



**Cairns Regional Council
Local Law No. 11
(Local Government Controlled Areas and Roads) 2016**

Current as at 1 March 2016

Cairns Regional Council Local Law No. 11 (Local Government Controlled Areas and Roads) 2016

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 11 (Local Government Controlled Areas and Roads) 2016*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to:
 - (a) allow the use of local government controlled areas or roads where there is a positive community benefit in allowing that use;
 - (b) decline the use of local government controlled areas or roads where there is a negative community outcome in allowing that use;
 - (c) balance the public interest against the competing private interest in granting a permit where neither subsection (a) or (b) apply;
 - (d) protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads;
 - (e) protect the health and safety of persons using state controlled roads to the extent that the local government has assumed responsibility for the management of the state controlled road;
 - (f) preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads; and
 - (g) protect the environment and public health, safety and amenity within the local government's area.
- (2) The purpose is to be achieved by providing for:
 - (a) the regulation of access to local government controlled areas;
 - (b) the prohibition or restriction of particular activities on local government controlled areas or roads;
 - (c) prescribed activity applications and permits for local government controlled areas and roads;
 - (d) offences to enforce compliance with the purposes;
 - (e) the protection of the health of persons using local government controlled areas by declaring smoke free areas; and
 - (f) miscellaneous matters affecting local government controlled areas and roads.

3 Relationship with other laws

This local law is:

- (a) in addition to and does not derogate from laws regulating the use of trust land and roads;
- (b) made under Chapter 3 of the LGA and the TORUM Act and may be affected by the *Land Act 1994*, the *Land Regulation 2009* and the *Land Protection (Pest and Stock Route Management) Act 2002*;
- (c) otherwise in addition to and does not derogate from, laws regulating land use planning and development assessment;
- (d) applicable to a State controlled road where the chief executive of the department that administers section 66(5) (Road Transport Infrastructure) of the TORUM Act approves in writing the application of this local law to a State controlled road;
- (e) applicable to those local government controlled areas and roads identified in Schedule 1 of *Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016*; and
- (f) is to be read with *Local Law No. 1 (Administration) 2016*.

4 Prescribed activities

The prescribed activities referred to in this local law are all:

- (a) category 1 activities for the purpose of section 38(4) of *Local Law No.1 (Administration) 2016*; and
- (b) permits granted which are non-transferable permits

Part 2 Use of local government controlled areas and roads

5 Management under this part

- (1) The local government manages those areas under its control by prohibiting, restricting and permitting activities to occur on local government controlled areas and roads.
- (2) Prohibited activities cannot be permitted.
- (3) Prescribed activities can be permitted or permitted subject to conditions, except where prohibited, or restricted in all areas.
- (4) Restricted activities, other than prescribed activities, can only be undertaken in accordance with this part.

6 Prohibited activities

- (1) Activities are prohibited in different parts of the local government controlled areas and roads.

- (2) Schedule 2 of *Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016* in Column 2 identifies the prohibited activities and Column 1 identifies the local government controlled area or road where the activities are prohibited.
- (3) Where schedule 2 of *Subordinate Local Law No. 11 (Local Government Controlled Areas and Road) 2016* identifies specific areas which are also more generally defined in Schedule 2, the specific prohibitions of the specific areas prevail to the extent of any inconstancy.
- (4) A person must not engage in a prohibited activity.
Maximum penalty for subsection (4) - 20 penalty units
- (5) A person must comply with a verbal direction from an authorised person to cease undertaking a prohibited activity.
Maximum penalty for subsection (5) - 20 penalty units
- (6) Any direction given under subsection (5) is in addition to any other action that may be taken by the local government or an authorised person under this or any other local law or law.

7 Restricted Activities

- (1) Activities are restricted in different parts of the local government controlled areas and roads.
- (2) Schedule 3 of *Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016* in Column 2 identifies activities that are restricted in the local government controlled area or road identified in Column 1, subject to the extent of the restriction identified in Column 3.
- (3) The local government must take reasonable steps to provide notice to members of the public regarding restricted activities for local government controlled areas or roads.
- (4) In this section:
reasonable steps may include:
 - (a) the display of a notice at a prominent place within each local government controlled area identified under subsection (2) stating:
 - (i) if the restriction relates to the whole area, the restricted activities for the area;
 - (ii) if the restriction relates to a part of the area—the restricted activities and a description of the part of the area to which the declaration applies; and
 - (iii) in general terms, the restriction; and
 - (b) including the information on Council's website.

- (5) A person must not engage in a restricted activity beyond the extent of restriction identified in Column 3 of Schedule 3.

Maximum penalty for subsection (5) – 20 penalty units

Part 3 General activities on local government controlled areas and roads

8 Prescribed activity

- (1) General activity on local government controlled areas and roads is a prescribed activity.
- (2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2016* and this local law.

9 General activities that do not require a permit

The following general activities do not require a permit under this local law:

- (a) picnics, day outings, walks and the like with less than 20 people;
- (b) invitation only gatherings of friends or family, including for barbeques or birthday parties, but not weddings, where no more than 50 people are expected to attend and no temporary structure is placed on the local government area;
- Examples of temporary structures: marquees, jumping castles, inflatable water slides.*
- (c) small scale fundraising e.g. daffodil day stall and sausage sizzle;
- (d) a peaceful assembly as defined in the *Peaceful Assemblies Act 1992* (but does require authorisation under that Act);
- (e) the operation of a temporary entertainment event, which is managed under *Local Law No. 9 (Temporary Entertainment Events) 2016*;
- (f) mobile roadside vending provided that operators:
- (i) do not solicit business from local government controlled areas or roads, eg. regulated parking bays or the footpath;
 - (ii) do not cause obstruction to vehicle or pedestrian movements by the operation of the business, eg. the queuing of customers;
 - (iii) do not remain in one location for more than 30 minutes; and
 - (iv) do not attend in the same area more than 3 times in a single day;
- (g) the provision of a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*;

- (h) 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;
- (i) a business that a person is authorised to carry on under the *Transport Infrastructure Act 1994*, unless and until a Memorandum of Understanding is agreed under the *Transport Infrastructure Act 1994* by which Council is to take control of specified declared roads upon which the activity is to be carried out;
- (j) using a road for a particular purpose if the use constitutes development under the Planning Act; and
- (k) life-saving competition or training or other aquatic activity under *Local Law No. 13 (Bathing Reserves and Foreshores) 2016*.

10 Additional criteria for the granting of a permit

The local government may grant a permit only if the proposed activity:

- (a) would not adversely affect the amenity of the area, road or the environment;
- (b) would not unduly interfere with the usual use and enjoyment of the area or road;
- (c) can be lawfully conducted on the area or road;
- (d) does not unreasonably detract from the established amenity in the neighbourhood;
- (e) is able to be conducted consistent with relevant environmental, health and safety standards;
- (f) is able to be operated in accordance with best practice management for the activity;
- (g) complies with the local government's planning scheme;
- (h) will not generate significant noise, dust or light pollution or other significantly adverse effects on the surrounding neighbourhood;
- (i) would not adversely affect existing services located in, on or over an area or road;
- (j) is appropriate having regard to any current permits issued, or application for permits, under this local law for the site including the number of permits, their duration and the nature of any approved activity;
- (k) is appropriate having regard to the frequency at which the activity is proposed to be conducted on the site;
- (l) the number of customers proposed to be taken to the site at any one time is appropriate for the local government area or road,

- (m) is appropriate having regard to the total number of customers proposed to be taken to the site;
- (n) is appropriate having regard to the impact of the activity on other users of the site;
- (o) is appropriate having regard to the adequacy of any amenities or facilities considered by the local government to be reasonably necessary for the conduct of the activity;
- (p) is appropriate having regard to the economic impact on commercial operators immediately adjacent to the site;
- (q) is appropriate having regard to the situation, suitability and amenity of the site in relation to neighbouring areas;
- (r) attaches plans showing any temporary structure intended to be erected as part of the activity is structurally sound;
- (s) will not significantly detract from the capacity of a road to provide a vehicular and, where relevant, pedestrian thoroughfare; and
- (t) will not obstruct access from the footpath to kerbside parking.

11 Conditions that must be imposed on a permit

The following types of conditions must be imposed on a permit where applicable requiring the permit holder, its contractors or agents to:

- (a) conduct the activity on the days and hours specified in the permit;
- (b) adhere to safety standards;
- (c) adopt best practice management for the activity; and
- (d) comply with all reasonable directions of an authorised person in the time specified by the authorised person.

12 Conditions that will ordinarily be imposed on a permit

(1) The following type of conditions will ordinarily be imposed on a permit where applicable requiring the permit holder, its contractors or agents to:

- (a) supply a written report to the chief executive officer on an annual basis advising of the level of compliance with the permit signed by the operator and contains the following particulars:
 - (i) the total number of persons (including employees or agents) who undertook the activity during each month of its operation together with:
 - (A) a breakdown of the number of persons who undertook the activity each day (with the number of employees or agents and the number of customers separately identified); and
 - (B) the times on which the activity was undertaken each day;

- (ii) the total number of vehicle, vessel or aircraft trips undertaken by each vehicle, vessel or aircraft on each day of the month; and
- (iii) details of any accidents which took place during the conduct of the activity each month;
- (b) indemnify the local government against all liability directly or indirectly associated with the activity;
- (c) take out a public liability insurance policy in the amount of twenty million dollars (\$20,000,000.00) in the name of the permit holder and noting the local government as an interested party;
- (d) provide to its customers or any other persons undertaking the activity all necessary or appropriate safety equipment, warnings and instruction;
- (e) be responsible for any costs or expenses incurred by local government for rectifying any damage caused by the activity;
- (f) make smoking receptacles available to collect cigarette butts, lighted matches, smoking products or any other lit materials;
- (g) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
- (h) not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided by local government;
- (i) not erect any permanent or temporary buildings, signs or structures upon the permitted activity area unless specifically permitted under the permit;
- (j) ensure that all areas used are left in a clean and tidy condition and litter is collected and lawfully disposed at a local government waste transfer station;
- (k) ensure that portable toilets are supplied, as directed by local government; and serviced for the use of the people attending the activity should insufficient facilities be available onsite;
- (l) ensure that waste from portable toilets is collected by a regulated waste transporter and disposed of lawfully at a facility licensed to accept such waste;
- (m) ensure that serving or selling any food, refreshments, souvenirs or other retail items is prohibited unless specifically permitted under the permit;
- (n) ensure that cleaning, maintaining or repairing any vehicle, vessel, aircraft or other equipment except for emergency repairs is prohibited;
- (o) ensure that activities are not permitted within 30 metres of a deployed stinger net;
- (p) advise the means by which impacts on the environment are to be minimised;

- (q) advise the means by which impacts on the amenity of neighbouring areas are to be minimised;
 - (r) ensure that a person holding a recognised first aid certificate and all other certifications required by any State or Commonwealth authority is present;
 - (s) only permit experienced and competent guides, agents or supervisors to oversee the operation of the activity;
 - (t) accept full responsibility for the safe transportation of customers and all other persons undertaking the activity;
 - (u) provide information, explanations, cautions and warnings to customers and all other persons undertaking the activity regarding the hazards likely to be encountered by them when the activity is undertaken;
 - (v) ensure that any motor vehicle, vessel, aircraft or other machinery used in connection with the activity, complies with all safety requirements and regulations and are operated in accordance with requirements, guidelines or recommendations published from time to time by the manufacturer or any State or Commonwealth authority;
 - (w) identify the points at which an operator is to access the site for the purpose of undertaking the general activity;
 - (x) state the number of customers to be taken or permitted on the site at any one time;
 - (y) include the programming of the general activity on the site; and
 - (z) include the use of any roads, jetties, foreshores or other means of accessing the site;
 - (aa) obtain any necessary permits or approvals by any government department and provide copies to the local government;
 - (bb) at least seven (7) days before the activity commences, inform residents living adjacent to the activity in writing by a letter drop, of the approximate activity date, the time, the nature and scale of proposed activities;
 - (cc) ensure activities on roads are carried out so as not to compromise road safety or unduly disrupt traffic. In all instances, the necessary approvals are to be obtained from bodies such as Department of Transport and Main Roads, Queensland Transport, Queensland Police, etc; and
 - (dd) ensure the local government is kept fully informed in writing of any proposed alterations to the activity or its timing.
- (2) In addition to subsection 12(1) the following type of conditions will ordinarily be imposed on a permit for footpath dining where applicable requiring the permit holder, its contractors or agents to:

- (a) ensure all tables and associated furniture used for the purpose of footpath dining are placed and shall remain at all times in the position as indicated on the approved plan;
- (b) ensure that only the approved footpath dining area shall be utilised at any one time, and that an unobstructed clear width of at least 2.5 metres is maintained for pedestrian access at all times including any signage and ancillary items;
- (c) ensure all approved footpath dining furniture and their environs are to be kept clean and tidy and that suitable refuse containers are provided and the area is thoroughly cleaned at the end of each business day;
- (d) ensure all tables and associated furniture remain within the permitted area during the hours of operation;
- (e) ensure all tables and associated furniture are secured by removal and storage inside the premises or as proposed, at all times outside the business hours of operation;
- (f) ensure any umbrellas are suitably weighted or fixed to ensure there is neither uplift nor damage to property or person, to the satisfaction of an authorised person;
- (g) ensure any footpath dining furniture not approved by the local government is not placed on the footpath at any time;
- (h) ensure any amendments to the approved plan, including any additional furniture shall be submitted for the approval of an authorised person;
- (i) ensure all permitted footpath dining activities are consistent with the Regulations and Standards of the *Work, Health & Safety Act 2011*;
- (j) ensure the footpath and road reserves used for footpath dining purposes remain public spaces, even after a footpath dining permit has been granted within the designated footpath space;
- (k) ensure the furniture provided within the footpath dining establishments cannot be retained for the exclusive use of the patrons of the premises;
- (l) ensure the invoices issued in relation to the rental fees for the permitted area are paid by the due date;
- (m) where the consumption of liquor occurs within the permitted footpath dining area, ensure that an application is made to the Office of Liquor and Gaming Regulation. A copy of the approval for the consumption of liquor must be forwarded to the local government prior to the commencement of service of liquor within the footpath dining area. While there is no objection to the premises to which this permit applies being licensed for the consumption of liquor at this time, the right to reconsider this position and withdraw support is retained;
- (n) ensure the approved activities are only conducted on the days and times specified on the permit;

- (o) display the permit in a clearly visible position to the public and if requested by an authorised person, produce the permit for inspection;
 - (p) hold a public liability insurance policy to the value of twenty million dollars (\$20,000,000.00) in respect of the activity, with the local government being noted as an interested party;
 - (q) comply with the provisions of the *Public Health Act 2005* and the *Food Act 2006*;
 - (r) ensure the activity does not adversely obstruct the movement of vehicles and pedestrians along the road;
 - (s) ensure the activity does not cause a danger or nuisance to neighbouring residents or users of the road (including any disposal of waste water as part of that activity);
 - (t) ensure the activity does not interfere with the existing services located in, on or over a road;
 - (u) ensure that any waste generated as a result of the activity is properly disposed of and provide a rubbish receptacle for customers visiting their business; and
 - (v) ensure 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 devices or any development permit given under the *Sustainable Planning Act 2009*.
- (3) In addition to subsection 12(1) the following type of conditions will ordinarily be imposed on a permit for stationary roadside vending where applicable requiring the permit holder, its contractors or agents to:
- (a) ensure the vehicle used in the operation of the general activity is parked and remains at all times in the position as indicated on the approved site plan;
 - (b) ensure the permit is displayed at all times whilst the general activity is being conducted;
 - (c) ensure a copy of the permit conditions and approved site plan are kept on site at all times and can be produced to an authorised person upon request;
 - (d) ensure advertising material is limited to one A-frame sign (900mm high x 600mm wide) only, illuminated signage and amplified advertising devices are not permitted at the vending site;
 - (e) ensure any details of amendments to the approved plan including a change of vehicle is submitted for the approval of the local government;
 - (f) ensure the general activity does not have any adverse effect on the existing vegetation and landscaping of the area or the environment;

- (g) ensure the general activity does not cause a nuisance to any person or a danger to any person or property;
- (h) provide and maintain sufficient receptacles for refuse and thoroughly clean areas, including nearby footpaths, driveways, shop fronts and remove all material associated with the activity at the conclusion of business each day;
- (i) ensure that no structures are erected at the vending site;
- (j) ensure that appropriate toilet arrangements, as agreed, are to be in place at all times;
- (k) ensure fees are paid by the due date outlined on the invoice;
- (l) conduct the general activity on the days and hours specified on the approval;
- (m) adhere to the safety standards;
- (n) indemnify the local government against all liability directly or indirectly associated with the general activity;
- (o) take out a public liability insurance policy in the amount of twenty million dollars (\$20,000,000) in the name of the operator and noting the local government as an interested party;
- (p) provide to its customers or any other persons undertaking the general activity all necessary or appropriate safety equipment, warnings and instruction;
- (q) comply with all reasonable directions of an authorised person in the time specified by the authorised person;
- (r) be responsible for any costs or expenses incurred by local government for rectifying any damage caused by the general activity;
- (s) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
- (t) not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided by local government;
- (u) not erect any permanent buildings, signs or structures upon the general activity area without the written consent of local government;
- (v) ensure that litter is collected and lawfully disposed at a local government waste transfer station;
- (w) ensure that waste from portable toilets is collected by a regulated waste transporter and disposed of lawfully at a facility licensed to accept such waste;
- (x) ensure that cleaning, maintaining or repairing any vehicle, vessel, aircraft or other equipment except for emergency repairs is prohibited;

- (y) advise the means by which impacts on the environment will be minimised;
 - (z) advise the means by which impacts on the amenity of neighbouring areas will be minimised; and
 - (aa) ensure that any motor vehicle, vessel, aircraft or other machinery used in connection with the general activity, complies with all safety requirements and regulations and are operated in accordance with requirements, guidelines or recommendations published from time to time by the manufacturer or any State or Commonwealth authority.
- (4) In addition to subsection 12(1) the following type of conditions will ordinarily be imposed on a permit which involves the sale of food:-
- (a) where the application involves any food other than whole fruit and vegetables, the applicant must submit evidence that the food was prepared in the approved premises;
 - (b) if the application is for a vending activity that involves food preparation in the vehicle, the applicant must submit copies of current certificates of Registration and Licence under the *Food Act 2006*.
- (5) In addition to subsection 12(1) the following type of conditions will ordinarily be imposed on a permit for goods for sale on a footpath or road (outside the CBD) where applicable requiring the permit holder, its contractors or agents to:
- (a) display only those goods stated on the permit;
 - (b) secure goods by removal and storage inside the premises, at all times outside of the business hours of operation;
 - (c) maintain a clear walkway for pedestrians of a minimum width of 2.50 metres at all times;
 - (d) keep the goods positioned as per the original site plan on the application submitted to the local government;
 - (e) conduct the general activity on the days and hours specified on the approval;
 - (f) adhere to any relevant safety standards;
 - (g) indemnify the local government against all liability directly or indirectly associated with the general activity;
 - (h) take out a public liability insurance policy in the amount of twenty million dollars (\$20,000,000) in the name of the operator and noting the local government as an interested party;
 - (i) comply with all reasonable directions of an authorised person in the time specified by the authorised person;
 - (j) be responsible for any costs or expenses incurred by the local government for rectifying any damage caused by the general activity;

- (k) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
- (l) not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided by local government;
- (m) not erect any permanent buildings, signs or structures upon the approved activity area without the written consent of local government;
- (n) ensure that litter is collected and lawfully disposed at a local government waste transfer station; and
- (o) advise the means by which impacts on the amenity of neighbouring areas will be minimised.

Part 4 Driving or leading animals

13 Prescribed activity

- (1) Driving or leading of animals to cross a road is a prescribed activity.
- (2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2016* and this local law.

14 Activities that do not require permit

The following activities do not require a permit:

- (a) leading of horses across a road by a member of a horse or pony club;
- (b) where no more than two animals are being led by a single person; or
- (c) where the animals are being led or driven pursuant to an approval to operate a general activity.

15 Additional criteria for the granting of permit

The Local Government may only grant a permit if the leading of animals would not unduly interfere with the proper use of the road or create a safety hazard for users of the road.

16 Conditions that must be imposed on a permit

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

- (a) the times of day that animals may be led across the road;
- (b) the number of animals that may be driven or led across the road;
- (c) those that require compliance with specified safety requirements; and
- (d) those that require the permit holder to exhibit specified warning notices and to take other specified precautions for the safety of users of the road or area.

17 Conditions that will ordinarily be imposed on a permit

A condition that will ordinarily be imposed on a permit may require that the permit holder, its contractors or agents give specified indemnities and to take out specified insurance, where applicable.

Part 5 Depositing of goods and material

18 Prescribed activity

- (1) Depositing of goods or materials on a local government controlled area or road is a prescribed activity.

Example: storing building materials on a nature strip or footpath area; placing bee hives in a reserve; or placing a shipping container or skip bin on nature strip or footpath area.

- (2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2016* and this local law.

19 Activities that do not require a permit

Nil.

20 Additional criteria for the granting of a permit

The local government may only grant a permit if the proposed activity would not:

- (a) significantly detract from the capacity of the road to provide a vehicular and where relevant pedestrian thoroughfare;
- (b) constitute a nuisance or a danger to any person or property;
- (c) obstruct access from the footway to kerbside parking;
- (d) adversely affect the amenity of the area or the environment; or
- (e) adversely affect the existing services located in, along, over or adjacent to a road.

21 Conditions that must be imposed on a permit

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

- (a) the location of such works or activity; and
- (b) hours of operation.

22 Conditions that will ordinarily be imposed on a permit

The following type of conditions will ordinarily be imposed on a permit, where applicable, requiring the permit holder, its contractors or agents to:

- (a) ensure unobstructed movement of vehicles and pedestrians;

- (b) take out public liability insurance in an amount nominated by the local government and note the local government as an interested party on the policy;
- (c) indemnify the local government and any other person who has an interest in or takes a benefit from the work or activity against all claims and liability, including claims for personal injury (including death) and damage to property (including economic loss) arising directly or indirectly by, through or in connection with the works or activity;
- (d) observe standards specified by the local government in the carrying out of the works or activity including complying with best practice management;
- (e) ensure safety of pedestrians and vehicles including but not limited to the safe temporary diversion of traffic, erection of warning lights and barricades;
- (f) specify a deadline for completion of the works or ceasing of the activity;
- (g) reinstate the local government controlled area and road to a specified standard following completion of the works or ceasing of the activity; and
- (h) lodge security for performance of any requirement under this local law or any condition of the permit.

Part 6 Alteration or improvement to local government controlled areas or roads

23 Prescribed activity

- (1) Alteration or improvement to local government controlled areas and roads is a prescribed activity.

Example: planting, clearing or damaging trees on a footpath.

Example: construction of a garden bed on a footpath.

Example: installation of boarding, scaffolding or gantry on road reserve.

- (2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2016* and this local law.

24 Activities that do not require permit

- (1) Planting vegetation on road verges that complies with:
 - (a) the Far North Queensland Regional Organisation of Council's Development Manual (FNQROC);
 - (b) Council's "Planning Scheme Policy - Landscaping"; and
 - (c) Council's General Policy, "Vegetation on Council Controlled Land: Planting, Removal and Maintenance".

- (2) Pruning, trimming or otherwise damaging a tree on road verges, provided it is undertaken in accordance with:
- (a) Australian Standard Pruning of amenity trees AS 4373-2007;
 - (b) Australian Standard Protection of trees on development sites AS4970-2009;
 - (c) council adopted master plans; and
 - (d) is carried out by a qualified arborist.

25 Additional criteria for the granting of permit

The local government may only grant a permit if the works or activity will not:

- (a) detract from the capacity of the road to provide a vehicular and, where relevant, pedestrian thoroughfare;
- (b) significantly cause a nuisance or danger to any person or property;
- (c) significantly obstruct access from the footway to kerbside parking;
- (d) adversely affect the amenity of the area or the environment;
- (e) adversely affect existing services located in, on, over or adjacent to a road.

26 Conditions that must be imposed on permits

The following type of conditions that must be imposed on a permit, where applicable:

- (a) the works or activity must not significantly detract from the capacity of the road to provide a vehicular and, where relevant, pedestrian thoroughfare;
- (b) the works or activity must not significantly cause a nuisance or danger to any person or property;
- (c) the works or activity must not significantly obstruct access from the footway to kerbside parking;
- (d) the works or activity must not adversely affect the amenity of the area or the environment;
- (e) the works or activity must not adversely affect existing services located in, on, over or adjacent to a road;
- (f) the location of such works or activity;
- (g) the measures to ensure unobstructed movement of vehicles and pedestrians;
- (h) the hours of operation;

- (i) the requirement to take out public liability insurance in the amount of twenty million dollars (\$20,000,000.00) and to note the local government as an interested party on the policy;
- (j) indemnification of the local government by the holder of the permit and any other person who has an interest in or takes a benefit from the work or activity against claims for personal injury (including death) and damage to property (including economic loss) arising directly or indirectly by, through or in connection with the works or activity;
- (k) lodgment of sufficient security to ensure performance;
- (l) specification of a deadline for completion of the works or ceasing of the activity;
- (m) standards to be observed in the carrying out of the works or activity;
- (n) reinstatement of the road to specified standards following completion of the works or ceasing of an activity;
- (o) requirements to ensure safety of pedestrians and vehicles including but not limited to the safe temporary diversion of traffic, erection of warning lights and barricades to the satisfaction of an authorised person;
- (p) comply with best practice management; and
- (q) comply with the requirements of relevant legislation, Australian standards and / or the FNQROC Development Manual.

27 Conditions that will ordinarily be imposed

- (1) The following type of conditions will ordinarily be imposed on a permit, where applicable requiring the permit holder, its contactors or agents to:
 - (a) the local government reserves the right to remove vegetation on local government controlled areas or roads at any time for whatever purpose;
 - (b) any alteration or improvement must comply with Crime Prevention through Environmental Design Policy guidelines (CPTED).
 - (c) engage 'Dial before you dig' to ensure proposed planting does not conflict with underground services.
 - (d) ensure that any works constructed pursuant to a permit issued under this Part are maintained in good order and repair and are not allowed to become:
 - (i) a nuisance to any person;
 - (ii) a danger to any person or property; or
 - (iii) create a potential danger to public safety for all road and footway users.
 - (e) carried out by a qualified arborist.
 - (f) comply with:

- (i) Australian Standard Pruning of amenity trees AS 4373-2007;
- (ii) Australian Standard Protection of trees on development sites AS4970-2009;
- (iii) council adopted master plans; and
- (iv) FNQROC Development Manual.

Part 7 Bringing or driving motor vehicles onto local government controlled areas

28 Prescribed activity

- (1) Bringing a motor vehicle onto or driving a motor vehicle on a place that is:
 - (a) within a local government controlled area; and
 - (b) not within a motor vehicle access area identified in Column 1 of Schedule 4 of *Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016*.

is a prescribed activity.

Example: riding an unregistered motor bike on the Esplanade reserve.

- (2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2016* and this local law.

29 Activities that do not require a permit

Access to a local government controlled area by an authorised contractor for the purposes of repairing or maintaining a local government facility and emergency service vehicles.

30 Additional criteria for the granting of a permit

- (1) The local government will only grant a permit for:
 - (a) access to a temporary entertainment event for which the applicant has received a permit; or
 - (b) the purposes of general activities on a local government controlled area for which the applicant has received a permit.
- (2) The local government may not grant a permit if access by the vehicle will:
 - (a) unduly interfere with the usual use and enjoyment of the area;
 - (b) impact on the natural resources and native wildlife of the area;
 - (c) cause damage to the area; or
 - (d) generate significant noise or dust or other significantly adverse effects on the surrounding neighbourhood or other users of the area.

31 Conditions that must be imposed on a permit

The following type of conditions must be imposed on a permit, where applicable:

- (a) the dates for which the permit is valid and the when activity may occur;
- (b) the specific vehicle or type of vehicle permitted;
- (c) speed limits;
- (d) the parts of the local government controlled area that may be accessed by vehicle notwithstanding any contrary restrictions in the area;
- (e) a copy of the permit must be displayed on the dashboard of each vehicle while it is within the local government controlled area;
- (f) the permit holder must ensure the safety of other users of the local government controlled area arising from the carrying out of the approved activity; and
- (g) the permit holder must give at least 24 hours' notice of the vehicle access to affected neighbours of the area.

Part 8 Bringing or driving prohibited vehicles onto motor vehicle access areas

32 Prescribed activity

- (1) Bringing a prohibited vehicle, identified in Schedule 4 Column 2 of *Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016*, onto or driving a prohibited vehicle, on a specified motor vehicle access area identified in Column 1 of Schedule 5 is a prescribed activity.

Example: riding an unregistered motor bike on the Red Arrow walking track

- (2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2016* and this local law.

33 Activities that do not require a permit

Access to a local government controlled area by an authorised contractor for the purposes of repairing or maintaining a local government facility and emergency service vehicles.

34 Additional criteria for the granting of a permit

The following criteria are criteria that must be considered in deciding whether or not to grant a permit:

- (a) whether the vehicle access will:
 - (i) unduly interfere with the usual use and enjoyment of the area;
 - (ii) cause damage to the area; and

- (iii) generate significant noise or dust or other significantly adverse effects on the surrounding neighbourhood.

35 Conditions that must be imposed on a permit

The following conditions are conditions that must be imposed on a permit:

- (a) limit the parts of the area accessed and the hours of day when vehicle access is permitted;
- (b) require compliance with specified safety requirements; and
- (c) require the operator to take specified measures to reduce adverse effects of the vehicle access on the users of the area or surrounding neighbourhood to acceptable levels.

Part 9 Intoxicating liquor

Division 1 Offence relating to intoxicating liquor

36 Possession of intoxicating liquor

- (1) A person shall not take intoxicating liquor on to a local government controlled area or road or be in possession of intoxicating liquor in an area or road unless the local government has authorised the area or road as a place where intoxicating liquor may be taken or be possessed.
- (2) The provisions of this section shall not apply to any person who is transporting intoxicating liquor directly through or along any area or road for legal consumption or use at some other place provided that the person does not tarry in the area or road or use the area or road for any purpose other than access while in possession of such intoxicating liquor.

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

Division 2 Enforcement

37 Compliance notice

- (1) If a person (an "offender") engages in conduct that is a contravention of a provision of this Part, an authorised person may require the offender, by compliance notice issued under section 26 of *Local Law No. 1 (Administration) 2016*:
 - (a) if the conduct is still continuing, to stop the conduct; and
 - (b) whether or not the conduct is still continuing, to take specified action to remedy the contravention.

38 Power to secure compliance

- (1) If an offender does not comply with a compliance notice within a reasonable time but no longer than 15 minutes, the authorised person may take action reasonably necessary to have the notice carried out and may use reasonable force for the purpose.
- (2) If an offender possesses intoxicating liquor in a local government controlled area or road in contravention of this local law, and does not comply immediately with a requirement under a compliance notice to remove it from the area or road, an authorised person may confiscate the intoxicating liquor.
- (3) An authorised officer when confiscating intoxicating liquor in accordance with this Part shall confiscate all intoxicating liquor in the possession of the offender at the time of the offence.

Division 3 Confiscated intoxicating liquor

39 Disposal of confiscated intoxicating liquor

- (1) When an authorised officer exercises a power under this local law to confiscate intoxicating liquor, the property in the intoxicating liquor vests in the local government upon confiscation.
- (2) If an authorised officer confiscates intoxicating liquor under this local law the intoxicating liquor may be disposed of as the chief executive officer directs.

Part 10 Miscellaneous

40 Opening hours of local government controlled areas

- (1) The opening hours for a local government controlled area are the hours specified by an official sign approved by the local government and placed at each public entrance to the area.
- (2) If there is no defined public entrance to the area, signs must be installed so that they are clearly visible to members of the public using the area.
- (3) A person must not enter or remain in a local government controlled area outside the opening hours unless the person is authorised to do so by the Chief Executive Officer.

Maximum penalty for subsection (3)—20 penalty units

41 Motor vehicle access to local government controlled areas

- (1) A **motor vehicle access area** is an area within a local government controlled area that is:
 - (a) a car park or roadway for which there is no sign or traffic control device indicating that vehicles owned by members of the public are excluded;
 - or

- (b) identified under Schedule 4 of *Subordinate Local Law No.11 (Local Government Controlled Areas and Roads) 2016* as a motor vehicle access area.
- (2) The specific type of motor vehicle (a prohibited vehicle) identified in Column 2 of Schedule 5 of *Subordinate Local Law No.11 (Local Government Controlled Areas and Roads) 2016* is prohibited in the areas identified in Column 1 of Schedule 5.
- (3) The local government must take reasonable steps including, as a minimum, the display of a notice at a prominent place within each motor vehicle access area identified in Column 1 of Schedule 5 of *Subordinate Local Law No.11 (Local Government Controlled Areas and Roads) 2016* stating:
 - (a) a description of the motor vehicle access area;
 - (b) a description of any prohibited vehicles for the area; and
 - (c) in general terms, the provisions of sections 28 and 32 of this local law.

42 Power of closure of local government controlled areas

- (1) The local government may, by resolution, temporarily close a local government controlled area to public access:
 - (a) to carry out construction, maintenance, repair or restoration work;
 - (b) to protect the health and safety of a person or the security of a person's property;
 - (c) because of a fire or other natural disaster; or
 - (d) to conserve or protect the cultural or natural resources of the area or native wildlife.
- (2) A resolution under subsection (1):
 - (a) must state a period, not greater than 6 months, during which the area will be closed; and
 - (b) must be revoked by the local government as soon as practicable after the local government becomes satisfied that the reason for making the resolution no longer exists.
- (3) Schedule 5 of *Subordinate Local Law No.11 (Local Government Controlled Areas and Roads) 2016* identifies areas the local government has permanently closed to public access for any of the following reasons:
 - (a) the conservation of the cultural or natural resources of the area, including, for example:
 - (i) to protect significant cultural or natural resources;
 - (ii) to enable the restoration or rehabilitation of the area;
 - (iii) to protect a breeding area for native wildlife;

- (iv) to manage a significant Aboriginal area in the area in a way that is consistent with Aboriginal tradition; or
- (v) to manage a significant Torres Strait Islander area in a way that is consistent with Island custom;
- (b) protection of the health and safety of members of the public;
- (c) protection of a facility or service in the area, including, for example, infrastructure, water supply facilities or power generating equipment;
- (d) protection of the amenity of an area adjacent to the area; or
- (e) the orderly or proper management of the area.

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

Example:

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

- (5) A person must not enter or remain in a local government controlled area while it is closed to public access under this section, unless the person is authorised to do so by the chief executive officer.

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

- (6) In this section:

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

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

43 Power to require owner of land adjoining road to fence land

- (1) This section applies if, in the local government's opinion, it is necessary for land adjoining a road to be fenced to prevent the risk of:
- (a) animals escaping from the land onto the road; or
 - (b) interference with the safe movement of traffic or the safe use of the road.
- (2) The local government may, by giving a compliance notice to the owner:
- (a) if the land is not currently fenced, require the owner to fence the land; or
 - (b) if a current fence on the land is in disrepair, require the owner to repair or replace the fence.
- (3) The minimum standards with which the fence must comply are:
- (a) it must be structurally sound;
 - (b) 1.2 m high;

- (c) extend across the whole of the road frontage except for gates for the driveway and walking path; and
- (d) must have gates for the driveway and walking path that are able to be securely fastened.

44 Numbering of premises and allotments adjoining a road

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

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

- (2) An owner of land (other than vacant land) must display the number allocated by the local government so as to be easily identified from the adjoining road.

Maximum penalty for subsection (2)—10 penalty units.

45 Detailed area management plans

Where the local government prepares detailed management plans, identified in Schedule 6 of the *Subordinate Local Law No. 11 (Local Government Controlled Areas and Roads) 2016*, for local government controlled areas or roads those detailed management plans may explicitly provide for the operation of sections of this local law to be varied or suspended by operation of the plan.

Part 11 Subordinate local laws

46 Subordinate local laws

The local government may make subordinate local laws about:

- (a) the declaration of prohibited activities and restricted activities and identify particular local government controlled areas and roads where the activities are prohibited or restricted and the extent of the restriction;
- (b) general activities on local government controlled areas and roads;
- (c) motor vehicle access areas;
- (d) prohibited vehicles; and
- (e) detailed area management plans.

CERTIFICATION

This and the preceding 24 pages bearing my initials is a certified copy of Cairns Regional Council *Local Law No. 11 (Local Government Controlled Areas, Facilities and Roads) 2016* made in accordance with the provisions of the *Local Government Act 2009*, by Cairns Regional Council by resolution dated 27 January 2016.

Peter Tabulo
Chief Executive Officer
Cairns Regional Council