Law, Council must have regard to the following criteria when deciding to grant or refuse an approval:

6.1 Advertisements in the Central Business Environment / Commercial Environment

- (a) The extent to which the advertisement would limit the impact of an existing advertisement in the immediate vicinity;
- (b) The size of buildings or adjoining structures in the vicinity of the advertisement;
- (c) Whether the advertisement will face a residentially zoned property;
- (d) The number of site frontages;
- (e) The extent to which signage is incorporated into the site's design or architecture of the building such that signage compliments the site or structure's design and does not detract from the amenity of the area;
- (f) The number of advertisers the advertisement is intended to promote;

- (g) The site's proximity to residential or tourist accommodation areas or uses;
- (h) The effect of the advertisement on the safety and security of the premises and public areas.

6.2 Advertisements in Mulgrave Road Designated Character Area - Advertising Controls applying to Land Zoned "Light Industry", "Commercial" and "Business".

(a) *Freestanding Advertisement*

- i) The length of the site frontage;
- ii) The height of surrounding buildings and structures;
- iii) The number and location of other advertisements on the site and in the vicinity;
- iv) The number of advertisers the advertisement is intended to promote;
- v) The provision of landscaping around the advertisement;

(b) *Roof Advertisement*

- i) Whether the advertisement is flush with the building;

6.3 Advertisements in the Industrial Environment

- (a) The size of the building or site on which the advertisement is to be exhibited, or adjoining structures;
- (b) The need for the advertisement to achieve the intended visibility.

6.4 Advertisements in Residential/Rural Environment

- (a) The size of the building or site on which the advertisement is to be exhibited and adjoining structures;
- (b) The extent to which the advertisement is proposed to be incorporated into the architecture of the building design or design of the site in such a way as to minimise the impact of the advertisement on surrounding properties.

6.5 Advertisements in All areas

- (a) The number of advertisements already existing on the site;
- (b) The impact of the proposed advertisement on the amenity of the area;
- (c) Whether the proposed advertisement is likely to obscure existing advertisements;
- (d) The number, type and location of advertisements on adjoining structures;
- (e) The number and placement of existing advertisements and the proposed advertisement on the site or building.

7. CRITERIA FOR APPROVAL - SECTION 12(3)(b) - (PROHIBITED ADVERTISEMENTS)

For the purposes of Section 12(3)(b) of the Local Law the following advertisements are prohibited:

- (a) Advertisements on vehicles not used principally for the commercial conveyance of goods or passengers;
- (b) Vehicles stopped on a public street or private property for the primary purpose of displaying an advertisement.
- (c) Those advertisements listed as "prohibited forms of advertisements" in the Central Business Environment area as set out in Schedule 1;
- (d) Those advertisements listed as "prohibited forms of advertisements" in the Commercial Environment area as set out in Schedule 2;
- (e) Those advertisements listed as "prohibited forms of advertisements" in the Community Environment area as set out in Schedule 3;
- (f) Those advertisements listed as "prohibited forms of advertisements" in the Industrial Environment area as set out in Schedule 4;
- (g) Those advertisements listed as "prohibited forms of advertisements" in the Residential-Rural Environment area set out in Schedule 5;
- (h) Those advertisements listed as "prohibited forms of advertisements" in the Designated Character Areas as set out in Schedule 6.

8. CONDITIONS OF APPROVAL - SECTION 14(4)

For the purposes of Section 14(4) of the local law, conditions that may be imposed on an approval are:

8.1 Advertisements in Central Business Environment

- (a) *Over Awning Advertisements*
 - i) The advertisement area must not exceed 1.5m²;

8.2 Advertisements in Commercial Environment

- (a) *Under Awning Advertisements*
 - i) The number of advertisements are limited to one advertisement per business;
 - ii) Only businesses with street frontage may erect an under awning advertisement;
 - iii) The advertisement area of each advertisement must not exceed 2.5m²;
- (b) *Wall Advertisements*

- i) Advertisements affixed, posted or attached to a wall must only be erected or installed at the ground floor level of a building.

8.3 Advertisements in Mulgrave Road Designated Character Area - Advertising Controls applying to Land Zoned "Residential" and "Medium Density Residential".

(a) *Projecting Advertisements*

- i) The advertisement must not project beyond the outer edge of an awning, veranda or canopy;
- ii) The advertisement must not extend above the parapet of the building;
- iii) The advertisement must be erected at ground floor level and must not exceed 3.5m above ground level;
- iv) The number of advertisements are limited to one advertisement per business;
- v) The advertisement may only be displayed by businesses with street frontage;
- vi) The advertisement must not be an animated or moving advertisement;

(b) *Under Awning Advertisements*

- i) The advertisement area must not exceed 2.5m²;
- ii) The advertisement must not project beyond the outer edge of an awning;
- iii) The number of advertisements are limited to one advertisement per business;
- iv) The advertisement may only be displayed by business with street frontage;
- v) The advertisement must not be an animated or moving advertisement;

(c) *Freestanding Advertisements*

- i) The height of the advertisement must not exceed 4m;
- ii) Freestanding advertisements for motels, holiday apartments and the like must not exceed a height of 6m.

8.4 Advertisements in Mulgrave Road Designated Character Area - Advertising Controls applying to Land Zoned "Light Industry", "Commercial", and "Business".

(a) *Banner Advertisements*

- i) The advertisement may only be displayed for a temporary period;

(b) *Bunting*

- i) The advertisement may only be displayed for a temporary period;
- ii) The advertisement must not be hung under awnings which overhang a footpath or roadway;

(c) *Freestanding Advertisements*

- i) The number of advertisements are limited to one advertisement per site;
- ii) The advertisement must not exceed 8m in height if promoting a single business;
- iii) The advertisement must not exceed 10m in height if promoting multiple businesses;
- iv) The width of advertisement must not exceed 2.5m;
- v) The advertisement must not overhang a roadway or footpath;

(d) *Over Awning Advertisements*

- i) The number of advertisements are limited to one advertisement per business;
- ii) The advertisement may only be displayed by businesses with street frontage;
- iii) The advertisement may be illuminated but not an animated or moving advertisement;
- iv) The advertisement area must not exceed 3m²;

(e) *Projecting Advertisements*

- i) The number of advertisements are limited to one advertisement per business;
- ii) The advertisement may only be displayed by businesses with street frontage;
- iii) The advertisement must not be an animated or moving advertisement;
- iv) The advertisement must not project beyond the edge of the awning, verandah or canopy;
- v) The advertisement area must not exceed 1.5m² if erected under an awning, verandah or canopy;
- vi) The advertisement must not project above the parapet of the building;

(f) *Temporary Advertisements*

- i) Must not include advertisements of a commercial nature except to identify event sponsors, real estate advertisements, political advertising, temporary promotion and sale.

(g) *Under Awning Advertisements*

- i) The advertisement area must not exceed 2.5m²;
- ii) The advertisement must not project beyond the outer edge of an awning;
- iii) The number of advertisements are limited to one advertisement per business;
- iv) The advertisement may only be displayed by businesses with street frontage;
- v) The advertisement must not be an animated or moving advertisement;

8.5 Advertisements in Industrial Environment

(a) *Wall Advertisements*

- i) The advertisement is to be no greater than 1m in height;
- ii) The advertisement must be located within the first two levels of the building;
- iii) The advertisement is not to be orientated towards residential houses or entrances to residential streets;

(b) *Off-site Advertisements and Advertising Hoardings*

- i) The rate of advertisement area per linear metre of street frontage is limited to 0.3m².
- ii) The total area of advertisements is limited to 18m² per street frontage.

8.6 Advertisements in Residential/Rural Environment

- (a) The advertisement must not project beyond the outer edge of a verandah, canopy or awning;
- (b) The advertisement must be limited to the ground floor level of a building;

8.7 Advertisements in All Areas

(a) *Freestanding Advertisement*

- i) The advertisement must not overhang a road reserve or footpath;

(b) *Portable Advertisements*

- i) For advertisements exhibited on a footpath the advertisement area must not exceed 0.54m²;
- ii) For advertisements exhibited in locations other than on a footpath the advertisement area must not exceed 1m²;
- iii) The number of advertisements are limited to one advertisement per business;

(c) *Projecting Advertisement*

- i) Where the advertisement is erected over a footpath there must be a minimum clearance of at least 2.5 metres between the lowest part of the advertisement and the roadway below;

(d) *Temporary Advertisements (other than specific temporary advertisements such as political and real estate advertisements set out in the "permitted advertisements" column in Schedules 1 to 6).*

- i) The advertisement must be affixed to structures that will accommodate wind loadings;
- ii) The advertisement must not obstruct approved or permitted advertisements on adjoining properties or the vision of pedestrians or motorists;
- iii) The advertisement must not be affixed to trees, lighting standards or power poles;
- iv) Bunting must not be placed above 6m height from the ground level of the site;
- v) All inflatable parts of the advertisement are to be inflated by a nonflammable and non-toxic gas;
- vi) A public risk policy to the value of \$5,000,000.00 or as determined by Council from time to time, shall be taken out by the applicant for a temporary balloon advertisement, against any claims for damages or injury to any person or thing caused by the flying of the balloon;
- vii) Flags displaying company logos or products shall be limited to the height specified for freestanding advertisements;

(e) *Wall or Fascia Advertisements*

- i) The advertisement must display the street number of the premises.

**SCHEDULE 1
CENTRAL BUSINESS ENVIRONMENT**

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
Ancillary advertisements with an advertisement area not exceeding 3 m ²	Ancillary advertisements with an advertisement area exceeding 3m ²	Advertising hoardings
Bed and Breakfast advertisements	Animated and Moving advertisements	Aerial Advertising Devices
Construction advertisements with an advertisement area not exceeding 2m ²	Arcade Directory advertisements	Bunting
Home Occupation advertisements	Bank advertisements	Directional Estate advertisements
Public Information advertisements	Banner advertisements	Off-site advertisements
Political advertisements	Beacon Lights	Revolving Flashing Lights
Real Estate advertisements with an advertisement area not exceeding 1.5m ²	Construction advertisements with an advertising area exceeding 2m ²	
Window advertisements	Estate Entrance advertisements	
	Estate Sales Office	
	Fascia advertisements	
	Freestanding advertisements	
	Illuminated advertisements	
	Over Awning advertisements	
	Portable advertisement	
	Projecting advertisements	
	Real Estate advertisements with an advertisement area exceeding 1.5m ²	
	Temporary advertisements*	
	Transom advertisements	
	Undefined advertisements	

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
	Under Awning advertisements	
	Wall advertisements	

**Only temporary advertisements not specifically defined in the local law or local law policy will be included in the general definition of "temporary advertisements" for the purposes of this Schedule. For example political advertisements and real estate advertisements which are defined in the local law policy will not be included in the general definition.*

**SCHEDULE 2
COMMERCIAL ENVIRONMENT**

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
Ancillary advertisements with an advertisement area not exceeding 3m ²	Aerial Advertising Devices	Advertising hoardings
Bed and Breakfast advertisements	Ancillary advertisements with an advertisement area exceeding 3m ²	Beacon Lights
Construction advertisements with an advertisement area not exceeding 2m ²	Animated and Moving advertisements	Directional Estate advertisements
Home Occupation advertisements	Arcade Directory advertisements	Off-site advertisements
Public Information advertisements	Bank advertisements	Revolving Flashing Lights
Political advertisements	Banner advertisements	
Real Estate advertisements with an advertisement area not exceeding 1.5m ²	Bunting	
Window advertisements	Construction advertisements with an advertisement area exceeding 2m ²	
	Estate Entrance advertisements	
	Estate Sales Office	
	Fascia advertisements	
	Freestanding advertisements	
	Illuminated advertisements	
	Over Awning advertisements	
	Portable advertisements	
	Projecting advertisements	
	Real Estate advertisements with an advertisement area exceeding 1.5m ²	
	Transom advertisements	

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
	Undefined advertisements	
	Under Awning advertisements	
	Wall advertisements	

**Only temporary advertisements not specifically defined in the local law or local law policy will be included in the general definition of "temporary advertisements" for the purposes of this Schedule. For example political advertisements and real estate advertisements which are defined in the local law policy will not be included in the general definition.*

**SCHEDULE 3
COMMUNITY ENVIRONMENT**

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
Bed and Breakfast advertisements	Ancillary advertisements	Advertising Hoardings
Construction advertisements with an advertisement area not exceeding 2m ²	Banner advertisements	Aerial Advertising Devices
Home Occupation advertisements	Bunting	Animated or Moving advertisements
Public Information advertisements	Construction advertisements with an advertisement area exceeding 2m ²	Arcade Directory advertisements
Real Estate advertisements with an advertisement area not exceeding 1.5m ²	Off-site advertisements	Bank advertisements
	Projecting advertisements	Beacon Lights
	Real Estate advertisements with an advertisement area exceeding 1.5m ²	Directional Estate advertisements
	Temporary advertisements*	Estate Entrance advertisements
	Undefined advertisements	Estate Sales Office
		Fascia advertisements
		Freestanding advertisements
		Illuminated advertisements
		Over Awning advertisements
		Political advertisements
		Portable advertisements
		Revolving Flashing Lights
		Transom advertisements
		Under Awning advertisements
		Wall advertisements

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
		Window advertisements

**Only temporary advertisements not specifically defined in the local law or local law policy will be included in the general definition of "temporary advertisements" for the purposes of this Schedule. For example political advertisements and real estate advertisements which are defined in the local law policy will not be included in the general definition.*

**SCHEDULE 4
INDUSTRIAL ENVIRONMENT**

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
Ancillary advertisements with an advertisement area not exceeding 5m ²	Advertising Hoardings	Beacon Lights
Banner advertisements	Aerial Advertising Devices	Revolving Flashing Lights
Bed and Breakfast advertisements	Ancillary advertisements with an advertisement area exceeding 5m ²	
Bunting	Animated or Moving advertisements	
Construction advertisements with an advertisement area not exceeding 2m ²	Arcade Directory advertisements	
Estate Entrance advertisements	Bank advertisements	
Estate Sales Office	Construction advertisements with an advertisement area exceeding 2m ²	
Home Occupation advertisements	Directional Estate advertisement	
Political advertisements	Fascia advertisements	
Public Information advertisements	Freestanding advertisements	
Real Estate advertisements with an advertisement area not exceeding 1.5m ²	Illuminated advertisements	
	Off-Site advertisements	
	Over Awning advertisements	
	Portable Advertising Devices	
	Projecting advertisements	
	Real Estate advertisements with an advertisement area exceeding 1.5m ²	
	Temporary advertisements*	

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
	Transom advertisements	
	Undefined advertisements	
	Under Awning advertisements	
	Wall advertisements	
	Window advertisements	

**Only temporary advertisements not specifically defined in the local law or local law policy will be included in the general definition of "temporary advertisements" for the purposes of this Schedule. For example political advertisements and real estate advertisements which are defined in the local law policy will not be included in the general definition.*

**SCHEDULE 5
RESIDENTIAL/RURAL ENVIRONMENT**

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
Ancillary advertisements with an advertisement area not exceeding 3m ²	Ancillary advertisements with an advertisement area exceeding 3m ²	Advertising Hoardings
Bed and Breakfast advertisements	Arcade Directory advertisements	Aerial Advertising Devices
Construction advertisements with an advertisement area not exceeding 2m ²	Bank advertisements	Animated Moving advertisements
Home Occupation advertisements	Banner advertisements	Beacon Lights advertisements
Political advertisements	Buntings	Freestanding advertisements
Public Information advertisements	Construction advertisements with an advertisement area exceeding 2m ²	Off-Site advertisements
Real Estate advertisements with advertising area not exceeding 1.5m ²	Directional estate advertisements	Revolving Flashing Lights
	Estate Entrance advertisements	Three dimensional objects or shapes used as advertising devices
	Estate Sales Office	
	Fascia advertisements	
	Freestanding advertisements	
	Illuminated advertisements	
	Over Awning advertisements	
	Portable advertisements	
	Projecting advertisements	
	Real Estate advertisements with an advertisement area exceeding 1.5m ²	
	Temporary advertisements*	

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
	Transom advertisements	
	Undefined advertisements	
	Under Awning advertisements	
	Wall advertisements	
	Window advertisements	

**Only temporary advertisements not specifically defined in the local law or local law policy will be included in the general definition of "temporary advertisements" for the purposes of this Schedule. For example political advertisements and real estate advertisements which are defined in the local law policy will not be included in the general definition.*

**SCHEDULE 6
MULGRAVE ROAD DESIGNATED CHARACTER AREA**

**1. ADVERTISING CONTROLS APPLYING TO LAND
ZONED "LIGHT INDUSTRY, "COMMERCIAL" AND
"BUSINESS"**

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
Ancillary advertisements with an advertisement area not exceeding 3m ²	Advertising Hoardings	Beacon Lights
Bed and Breakfast advertisements	Aerial Advertising Devices	Directional Estate advertisements
Construction advertisements with an advertisement area not exceeding 2m ²	Ancillary advertisements with an advertisement area exceeding 3m ²	Off-site advertisements
Estate Sales Office	Animated and Moving advertisements	Revolving Flashing Lights
Home Occupation advertisements	Arcade Directory advertisements	
Political advertisements	Bank advertisements	
Public Information advertisements	Banner advertisements	
Real Estate advertisements with an advertisement area not exceeding 1.5m ²	Bunting	
Window advertisements	Construction advertisements with an advertisement area exceeding 2m ²	
	Fascia advertisements	
	Freestanding advertisements	
	Illuminated advertisements	
	Over Awning advertisements	
	Portable advertisements	
	Projecting advertisements	
	Promotion advertisements	

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
	Real Estate advertisements with an advertisement area exceeding 1.5m ²	
	Temporary advertisements*	
	Transom advertisements	
	Undefined advertisement	
	Under Awning advertisements	
	Wall advertisements	

**Only temporary advertisements not specifically defined in the local law or local law policy will be included in the general definition of "temporary advertisements" for the purposes of this Schedule. For example political advertisements and real estate advertisements which are defined in the local law policy will not be included in the general definition.*

2. ADVERTISING CONTROLS APPLYING TO LAND ZONED "RESIDENTIAL", AND "MEDIUM DENSITY RESIDENTIAL"

Permitted Advertisements	Advertisements Subject to Approval	Prohibited Advertisements
Ancillary advertisements with an advertisement area not exceeding 3m ²	Ancillary advertisement with an advertisement area exceeding 3m ²	Advertising Hoardings
Bed and Breakfast advertisements	Bank advertisements	Aerial Advertising Device
Construction advertisements with an advertisement area not exceeding 2m ²	Construction advertisements with an advertisement area exceeding 2m ²	Animated or Moving advertisements
Estate Entrance advertisements	Development Identification advertisements	Arcade Directory advertisement
Estate Sales Office	Fascia advertisements	Banner advertisements
Home Occupation advertisements	Freestanding advertisements	Beacon Lights
Political advertisements	Illuminated advertisement	Bunting
Public Information advertisements	Portable advertisements	Directional Real Estate advertisements
Real Estate advertisements with an advertisement area not exceeding 1.5m ²	Projecting advertisements	Off Site advertisements
	Real Estate advertisements with an advertisement area exceeding 1.5m ²	Over Awning advertisements
	Temporary advertisements*	Revolving Flashing Lights
	Transom advertisements	
	Undefined advertisements	
	Under Awning advertisements	
	Wall advertisements	
	Window advertisements	

**Only temporary advertisements not specifically defined in the local law or local law policy will be included in the general definition of "temporary advertisements" for the purposes of this Schedule. For example political advertisements and real estate advertisements which are defined in the local law policy will not be included in the general definition.*

**Cairns Regional Council
Commercial Use of Roads (Application of Continuing Local
Law) Local Law 2011**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Cairns Regional Council Commercial Use of Roads (Application of Continuing Local Law) Local Law 2011*.

Part 2 Application of continuing local law

2 Continuing local law applied

Pursuant to section 13(2) of the *Local Government Reform Implementation Regulation 2008*, Cairns Regional Council applies *Local Law No. 59 (Commercial Use of Roads) 2002* of Douglas Shire Council to the whole of the local government area of Cairns Regional Council without changes.

Certification

This and the preceding page bearing my initials is a certified copy of *Cairns Regional Council Commercial Use of Roads (Application of Continuing Local Law) Local Law 2011* made in accordance with the provisions of the *Local Government Act 2009*, by Cairns Regional Council by resolution dated the day of 2011.

.....
Chief Executive Officer

**DOUGLAS SHIRE COUNCIL
LOCAL LAW NO. 59
(COMMERCIAL USE OF ROADS)
2002**

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PART 1 - PRELIMINARY

1. Short title

This local law may be cited as *Local Law No. 59 (Commercial Use of Roads) 2002*.

2. Objects

The objects of this local law are to -

- (a) regulate soliciting of business on roads; and
- (b) regulate the use of roads for the conduct of business.

3. Definitions - the dictionary

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

4. Repeal

This local law repeals *Local Law No. 15 (Stalls and Itinerant Vendors)*.

PART 2 - PERMITS

5. Requirement to hold a permit¹

- (1) A person must not solicit for business on a road unless authorised by a permit under this local law.

Maximum penalty for subsection (1) - 50 penalty units.

- (2) A person must not carry on business on a road unless authorised by a permit under this local law.

Maximum penalty for subsection (2) - 50 penalty units.

- (3) However, a permit is not required under this local law for -

- (a) 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; and
- (b) a person who is authorised to carry on a business under the *Transport Infrastructure Act 1994*; and
- (c) using a road for a particular purpose if the use constitutes development under the *Integrated Planning Act 1997*.

¹ A person who carries on business as a hawker will need a licence under the *Hawkers Act 1984* as well as a permit under this local law.

6. Application for a permit

An application for a permit must include or be accompanied by -

- (a) details of the nature, time and place of the proposed activities for which the licence is sought; and
- (b) if the applicant wants to use a particular part of a road for serving food or drink or for other business purposes - a plan showing the relevant part of the road; and
- (c) other information and material required by a subordinate local law.

7. Grant of a permit

- (1) The local government may grant a permit if satisfied that -
 - (a) the activities for which the permit is sought would not unduly interfere with the proper use of a road; and
 - (b) if criteria for the grant of a permit have been laid down by subordinate local law - the grant of the permit is consistent with the relevant criteria.
- (2) A subordinate local law may specify criteria for the grant of a permit.
- (3) A permit cannot be granted for a State-controlled road unless the chief executive agrees in writing.

8. Term of a permit

- (1) A permit may be granted for a specified occasion or for a specified term.
- (2) If a permit is granted for a specified term, the local government may, from time to time, on application by the holder of the permit, renew the permit.
- (3) The term for which a permit is granted or renewed is to be -
 - (a) fixed as required by a relevant subordinate local law; or
 - (b) in the absence of a relevant subordinate local law - decided by the local government when it grants the permit or the renewal.
- (4) However, the local government must, on application for renewal of a permit made before the end of the term for which the permit was granted or last renewed, renew the permit for a further term unless -
 - (a) the local government has given the operator reasonable written notice of its intention not to renew the permit; or

- (b) there are proper grounds for cancellation of the permit².

9. Conditions of a permit

- (1) A permit may be granted on conditions the local government considers appropriate.
- (2) The conditions of a permit may, for example -
 - (a) restrict activities under the permit to specified days and times; and
 - (b) prohibit or limit activities under the permit during periods of poor visibility; and
 - (c) limit the activities authorised by the permit to a single specified location or to a specified area; and
 - (d) require the holder of the permit to display the permit in a specified position or to produce the permit for inspection on demand by an authorised person or, if the permit relates to a State-controlled road, a person authorised by the chief executive; and
 - (e) require the holder of the permit to take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the permit; and
 - (f) require the holder of the permit to take out insurance against personal injury or property damage resulting from activities authorised by the permit; and
 - (g) require the holder of the permit to take specified measures to ensure that the activities authorised by the permit do not cause a nuisance; and
 - (h) if the permit authorises the holder to use a specified part of a road for carrying on a business - require the permit holder to pay specified rental to the local government at specified intervals.

Example of a condition under subsection (2)(g) -

If a permit authorises use of a road for serving food or drink, the condition could, for example, require the permit holder to provide and maintain receptacles for waste and to clean the area thoroughly at the conclusion of business on each day.

- (3) The local government may, by subordinate local law, prescribe conditions that may be imposed in a permit.

² Proper grounds for cancellation of a permit exist if an operator fails to remedy contravention of this local law or a condition of a permit within the time allowed in a compliance notice (See section 14(1)).

10. Compliance with conditions of a permit

The holder of a permit must ensure that the conditions of the permit are complied with.

Maximum penalty - 50 penalty units.

11. Power to change conditions of a permit

- (1) The local government may, by written notice given to the holder of a permit, change³ the conditions of the permit.
- (2) However, the local government may only change the conditions of a permit if -
 - (a) the holder of the permit agrees to the proposed change; or
 - (b) the change is urgently necessary in the interests of safety, to prevent a nuisance, or to improve access to the road or the efficiency of vehicle or pedestrian traffic; or
 - (c) the change is necessary to allow for roadworks; or
 - (d) the local government -
 - i) gives the permit holder written notice of the proposed change inviting the holder to make written representations about the proposed change within a reasonable time fixed in the notice; and
 - ii) if the permit holder makes written representations within the time allowed in the notice - takes the representations into account.

12. Transfer of a permit

- (1) The holder of a permit may, with the local government's approval, transfer the permit to another person.
- (2) The local government may impose conditions on the transfer of a permit.
- (3) However, the local government cannot -
 - (a) unreasonably refuse to approve the transfer of a permit; or
 - (b) impose unreasonable conditions on the transfer of a permit.

13. Chief executive of department may give directions

The local government and the permit holder must comply with any directions and guidelines issued by the chief executive of the department which administers Chapter 5 of the *Transport Infrastructure Act 1994* about the exercise of its powers under this local law over permits for State-controlled roads.

PART 3 - ENFORCEMENT

14. Compliance notices

- (1) If a holder of a permit contravenes a provision of this local law or a condition of the permit, an authorised person may give the holder of the permit a written notice (a “**compliance notice**”) under this section.
- (2) A compliance notice may -
 - (a) if the contravention is of a continuing or recurrent nature - require the holder of the permit to stop the contravention; and
 - (b) whether or not the contravention is of a continuing or recurrent nature - require the holder of the permit to take specified action, within a time specified in the notice, to remedy the contravention.
- (3) Immediate action to remedy a contravention may be required if it is necessary to avoid a risk to public safety.
- (4) The holder of a permit to whom a compliance notice is given must comply with the notice.

Maximum penalty for subsection (4) - 50 penalty units.

15. Power to remove structures etc.

- (1) If a person has brought a structure or other thing onto a road for an activity that is a contravention of this local law, an authorised person may remove and dispose of the structure or other thing if -
 - (a) it gives rise to a risk to public safety; or
 - (b) it is not removed from the road as required by a compliance notice.
- (2) The local government may recover the cost of action taken under this section as a debt from the person by whom, or for whom, the structure or other thing was brought onto the road.

16. Suspension or cancellation of a permit

- (1) If -
 - (a) the holder of a permit contravenes this local law or a condition of the permit; or

³ A “**change**” to the conditions of a permit includes a change by omission, substitution or addition. (See *Acts Interpretation Act 1954*, section 36).

- (b) the local government needs to carry out roadworks or any other local government purpose,

the local government may, by written notice to the holder, suspend or cancel the permit.

- (2) However, the local government may only suspend or cancel a permit if:
 - (a) the suspension or cancellation is urgently necessary in the interests of safety or to prevent a nuisance; or
 - (b) the suspension or cancellation is necessary to allow for roadworks or any other local government purpose; or
 - (c) the local government -
 - i) gives the holder of the permit written notice of the proposed suspension or cancellation inviting the holder to make written representations about the proposed action within a reasonable time fixed in the notice; and
 - ii) if the holder of the permit makes written representations within the time allowed in the notice - takes the representations into account.

PART 4 - REVIEW OF DECISIONS

17. Reviewable decisions

A decision of the local government, the CEO or an authorised person under this local law is reviewable (a "**reviewable decision**") unless it is -

- (a) a decision made by a resolution of the local government; or
- (b) a decision made on an earlier application for review.

18. Application for review

- (1) A person who is aggrieved by a reviewable decision may apply to the local government for a review of the decision.
- (2) An application for review of a reviewable decision must -
 - (a) be in writing; and
 - (b) specify an address in Australia to which notices under this local law may be sent to the person aggrieved; and
 - (c) be lodged at the office of the local government within 14 days after the day on which notice of the decision was given to the applicant; and
 - (d) if the person seeks to make representations through an agent - state the name of the agent; and

- (e) state the reasons why the applicant considers the decision should be reviewed; and
 - (f) include any other information specified in a subordinate local law.
- (3) However, notwithstanding subsection (2), the local government must take steps which are reasonable in the circumstances to assist a person to make an application which will be in a form that complies with subsection (2).

19. Carrying out the review

- (1) Subject to section 18(2) the local government must either -
- (a) carry out a review at a meeting of the local government; or
 - (b) have the review carried out by the CEO or an authorised person.
- (2) The person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.
- (3) The person aggrieved and the original decision maker are entitled to make written representations, either personally or through an agent, to the local government prior to a decision being made on the review.
- (4) The review under this Part is to be conducted on an informal basis but in accordance with the rules of natural justice.

20. Decision on the review

- (1) For the purposes of this section, the local government must make its decision on the review within 28 days after the local government has received the application for review (the "**decision making period**").
- (2) In undertaking a review, the local government may confirm, vary or reverse the decision under review and must make a decision (its "**final review decision**") within the decision making period.
- (3) If the local government does not make its final review decision within the decision making period, the local government is taken to have confirmed the decision under review (a "**deemed confirmation**").
- (4) The local government after making its final review decision (other than a decision which is a deemed confirmation) must give the applicant written notice of the result of the review within the decision making period.
- (5) If, in its final review decision, the local government has confirmed the decision under review the written notice under subsection (4) should state the reasons for reaching that decision.

PART 5 - MISCELLANEOUS

21. Defences

It is a defence to any breach or non-compliance of any provision contained in this local law if a person has a reasonable and lawful excuse for the breach or non-compliance.

22. Subordinate local laws

The local government may make subordinate local laws about any matters about which this local law specifically allows for the making of subordinate local laws.

SCHEDULE
DICTIONARY

section 4

“authorised person” means a person appointed as an authorised person for this local law.⁴

“business” means the commercial supply of goods or services (including food or drink or both) but does not include the provision of a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*.

“CEO” means the Chief Executive Officer of the local government.

“chief executive” means the chief executive of the department responsible for administering the *Transport Infrastructure Act 1994*.

“compliance notice” see section 14(1).

“decision making period” see section 20(1).

“deemed confirmation” see 20(3).

“final review decision” see section 20(2).

“permit” means a permit under Part 2.

“road” means a road within the meaning of the *Transport Infrastructure Act 1994* and includes:

- (a) a mall; or
- (b) a square, court or other public place under the local government’s control that is declared by subordinate local law to be subject to this local law.

“reviewable decision” see section 17.

“State-controlled road” means a State-controlled road under the *Transport Infrastructure Act 1994*.

“the Act” means the *Local Government Act 1993*.

⁴ See section 13(1) of *Local Law No. 2 (Administration)*.

**DOUGLAS SHIRE COUNCIL
SUBORDINATE LOCAL LAW
NO. 59
(COMMERCIAL USE OF ROADS)
2002**

This subordinate local law is to be read with Local Law No. 59 (Commercial Use of Roads) 2002.

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1. Short title

This subordinate local law may be cited as *Subordinate Local Law No. 59 (Commercial Use of Roads) 2002*.

2. Objects

The objects of this subordinate local law are to provide detailed information called upon by *Local Law No. 59 (Commercial Use of Roads) 2002* in order to -

- (a) regulate soliciting of business on roads; and
- (b) regulate the use of roads for conduct of business.

3. Definitions

- (1) All terms have the same meaning as those provided for in *Local Law No. 59 (Commercial Use of Roads) 2002*.
- (2) For the purposes of the definition of "road" in the schedule to the Local Law, the areas of land under the control of the local government that are declared to be subject to the Local Law are set out in Schedule 1.

4. Local Law - Section 6(c) - Application for a permit

For the purposes of section 6(c) of the Local Law, an application for a permit must include or be accompanied by -

- (a) details of other approvals, permits or licences required under another law; and
- (b) details of any promotional or advertising material intended to be used in connection with the activity; and
- (c) details about any procedures which will be taken to ensure that the amenity of the surrounding area will not be adversely affected; and
- (d) details about any procedures which will be taken to ensure that the activity will not cause a nuisance to neighbouring residents; and
- (e) plans of any temporary structures that will be placed on the road; and
- (f) if relevant, details about procedures which will be taken to ensure that the activity does not significantly detract from the capacity of the road to provide a vehicular and, where relevant, pedestrian thoroughfare.

5. Local Law - Section 7(2) - Grant of a permit

For the purposes of section 7(2) of the Local Law, the granting of the permit will be consistent with the relevant criteria if -

- (a) the applicant holds all other necessary statutory approvals for the activity; and
- (b) the activity will not be inconsistent with the terms and conditions of the trust and any statutory provisions relevant to the land; and

Example of section 5(b) -

The activity is intended to be carried out on trust land under the Land Act 1994 but if carried out would be inconsistent with the terms of the trust for that land.

- (c) plans showing any temporary structure intended to be erected on the road as part of the activity indicate that it is structurally sound; and
- (d) the activity will not be conducted within close proximity of a business carrying out another commercial activity or, if it will be conducted within close proximity of that business - the activity will not be likely to have an adverse effect on that other business; and
- (e) if relevant, the activity will not significantly detract from the capacity of the road to provide a vehicular and, where relevant, pedestrian thoroughfare; and
- (f) the activity will not constitute a nuisance to any person; and
- (g) the activity will not constitute a danger to any person or property; and
- (h) if relevant, the activity will not obstruct access from the footpath to kerbside parking; and
- (i) the activity will not have an adverse effect on the amenity of the area; and
- (j) the activity will not have an adverse effect on existing services located in, on or over the road.

6. Local Law - Section 8(3)(a) - Term of a permit

For the purposes of section 8(3)(a) of the Local Law, the term for which a permit is to be granted or renewed is -

- (a) in the case of an application for a permit for a single occasion – the period stated in the permit; or
- (b) in the case of an application for a permit to continually operate a commercial activity on roads, until the next 30 June following the grant or renewal of the permit.

7. Local Law - Section 9(3) - Conditions of a permit

For the purposes of section 9(3) of the Local Law, the conditions that may be imposed on a permit are as follows -

- (a) the holder of the permit must take out a public liability insurance policy to the value of FIVE MILLION DOLLARS (\$5,000,000.00) with the local government being endorsed as an insured party; and
- (b) the public liability insurance policy referred to in paragraph (a) must be submitted to the local government prior to the carrying out of the activity; and

- (c) the holder of the permit must enter into a binding agreement with the local government to indemnify the local government against claims (including claims made against the holder of the permit by the local government) for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the permit; and
- (d) if relevant, the holder of the permit must comply with the provisions of the *Health Act 1937*, the *Health Regulation 1996*, the *Food Act 1981* and the *Food Hygiene Regulation 1989*; and
- (e) if the holder of the permit or the holder's employee or agent damages the road it must pay to the local government the amount it would cost the local government to rectify the damage to the road; and
- (f) notwithstanding paragraph (e), the local government may allow the holder of the permit to carry out the rectification works at their cost for damage caused to the road if this is appropriate in the circumstances; and
- (g) any rectification works carried out under paragraph (f) must be to the satisfaction of the local government and will be without prejudice to its rights to carry out any further works needed to rectify the damage to the road at the cost of the holder of the permit; and
- (h) the holder of the permit must not adversely obstruct the movement of vehicles and pedestrians along the road; and
- (i) the holder of the permit must ensure that the activity (including any disposal of waste water as part of that activity) does not cause a danger or nuisance to neighbouring residents or users of the road; and
- (j) the holder of the permit must ensure that the activity does not have an adverse effect on the amenity of the surrounding area; and
- (k) the holder of the permit must not interfere with the existing services located in, on or over a road; and
- (l) the holder of the permit must properly dispose of any waste generated as a result of the activity and provide a rubbish receptacle for customers visiting their business; and
- (m) any advertising signs intended to be erected must be in accordance with any local law or planning scheme requirements relating to the regulation of advertising and advertising devices or any development permit given under the *Integrated Planning Act 1997*.

SCHEDULE 1

Section 3(2)

No.	Name of Park	Location	Description
1	Rex Smeal Park	Port Douglas	R159:L128/SR804927
2	Anzac Park	Port Douglas	R204:L130/SR796
3	Market Park	Port Douglas	L81/RP713554
4	Rotary Park - Port Douglas	Port Douglas	R115:L424/PTD20919
5	Jalun Park	Port Douglas	R158:L141/SR530
6	Port Douglas Esplanade	Port Douglas	R158:L141/SR530
7	Port Douglas Arboretum	Port Douglas	R1256:L95/CP896321
8	Port Douglas Sports Reserve	Port Douglas	R1256:L95/CP896321
9	Surf Club Park	Port Douglas	R203:L2/SR886
10	Reynold's Park	Port Douglas	R137:L818/PTD20939
11	Bruno Reidwig Park	Port Douglas	R167:L110/SR606
12	Four Mile Beach Park	Port Douglas	R120:L64/SR573
13	Reserve for Camping DSC tte	Port Douglas	R146:L1/SR886
14	Willy Pye Memorial/ Teamsters Park	Craiglie	R166:L108/SR538
15	Shepherd Valley Park	Mossman	L35/RP910268
16	David Jack Park	Mossman	R182:L157/SR676
17	Coronation Park	Mossman	R1269:L92/SR81
18	Middlemiss Park	Mossman	L25/RP800870
19	George Davis Park	Mossman	Part L31/RP800915
20	WE Cowe Park	Mossman	Pt L2/RP706269
21	Gwendolyn Rex Park	Mossman	R132:L127/SR826
22	Rotary Park - Mossman	Mossman	L32/RP800915
23	North Mossman Park	Mossman	R1241:L15/SR871
24	Jim Holdsworth Park	Cooya Beach	R160:L150/SR532

No.	Name of Park	Location	Description
25	Newell Beach Park	Newell Beach	R129:L11/N7853
26	Newell Beach Esplanade	Newell Beach	R161:L374/SR533
27	Wonga Community Park	Wonga Beach	L65/CP903509
28	New Wonga Esplanade	Wonga Beach	R1254:L115/SR748442 R1242:L112/SR870 R200:L369/SR803
29	Old Wonga Esplanade	Wonga Beach	R162:L377/SR534
30	Bell's Park	Wonga Beach	R1237:L26/SR875
31	Daintree Sports Reserve	Daintree Township	R117:L3, 6/D3339
32	Daintree Environmental Park	Daintree Township	R95:L1/SR63