
Reference Details

Reference No. 2005/102606
Action Type: NT - Permit to Occupy
Action Status: Approved by MD

Title Ref:
Tenure Type: Permit to Occupy

Service Centre: Townsville
Region: North

Interested Parties

Name: Don River Improve Trust / Bowen
Address: PO Box 306, Bowen, QLD, 4805
Ref:

Name: Ergon Energy / Townsville
Address: PO Box 1090, Townsville, QLD, 4810
Ref:

Name: Environmental Protection Agency / Townsville
Address: Manager Environmental Planning, PO Box 5391, Townsville, QLD, 4810
Ref:

Name: Telstra Corporation Limited / Brisbane
Address: Locked Mail Bag 3820, Brisbane, QLD, 9008
Ref:

Name: Bowen Shire Council / Bowen
Address: P.O. Box 306, Bowen, QLD, 4805
Ref:

Description of Land

Total Area (ha): 0.0000

Exclusions/Restrictions: No

Details: Area of road adjoining Lot 11 on plan B6686

No Lot/Plans

No Forestry Entitlement

No Tenancy Details

No Tenant Correspondents

Act References

Act	Section
Land Act 1994	177(1)

No Document Recipient

No Encumbrances

Conditions Details

- A92
- (1) The permittee must use the permit area for carpark and landscaping purposes . As the underlaying tenure is 'road' the public use of the area cannot be restricted accordingly the permittee is not permitted to sole exclusive possession of the area and cannot exclude the publics use of the 'road area' for carparking or access to adjoining parcels of land if required.
 - (2) This permit may be cancelled if not used for the purpose stated above.
 - (3) The permit may be cancelled after giving the permittee reasonable notice in writing, in accordance with the Land Act 1994 .
 - (4) The annual rent must be paid in accordance with the Land Act 1994.
 - (5) The Parties acknowledge that GST may be payable in respect of a supply made under this permit. Where GST becomes payable in respect of a supply made under this permit, the State (lessor) may recover the GST from the permittee by increasing the consideration payable by the permittee to the State by an amount equal to that which the State is obliged to remit to the Commonwealth as GST on the supply and that amount may be recovered from the permittee as part of the money payable to the State under this permit. The State will upon request by the permittee, issue to the permittee a valid GST tax invoice in respect of any taxable supply made under this permit. (NOTE: For the purposes of this condition "GST" means the goods and services tax which results from the enactment of A New Tax System (Goods and Services Tax) Act 1999 and the related Acts which constitute the Commonwealth taxation reform (as amended from time to time)).
 - (6) The permittee must not under any circumstances enter into any arrangements to sublet, dispose of or transfer the permit.
 - (7) The permittee must pay the cost of any required survey or re-survey of the permit area.
 - (8) The permittee must control pest plants and animals, on the permit area, in accordance with the Land Protection (Pest and Stock Route Management) Act 2002

- and the Local Laws and requirements of the Bowen Shire Council.
- (9) The permittee has the responsibility for a duty of care, to take all reasonable and practicable measures to sustainably manage the permit area by conserving the physical, biological, productive and cultural values, either on the permit area or in areas affected by the management of the permit area.
 - (10) The permittee must ensure that the use and development of the permit area conforms to the Planning Scheme, Local Laws and requirements of the Bowen Shire Council, binding on the permittee.
 - (11) The permittee must give the Minister administering the Land Act 1994, information about the permit, when requested.
 - (12) The permittee must not clear any vegetation on the permit area, unless in accordance with the Integrated Planning Act 1997.
 - (13) No compensation for improvements or developmental work is payable by the State at the cancellation or surrender of the permit, but the permittee has the right to remove moveable improvements within a period of three months from the cancellation or surrender of the permit, provided all money due by the permittee to the State on any account whatsoever has been paid, or be required to remove those improvements as specified in any further condition of permit.
 - (14) This permit is subject to the Land Act 1994 and all other relevant State and Commonwealth Acts.
- I66 The permittee indemnifies and agrees to keep indemnified the Minister administering the Land Act 1994, and the State of Queensland, (the "Indemnified parties") against all actions, suits, proceedings, claims, demands, costs, losses, damages and expenses ("Claim") arising out of or in any way connected to or resulting from the granting of this permit to the permittee or which is connected to or resulting from the permittees' use and occupation of the permit area (all of which are referred to as "the indemnified acts or omissions") save to the extent that the Claim arises as a result of any negligent act or omission of the Indemnified parties, however, any negligent act or omission of one of the Indemnified parties does not negate the indemnity to any of the other Indemnified party/ies. The permittee hereby releases and discharges the Indemnified parties from any Claim relating to the indemnified acts or omissions which may be made against the Indemnified parties.
- L108 The permittee must not effect any further improvements other than maintaining the existing improvements or upgrading those improvements for public safety on the permit area.
- U44 The permit area must only be used in conjunction with Lot 11 on plan B6686.

No Parent Titles

No Attached Tenures

No Reserves

Land Value Information

Purpose:	Commercial/Business
Category:	Commercial or Industrial
Sub Category:	
Rental Type:	Calculated Rent
Fixed Rent Expires:	
Rate:	5.00 percent
Annual Rent:	\$15400.00
Unimproved Capital Value:	\$280000.00
Sale Price:	\$
Improvements Value:	\$
Deposit:	\$15400.00
Timber Value:	\$
Timber Installment:	\$

No Deeds To Be Issued

Optional Conditions

Nil

Optional Reservations

Nil

RTI DL RELEASE - DNRM

eLVAS Submission Report

For Case id: 2005/102606

Submission Details

Type: Submission

Title: Submission for Extension of Time

Created: 26-Sep-2007

Submitted: 26-Sep-2007

Submitted By: Besgrove, Julie-Ann

Actioning Officer's Recommendation:

The applicants have requested an extension of time to consider the Depts offer for a Permit until 31/10/2007. Refer their letter attached.

Accordingly I seek approval under Section 442 of the Land Act to grant an extension to that time. Recommend that applicants are advised that will be the 'final' date and no further extension will be granted.

Optional Recommendation Document:

None

Documents

Component	Document Type	Title	Received/Sent
	Internal Document/Report	Current Title 21110013 (11 B6686)	18-Jan-2007
	Internal Document/Report	SmartMap for 11 B6686	18-Jan-2007
	Internal Document/Report	Cultural Heritage report_none	18-Jan-2007
	Maps/Plans/Sketches	AP13520 Draft	18-May-2007
	Internal Document/Report	SVS Report	30-May-2007
	Incoming Letter	Re Council Views on PO	28-Jun-2007
	Native Title Documentation	New NT assessment Module L for PO	30-Jul-2007
	Native Title Documentation	New NT assessment Dedicated Road	30-Jul-2007
Case Action (1)	Internal Document/Report	Draft Condition for (1) NT - Permit to Occupy	31-Jul-2007
	Audit Report	Submission Verification Report (Action 1)	31-Jul-2007
	Incoming Letter	Request for extention of time	25-Sep-2007
	Audit Report	Submission Verification Report (Action 1)	26-Sep-2007

Case issues

No case issues

Case notes

No case notes

Applications

Application Id	Application Type	Status	Primary
1	Permit to Occupy	Approved by MD	Y
	No Decision		

Actions

Action Id	Action Type	Status	Status Date
1	NT - Permit to Occupy	Approved by MD	5-Nov-2007
	No Decision		

Additional comments

Approval is granted for the extension of time to the 31 October 2007 in accordance with section 442 (4) of the Land Act 1994 to allow the applicant sufficient time to consider the offer given the rental amount for the permit to occupy.

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NOTIFICATION OF ACCEPTANCE OF OFFER

IN TERMS OF THE LAND ACT 1994

A.B.N. 83 705 537 586

Department of Natural Resources and Water

PO Box 5318

Townsville Qld 4810

I/We, _____
(Full Name/s of Applicants)

of, _____
(Residential address or registered office)

being the person/s to whom an offer has been made in terms Section 177 of the Land Act 1994 and in accordance with the Department's letter of offer dated 1 August 2007.

HEREBY GIVE YOU NOTICE that **we** accept such offer.

We note that this acceptance shall not be effective until we have complied with all the conditions of the offer within the time specified.

We accept the condition/s of the offer and acknowledge that the date/s by which they must be complied with are –

Conditions of Offer	Date for Completion
<ul style="list-style-type: none">Notification of Acceptance of Offer.Payment of the offer AccountCompletion of Tenant Correspondence Details	As by 15 September 2007

I/We acknowledge that if all of the above conditions of the offer are not completed with by the date of completion and **I/We** do not apply for and are granted an extension of time prior to that date, this offer will lapse. If the offer lapses a fresh application will be required and the appropriate fees paid before the Department will reassess the application including the valuation, conditions and decision.

PARTICULARS OF LAND

Lot A on AP 13520 (over areas of road), an area of about 1615m²

Dated at _____ this _____ day of _____ 2 _____

(SIGNATURE)

(WITNESS)

(SIGNATURE)

(WITNESS)

(ABN Number if applicable for Issue of Tax Invoice)

(ACN Number if no Company Seal required)

NOTE: All persons to whom the offer has been made or their authorised representative for and on their behalf should sign this document. In the event of a company being offered the tenure, this document is to be executed either under the Company Seal, with the signatories designation within the Company stated. Or, without the seal and signed by two (2) directors or, a director and the secretary.

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RT/DL RELEASE - DNRM

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No Parent Titles

No Attached Tenures

No Reserves

Land Value Information

Purpose:	Commercial/Business
Category:	Commercial or Industrial
Sub Category:	
Rental Type:	Calculated Rent
Fixed Rent Expires:	
Rate:	5.00 percent
Annual Rent:	\$15400.00
Unimproved Capital Value:	\$280000.00
Sale Price:	\$
Improvements Value:	\$
Deposit:	\$15400.00
Timber Value:	\$
Timber Installment:	\$

No Deeds To Be Issued

Optional Conditions

Nil

Optional Reservations

Nil

RTI DL RELEASE - DNRM

Draft Conditions for

Case: 2005/102606

Action: 1

As at: 31 Jul 2007

- A92
- (1) The permittee must use the permit area for carpark and landscaping purposes . As the underlying tenure is 'road' the public use of the area cannot be restricted accordingly the permittee is not permitted to sole exclusive possession of the area and cannot exclude the publics use of the 'road area' for carparking or access to adjoining parcels of land if required.
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- U44 The permit area must only be used in conjunction with Lot 11 on plan B6686.

Annexure 7.1

Native Title Assessment Form

This annexure provides a template Native Title Assessment Form to record your native title assessment for a proposed dealing.

To help you complete this Native Title Assessment Form, some of the Modules (eg. Module BA) contain example extracts of this form.

If you have any queries in relation to using this form, please contact your NTCO. If your NTCO is unsure how to proceed, Indigenous Services should be contacted for advice.

RTI DL RELEASE - DNRM



QNTIME

Remember to –

- record your tenure and use findings as **research items** in the research layer in QNTIME; and
- request a **conclusion** be published in QNTIME for any research item you have assessed to be a previous exclusive possession act (PEPA).

Native Title Assessment Form

Information about this Form –

1. This form is mainly based upon the *Path through Native Title Assessment*.
2. To correctly complete this form, you will need to have read the relevant Modules of the Procedures.
3. Complete each part of the **Assessment Section** until you reach a **Go to Reason for Decision**, and then complete the **Decision Section** at the end of this form.
4. Where there is a check box, make your selection by clicking on the box. Insert all relevant information in the appropriate table field.
5. Where a Module only applies to part of your proposed dealing area, ensure you have ticked the "Part of the proposed dealing area" box. Proceed through the form for the balance of your proposed dealing area. In this instance, a diagram should be attached to identify and to distinguish between the different areas.



Please ensure this assessment is still correct at the time you do the dealing.

Assessment Section

Module AA. Proposed Dealing

Issue of a Permit to Occupy over area of road for existing carparking and gardens.

Proposed Dealing Area

Lot(s)/Plan(s): Lot A on AP 13520, the part of Lot A over the area of road named 'Emmerson Road'

Parish: Pring **County:** Herbert

Current Status: Road

Locality Description: Bowen Shire

Attached Plan/Map: Yes – refer to ELVAS

Module AB. Is this a dealing that can proceed without further reference to native title?

- Yes**
- Dealing is within a QNTIME conclusion boundary [C/_____]. Go to Module BB (if conclusion based on Module BA).
- Dealing is not a future act, ie. it is listed in Part 2
- Activities done in accordance with a valid lease, licence, permit or authority
- Emergency action

Go to Reason for Decision

- No**

Module AC. Is there a registered ILUA that covers the proposed dealing?

- Yes – Go to Reason for Decision**
- Part of the proposed dealing area
- No**

Module AD. Is there a determination of native title that covers the proposed dealing area?

- Yes – Go to Reason for Decision**
- Part of the proposed dealing area
- No**

IF YES, does the determination state that native title does **not** exist over the proposed dealing area?

- Yes – Go to Reason for Decision**
- No - Go to Modules F to N** section of this Form as native title exists over the proposed dealing area unless subsequently extinguished by a later act.

Module BA. Is there or has there been a valid grant or vesting of exclusive possession over the proposed dealing area?

- Yes – Go to Module BB**
- Part of the proposed dealing area
- No – Go to Module CA**

Module BB. Can the extinguishing effect of the PEPA / QNTIME Conclusion be relied upon?

- Yes – Go to Reason for Decision**
- No**

Module CA. Is there or has there been a valid public work over the proposed dealing area?

- Yes – Go to Reason for Decision** Part of the proposed dealing area
 No

Module CB. Is there or has there been an area dedicated or declared as road over the proposed dealing area?

- Yes** Part of the proposed dealing area only
 No

IF YES, can the dedication/declaration be relied upon to carry out the proposed dealing?

- Yes – Go to Reason for Decision**
 No

Module D. Is the area subject to other works that were done under the authority of the Crown, ie. (private works)?

- Yes** Part of the proposed dealing area
 No

IF YES, can I proceed with my dealing on the basis of the works?

- Yes – Go to Reason for Decision**
 No

Module E. Information Module ONLY regarding past and intermediate period acts

Proceed to Modules F to N.

Modules F to N. Do the future act sections apply to your proposed dealing?

- Yes** Part of the proposed dealing area

Which future act provision and Module applies

Section/s: Modules:

Go to **Reason for Decision**

- No** Your only options now are –
- an ILUA (Module Q); or
 - a non-claimant application (Module R).

Can a non-claimant application be made?

- Yes**
 No – Your only option is an ILUA.

Go to **Reason for Decision**

Decision Section

Reason for Decision

Reasons

'Emmerson Street' is a validly dedicated road, as shown on Crown Plan B6686.

Native Title Parties & Procedural Rights (if relevant)

Types of native title parties	Names of native title parties	Procedural rights to be provided to the native title parties
Registered Native Title Body Corporate		
Registered Native Title Claimants		
Native Title Representative Body	Central Queensland Land Council	None

- Proceed (first providing any relevant procedural rights)
- Send to NTCO
- Send to Indigenous Services through NTCO

Name, title and signature of officer making this assessment –

Name: Julie Besgrove
Title: Land Officer
Department/Agency: Department of Natural Resources and Water
Signature:
Date: 30/07/2007

Don't forget to:

- 1) Enter your research into QNTIME.
RB / 1712
RI / 1094
- 2) Request a conclusion be published where you found a PEPA.

Request for valuation and inspection report

Type of dealing that valuation is requested for

- Lease renewal
- Lease conversion to perpetual
- New lease/permit/licence**
- Lease/license amendment (that is, possible to change to rental)
- Lease conversion to freehold
- Permanent road closure
- Simultaneous road opening and closure
- Road opening (eg. Secondary access, Main Roads operational land)
- Sale of USL
- USL made available to EPA
- Reservation in title

- Other.....*

Type of inspection report required

- Land inspection**
(for use in assessing appropriate use and tenure, relevant lease conditions, establishing baseline condition, relevant property disposal issues)
- Compliance with lease conditions**
(for use in determining compliance with lease conditions)
- Presence of squatters/encroachments on State land**
(for confirming presence of squatter/encroachment on State land)
- Site plan**
(for use in identifying the exact location of an issue)
- Other**
.....

eLVAS ref: 2005/102606

MIS job #:

Location of property: Emmerson Street, Bowen

Real property description: Area of Road, currently described as Lot A on Draft AP13520, adjoining Lot 11 on plan B6686

Relevant date for valuation *(if not current, or date of receipt of fees in the case of conversion to FH)*

THIS REQUEST IS URGENT *(explanation for urgency):*

The request for this valuation is urgent as the job is a 2 year & older, was original started 05/05/2005.

Summary of relevant information specifically pertaining to the case:

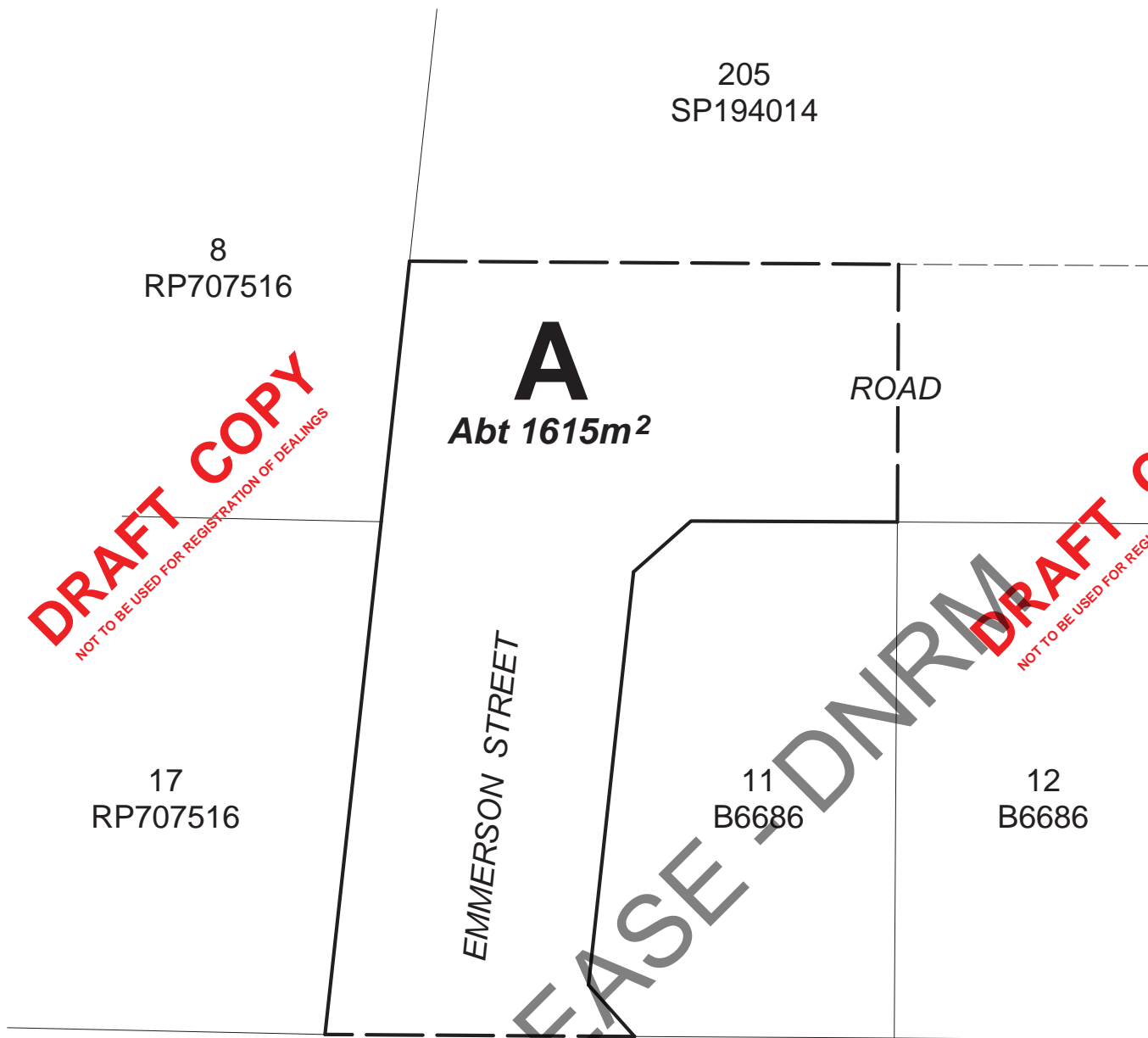
(Specific matters that should be noted or addressed. Aspects not readily apparent and any initial conclusions reached that could be relevant to the inspection and/or valuation.)

Specific requirements :

(Relevant to preparation of valuation or clarification about request for inspection report. In relation to lease renewal/conversion, particular attention should be given to the mandatory criteria in s159 and s167)

SLAM case manager: Tracy Jones

Date of request: 18/05/2007

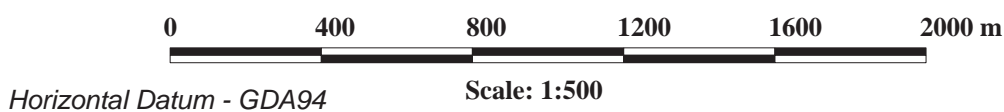


DRAFT COPY
NOT TO BE USED FOR REGISTRATION OF DEALINGS

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WARNING
This plan has been prepared for internal use only
Please notify Spatial Information Group, Townsville Office when verification of plan details has been finalised
A copy of the final plan will be returned to you
Senior Cartographer
Townsville Office
North Region

ARTIDL RELEASE - DNRMA



Notings Data Base references: 07N22020



PREPARED BY
TOWNSVILLE OFFICE
NORTH REGION
DEPT OF NATURAL RESOURCES
& WATER
3rd Floor State Govt Building
Cnr Stanley & Walker Sts
Townsville Q 4810

Plan of Lot A

Proposed Permit to Occupy
over part of Emmerson Street and un-named Road, Bowen
Adjoining Lot 11 on B6686, Lots 8 & 17 on RP707516 and
Lot 205 on SP194014

PARISH : PRING COUNTY : HERBERT
LOCALITY : BOWEN LOCAL AUTH : BOWEN SC

Compiled from: DCDB & sketch on file

Drawn by: W.T.SALES

File Ref : eLvas 2005/102606

Map Ref : 8558-23333

Date: 19/04/2007

ADMINISTRATIVE PLAN

Scale 1 : 500
NOTE: Original size A3

13520

DRAFT COPY
NOT TO BE USED FOR REGISTRATION OF DEALINGS

eLVAS Client Interaction Report

For Interaction id: 291251

Contact Details

Business unit: State Land Asset Management
Business context: Written (Inwards) Case
Interaction method: Letter
Interaction date: 2-May-2007 11:27 AM
Entered by: Jones, Tracy Lee
Reference: 480/0010/0001-13

Contact with: Ergon Energy Corporation Limited, Townsville

Documents

Document Type	Title	Received/Sent
Incoming Letter	Ergon - No objection	17-Apr-2007

Interaction Record History

Service Centre: Hughenden

Associated to Case: 2005/102606

Revision No.: 0
Updated by: Jones, Tracy Lee
Date: 2-May-2007
Details: Scanned document received from Ergon Energy

Assignment History

RTI DL RELEASE - DNRM



Your Ref: 2005/102606
Our Ref: 480/0010/0001-13

DEPARTMENT OF NATURAL
RESOURCES & WATER
20 APR 2007
HUGHENDEN

17 April 2007

Department of Natural Resources, Mines & Water
PO Box 153
HUGHENDEN QLD 4821

34 - 46 Dalrymple Road
Garbutt QLD 4814
PO Box 1090
Garbutt QLD 4814
Telephone 07 4727 6245
Facsimile 07 4727 6507
Website www.ergon.com.au

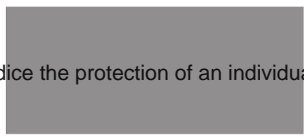
Attention: Tracey Jones

Dear Tracey,

**RE: Proposed Permanent Road Closure – Lot 11 On Plan B6686
Parish of: Pring County of: Herbert**

We refer to your letter of 26 March 2007 and advise that Ergon Energy has no infrastructure currently located within the subject area and therefore has no objection to the application.

Yours faithfully,



**Carol Slattery
Senior Property Administration Officer**

p3(3) Prejudice the protection of an individuals right to privacy

RT/DL RELEASE - DNRM



**PANDORA
FOUNDATION LTD**

Enquiries: Carol Slattery Telephone No.: 4727 6245 Facsimile No.: 4727 6507

Ergon Energy Corporation Limited ABN 50 087 646 062
File A

eLVAS Client Interaction Report

For Interaction id: 276427

Contact Details

Business unit: State Land Asset Management
Business context: Written (Outwards) Case
Interaction method: Letter
Interaction date: 26-Mar-2007 2:36 PM
Entered by: Jones, Tracy Lee
Reference:

Contact with: Telstra Corporation Limited, Brisbane

Documents

Document Type	Title	Received/Sent
Outgoing Letter/Document	Views ltr to Telstra & Ergon	26-Mar-2007

Interaction Record History

Service Centre: Hughenden

Associated to Case: 2005/102606

Revision No.: 0
Updated by: Jones, Tracy Lee
Date: 26-Mar-2007

Details: Parties included: Ergon Energy / Townsville

Assignment History

RTI DL RELEASE - DNRM

Author: Tracy Jones
Our Ref: 2005/102606
Work Unit: State Land Asset Management (SLAM)
Phone: 4741 1657

26 March 2007

Telstra
Locked Bag 3820
Brisbane Qld 4001

Dear Sir/Madam

Application for Permit to Occupy over an area of road adjoining Lot 11 on plan B6686, Parish of Pring

I wish to advise that this Department has received an application for a permit to occupy over land details as follows:

Application Details: Area of road adjoining Lot 11 on plan B6686
(see area highlighted on attached map)
Parish: Pring
County: Herbert
Purpose: Gardens and Carpark

The enclosed Smartmap shows the subject land and the surrounding locality.

Please advise this Department of your views regarding the application. If you object to the application your reasons must be provided in writing.

Your response is required by **5pm on 27 April 2007**.

If you wish to provide a response but are unable to do so before the due date, please contact me before the due date to arrange a more suitable timeframe. If a response is not received by the due date and no alternative arrangements have been made, it will be assumed you have no objections or requirements in relation to this matter.

Please address your response to this request to Tracy Jones, Administration Officer at the address below and quote Reference No 2005/102606 and if you wish to discuss this application please phone (07)47411657.

Yours faithfully

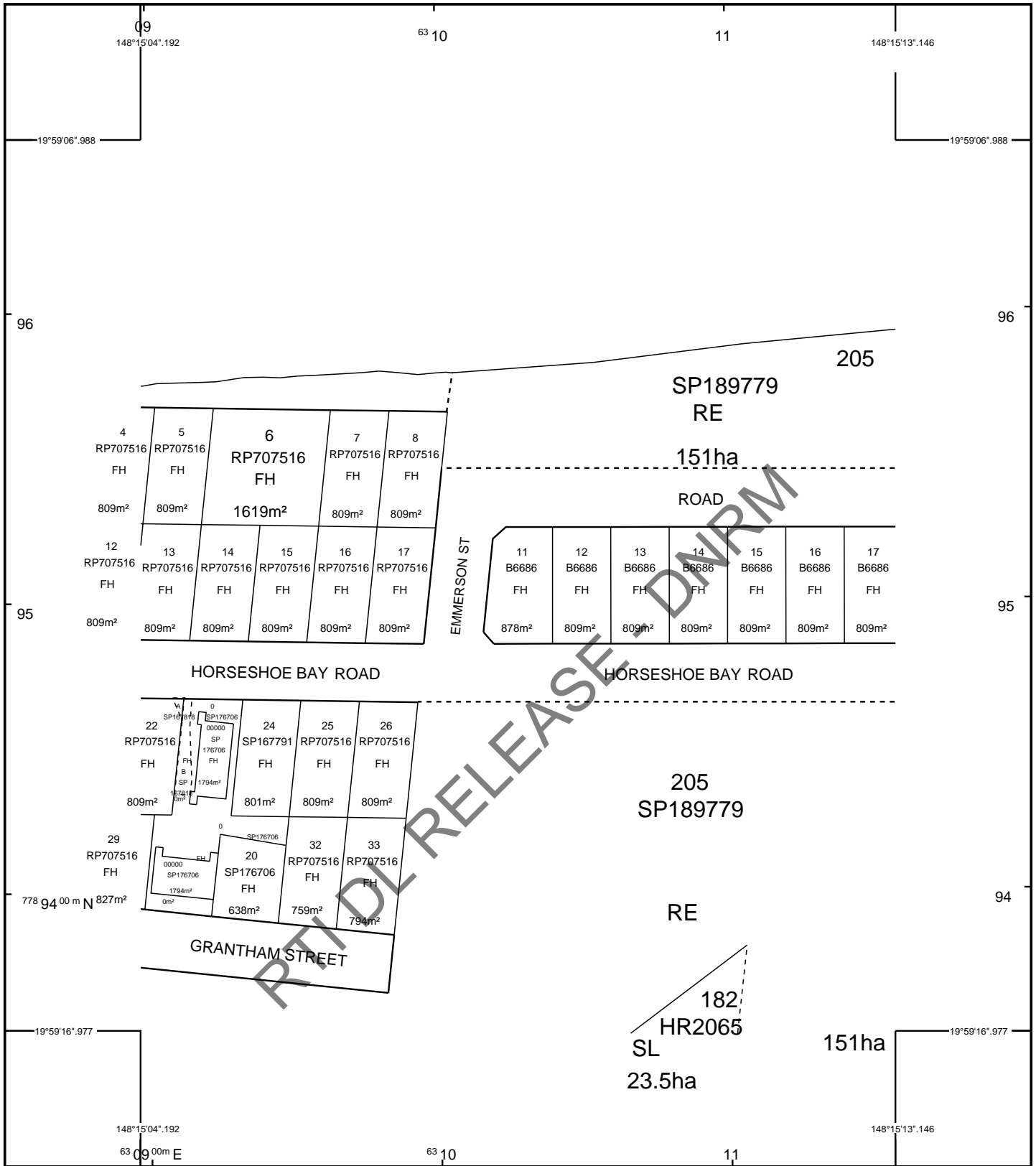
Tracy Jones
Administration Officer
**State Land Asset Management
Land and Vegetation Services
North Region**

PO Box 153, HUGHENDEN
QUEENSLAND 4821

Telephone: 4741 1657
Facsimile: 4741 1412

Email: SLAM-Hughenden@nrw.qld.gov.au

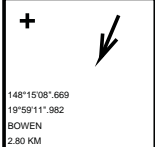
Website www.nrm.qld.gov.au



STANDARD MAP NUMBER
8558-23333



MAP WINDOW POSITION &
NEAREST LOCATION



SUBJECT PARCEL DESCRIPTION

DCDB	
Lot/Plan	11/B6686
Area/Volume	878m ²
Tenure	FREEHOLD
Local Government	BOWEN SHIRE
Locality	BOWEN
Parish	PRING
County	HERBERT
Parcel/Segment	10/44771

CLIENT SERVICE STANDARDS

PRINTED (dd/mm/yyyy)	18/01/2007
DCDB	17/01/2007
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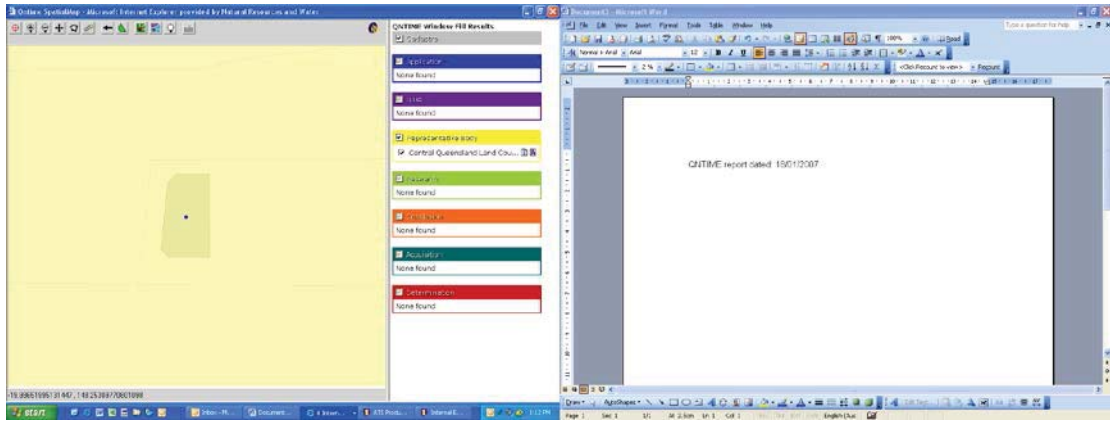
**Queensland
Government**

**Natural Resources,
Mines and Water**

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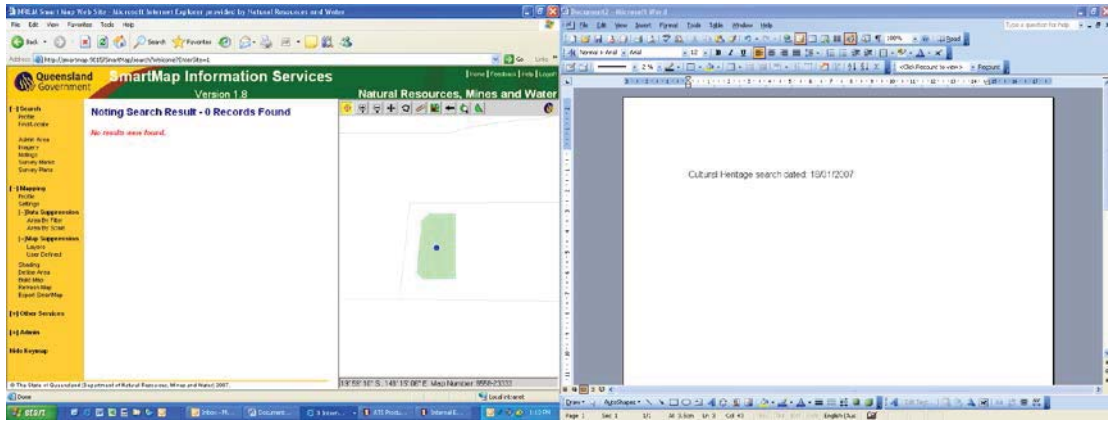


14-166



QNTIME report dated: 18/01/2007

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Cultural Heritage search dated: 18/01/2007 (none)

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LISTING OF ADMINISTRATIVE AREAS

LOT NUMBER: 11 PLAN NUMBER: B6686

Admin Area Name	Admin Area Type
DAWSON	ELECTORAL BOUNDARY - FEDERAL
WHITSUNDAY	ELECTORAL BOUNDARY - STATE
WORLD HERITAGE AREA - GREAT BARRIER REEF	EPA NOTIFICATION AREA
DOIW GREAT BARRIER REEF MARINE PARK	EPA NOTIFICATION AREA
GBR COAST MARINE PK - GENERAL USE	EPA NOTIFICATION AREA
DON	RIVER IMPROVEMENT TRUST AREA
BOWEN	DECLARED SUB ARTESIAN AREA
NORTH	NRW REGION
CHARTERS TOWERS	MINING DISTRICT
BOWEN SHIRE	LOCAL GOVERNMENT
BOWEN, BOWEN SHIRE	LOCALITY

Note :- Client should contact Data Custodian for a particular Administrative Area to verify the authenticity of the information.

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Bowen Shire Council

Local Law No. 19 (Roads)



Bowen Shire Council

Local Law No. 19 (Roads)

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Local Law No. 19 (Roads)

[as amended by all amendments that commenced on or before 26 April 2006]

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 19 (Roads)*.

2 Objects

The objects of this local law are to—

- (a) ensure that the local government has the necessary powers to construct, maintain and improve roads within its area; and
- (b) provide for the naming of roads and the numbering of adjacent properties; and
- (c) regulate the making of alterations and improvements to roads; and
- (d) prevent damage to any road, private property or public place as a result of any works, activities or movement of traffic and ensure reinstatement of any damage caused; and
- (e) regulate and prohibit the conduct of specified activities on roads.

3 Definitions

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

4 Relationship with other laws

- (1) This local law must be read with *Local Law No. 1 (Administration)*.

- (2) Where there is inconsistency between this local law and *Local Law No. 1 (Administration)*, this local law will apply.

5 Application of local law to State-controlled roads

The provisions of this local law only apply to State-controlled roads with the written approval of the chief executive of the department that administers the *Transport Infrastructure Act 1994*.

Part 2 Construction, maintenance and improvement of roads

Division 1 Road construction

6 Construction of roads

The local government may construct a road.

Division 2 Maintenance, repair and improvement of roads

7 Maintenance and repair

The local government may carry out work for the maintenance or repair of a road.

8 Improvement of roads

- (1) The local government may carry out work for the improvement of a road.

Examples of work to which this section applies—

1. *landscaping and beautification adjacent to or between carriageways; and*
2. *constructing—*
 - (i) *footpaths and footbridges and associated structures; and*
 - (ii) *fences, grids and gates to prevent animals from straying onto a road; and*

3. *installing—*
- (i) *official traffic signs to regulate, warn or guide traffic; and*
 - (ii) *facilities for the protection or use of road users.*

- (2) The local government may enter into an agreement with any owner of land adjoining or abutting the road regarding the cost of construction of a footpath or kerbing on the road.

Division 3 Traffic control while roadwork in progress

9 Power to facilitate roadwork

- (1) An authorised person may give directions to—
- (a) the driver or person in charge of a vehicle or an animal; or
 - (b) a pedestrian;
- if the direction is necessary to facilitate roadwork or to avoid risk to life or property that may result from carrying out the roadwork.
- (2) A person, to whom a direction under subsection (1) is given, must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Part 3 Management powers

10 Power to assign a name, or change the name, of a road

The local government may, by resolution, assign a name to a road or change the name of a road.

11 Road signs

The local government may erect road signs showing the name of roads in the local government's area and other information of use to road users.

12 Numbering of adjacent premises and allotments

- (1) The local government may, by resolution, adopt a numbering system for buildings and allotments adjoining a road.
- (2) If the local government adopts a numbering system under subsection (1), the local government must publish, at least once in a newspaper circulating generally in the area, a notice advising that the local government has adopted a numbering system.
- (3) The notice, referred to in subsection (2), must state the following—
 - (a) the local government has adopted a numbering system; and
 - (b) the name of the road to which the numbering system relates; and
 - (c) how the numbering system operates; and
 - (d) the general effect of subsections (4) and (5).
- (4) 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, unless the owner has a reasonable excuse.

Maximum penalty—20 penalty units.

- (5) An owner of land (other than vacant land) must display the number allocated to the land, in accordance with the numbering system, so as to be easily identified from the adjoining road, unless the owner has a reasonable excuse.

Maximum penalty—20 penalty units.

13 Power to require adjoining owner to fence land

- (1) This section applies if, in the local government's opinion, land adjoining a road should be fenced to prevent—
 - (a) animals escaping from the land onto the road; or

- (b) interference with the safe movement of traffic or the safe use of a road.
- (2) The local government may, by written notice given to the owner of land (a *fencing notice*), require the owner to fence the land within a time specified in the fencing notice.
- (3) The fencing notice may fix minimum standards with which the fence must comply.
- (4) An owner of land, to whom a fencing notice is given, must comply with a fencing notice, unless the owner has a reasonable excuse.

Maximum penalty—50 penalty units.

14 Power to require adjoining owner to repair or replace fence

- (1) This section applies if, in the local government's opinion, a fence on land adjoining a road should be repaired or replaced to prevent a 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 a road.
- (2) The local government may, by written notice given to the owner of land (a *fencing repair notice*), require the owner to repair or replace the fence within a time specified in the fencing repair notice.
- (3) The fencing repair notice may fix minimum standards with which the fence must comply.
- (4) An owner of land, to whom a fencing repair notice is given, must comply with the fencing repair notice, unless the owner has a reasonable excuse.

Maximum penalty—50 penalty units.

15 Interference with street lighting and public safety

- (1) The owner and occupier of land must ensure that a tree or other vegetation on that land and overhanging a road does not—
 - (a) obstruct the effective illumination of the road; or
 - (b) obstruct the clear vision of vehicular and pedestrian traffic; or
 - (c) create a potential danger to the public safety for any road users.
- (2) The owner of land must comply with subsection (1).
Maximum penalty—50 penalty units.
- (3) The occupier of land must comply with subsection (1), unless the occupier has a reasonable excuse.
Maximum penalty—50 penalty units.

16 Maintenance of footpaths

- (1) Subsection (2) applies if a formed footpath—
 - (a) is not in good order or repair; or
 - (b) has become a nuisance to any person; or
 - (c) has become a danger to any person or property.
- (2) The local government may, by written notice (a *footpath maintenance notice*) given to the owner or occupier of premises adjoining any road which has a formed footpath from which the owner or occupier receives a particular benefit, require the owner or occupier to undertake specified action to maintain the footpath or remove the nuisance or danger within the time specified in the footpath maintenance notice.
- (3) An owner or occupier of premises, to whom a footpath maintenance notice is given, must comply with the footpath maintenance notice, unless the owner or occupier has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) Subsection (5) only applies to roads—
- (a) on which kerb and channelling has not been provided; and
 - (b) that have no formed footpaths.
- (5) The local government may, by written notice (a ***maintenance notice***) given to the owner or occupier of premises adjoining any road, require the owner or occupier to undertake specified action to maintain the area of land between the premises and pavement from which the owner occupier receives a particular benefit or remove a nuisance or danger within the time specified in the maintenance notice.
- (6) An owner or occupier of premises, to whom a maintenance notice is given, must comply with the maintenance notice, unless the owner or occupier has a reasonable excuse.

Maximum penalty—20 penalty units.

17 Works notice

- (1) The local government may, by written notice (a ***works notice***) given to an owner or occupier of premises adjoining or adjacent to a road, require the owner or occupier to perform works on the premises or the road if the local government reasonably believes that the works should be performed to prevent a risk of—
- (a) interference with the safe movement of traffic or the safe use of a road; or
 - (b) damage to a road.
- (2) A works notice given under this section may specify—
- (a) the basis on which the works notice is given; and
 - (b) the works to be performed or the action to be taken; and
 - (c) the time by which the works are to be performed or the action is to be taken.

- (3) The recipient of a works notice must comply with the works notice, unless the recipient has a reasonable excuse.

Maximum penalty—50 penalty units.

18 Prohibited activities

- (1) A person must not—
- (a) deposit any material or permit any materials to fall from a vehicle onto a road; or
 - (b) damage a road or remove any of the materials of a road, unless authorised by a permit granted under this local law; or
 - (c) expectorate on any—
 - (i) footpath; or
 - (ii) road; or
 - (iii) land under the control of the local government that adjoins a footpath or road; or
 - (d) play on a bridge or culvert, other than on a formed footpath; or
 - (e) throw or drop any object from a bridge or culvert; or
 - (f) obstruct or interfere with a bridge or culvert; or
 - (g) cause any offensive liquid or substance to be discharged in such a manner which allows it to reach a road; or
 - (h) pick the flowers, fruits or foliage of, or interfere with, any vegetation that is growing in or on a road;

unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) A person must not—
- (a) wash or clean a vehicle or ship on a road; or

- (b) permit or cause a vehicle or ship to be washed or cleaned on a road; or
- (c) except for minor repairs or services carried out in an emergency situation for the purpose of enabling the vehicle to be operated—
 - (i) repair, alter or maintain a vehicle on a road; or
 - (ii) permit or cause a vehicle to be repaired, altered or maintained on a road;

unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) A person must not enter a—

- (a) drain; or
- (b) pipe; or
- (c) culvert;

located in, on, along, across, over or under a road, unless the person has a reasonable excuse.

Example of reasonable excuse—

- (i) *A Council employee or contractor may enter a drain, pipe or culvert to perform duties associated with their employment.*

Maximum penalty—50 penalty units.

Part 4 Control of roads

Division 1 Permit required

19 Requirement to hold permit

- (1) A person must not carry on a permitted activity unless authorised by as permit under this Division, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) The following activities are activities requiring a permit (a *permitted activity*) under subsection **Error! Reference source not found.**—
- (a) changing or interfering with the structure or materials of a road; and
 - (b) changing, interfering with or removing a structure associated with a road; and
 - (c) interfering with vegetation on a road; and
 - (d) planting vegetation on a road; and
 - (e) depasturing or the agistment of any animal on a road not subject to the *Land Protection (Pest and Stock Route Management) Act 2002*; and
 - (f) driving or leading any animal across a road not subject to the *Land Protection (Pest and Stock Route Management) Act 2002*; and
 - (g) discharging of stormwater onto a road; and
 - (h) depositing, placing, stacking, storing or exposing of goods or materials, or permitting or causing goods or materials to be deposited, placed, stacked, stored or exposed in, on or over a road; and
 - (i) carrying on a business on a road; and
 - (j) soliciting for business on a road; and
 - (k) outside dining on a road; and
 - (l) moving any building or structure in, on, along, across, under or over a road; and
 - (m) operating any pedicab for hire or reward on a road; and

Bowen Shire Council
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-
- (n) carrying out any works on a road or on land abutting the road, including constructing a crossing; and
 - (o) erecting any scaffolding, hoarding, or gantry in, on, along, across, under or over a road; and
 - (p) placing any building materials, soil, sand, gravel, stone or rock in, on, along, across, under or over a road; and
 - (q) carrying on roadside vending; and
 - (r) any other activity prescribed by subordinate local law.
- (3) The holder of a development permit that authorises the removal of vegetation under the *Integrated Planning Act 1997* does not require a permit under this local law for removing the vegetation from a road.
- (4) To remove any doubt, a permit under this local law does not authorise the removal of vegetation from a road if a development permit is required for such work under the *Integrated Planning Act 1997*.

Division 2 Obtaining or renewing permits

20 Application for permit

- (1) A person may apply to the local government for a permit to authorise the alteration, improvement or use of a road.
- (2) An application for a permit must—
 - (a) be in the approved form; and
 - (b) include the following information and material—
 - (i) the applicant's name and address including emergency contact details; and
 - (ii) if the applicant is a body corporate or a partnership— the name and address of the person who is authorised by the applicant to act on its behalf; and

-
- (iii) full details of the proposed alteration, improvement or use of the road; and
 - (iv) copies of any statutory permit, authorisation, form or approval required or issued for the activity the subject of the application; and
 - (c) be accompanied by the prescribed permit application fee fixed by resolution.
 - (3) The local government may, by subordinate local law, prescribe other information or material that must be included in or accompany an application for a permit.

21 Deciding application for permit

- (1) The local government must consider and decide whether to—
 - (a) grant an application for a permit unconditionally; or
 - (b) grant an application for a permit subject to conditions; or
 - (c) refuse an application for a permit.
- (2) The local government may only grant an application for a permit if satisfied—
 - (a) the conduct of the permitted activity, on the proposed conditions of the permit, would be consistent with other criteria prescribed by subordinate local law; and
 - (b) the permitted activity complies with the standards specified by subordinate local law.
- (3) If the local government—
 - (a) grants an application for a permit, the local government must issue the applicant with a permit in the approved form; or
 - (b) refuses an application for a permit, the local government must give the applicant a refusal notice.

22 Term of permit

- (1) The term of a permit is the term specified, by the local government, in the permit.
- (2) A permit holder may apply to the local government to renew its permit.
- (3) An application to renew a permit must—
 - (a) be in the approved form; and
 - (b) be made at least 28 days before the permit ends; and
 - (c) specify the reasons for which the renewal is required; and
 - (d) advise whether any of the information and material that was included in the original application for the permit has changed and, if so, to what extent; and
 - (e) be accompanied by the prescribed renewal fee fixed by resolution; and
 - (f) include or be accompanied by any other information or material prescribed by subordinate local law.
- (4) The local government must, on application for renewal of a permit, renew the permit for a further term unless—
 - (a) the local government has given the permit holder reasonable written notice of its intention not to renew the permit; or
 - (b) there is a proper ground for cancellation of the permit¹; or
 - (c) there is non-compliance with this local law or a condition of the permit; or
 - (d) a circumstance prescribed by subordinate local law applies.
- (5) If the local government does not renew a permit for a further term, the local government must give the permit holder a refusal notice.

¹ Section 27 specifies the grounds for which a permit may be suspended or cancelled.

23 Conditions of permit

- (1) Subject to subsection (2), the local government may grant a permit, or a renewal of a permit, on conditions the local government considers appropriate.
- (2) Without limiting subsection (1), a condition of a permit may—
 - (a) require the permit holder to take specified measures to protect the safety of persons working on the road and others; and
 - (b) require the permit holder to carry out specified additional work such as earthworks and drainage; and
 - (c) regulate the time within which work must be carried out; and
 - (d) regulate standards with which work must comply; and
 - (e) require the permit holder to give the local government specified indemnities; and
 - (f) require the permit holder to take out specified insurance indemnifying persons who may suffer personal injury, or loss or damage, as a result of the work; and
 - (g) relate to any other subject matter prescribed by subordinate local law.
- (3) The local government may, by subordinate local law, prescribe conditions that must be imposed or may be imposed on a permit.
- (4) However, the conditions of a permit must be consistent with the conditions of any statutory permit, authorisation or approval issued for the activity the subject of the permit.

24 Compliance with conditions of permit

- (1) A permit holder must comply with the conditions of the permit.
Maximum penalty—50 penalty units.

- (2) An operator of a permitted activity must comply with the conditions of the permit, unless the operator has a reasonable excuse stop.

Maximum penalty—50 penalty units.

25 Transfer of permit

- (1) A permit must only be transferred with the local government's approval.
- (2) A permit holder may apply to the local government to transfer its approval to another person.
- (3) An application to transfer a permit must—
- (a) be in the approved form; and
 - (b) include—
 - (i) the written consent of the permit holder and transferee; and
 - (ii) the transferee's name and address; and
 - (iii) the information and material required for an application for a permit under section 20²; and
 - (iv) any other information or material prescribed by subordinate local law; and
 - (c) be accompanied by the prescribed transfer fee fixed by resolution.
- (4) The local government must consider every application to transfer a permit and either—
- (a) approve the application unconditionally; or
 - (b) approve the application subject to conditions; or

² Section 20 (Application for permit).

- (c) refuse the application.
- (5) If, at the time an application to transfer a permit is made, this local law or a condition of the permit is not being complied with, the local government may refuse the application.
- (6) If the local government refuses an application to transfer a permit, the local government must give the permit holder a refusal notice.

Division 3 Amendment, suspension or cancellation of permits

26 Amendment of permit

- (1) The local government may change³ the following particulars of a permit—
 - (a) the permitted activity to which the permit relates; or
 - (b) the location at which the permitted activity is conducted; or
 - (c) a condition of the permit.
- (2) If the local government proposes to change a particular of a permit, the local government must give the permit holder written notice (a ***proposed amendment notice***) stating—
 - (a) the local government proposes to change a particular of the permit; and
 - (b) the change proposed to the particular of the permit; and
 - (c) that the permit holder may make written representations to the local government about the proposed change within a reasonable period stated in the proposed amendment notice.
- (3) If, after considering all representations made by the permit holder within the period stated in the proposed amendment notice, the local government still reasonably believes the change should be

³ A ***change*** to a particular of a permit includes a change by addition, exception, omission or substitution (see *Acts Interpretation Act 1954*, section 36).

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made, the local government may change the particular of the permit.

- (4) The local government is not required to comply with subsections (2) and (3) if the permit holder agrees to the proposed change to the particular of the permit.
- (5) If the local government changes a particular of a permit under subsection (3) or (4)—
 - (a) the local government must give the permit holder written notice (an **amendment notice**) stating the particulars of the change; and
 - (b) the change has effect from—
 - (i) the date the amendment notice is given; or
 - (ii) if a later date is stated in the amendment notice—the later date.

27 Suspension or cancellation of permit

- (1) The local government may suspend or cancel a permit if—
 - (a) the permit holder agrees, in writing, to the suspension or cancellation; or
 - (b) the local government reasonably believes any of the following applies—
 - (i) the permit was issued in error or because of a materially false or misleading document or representation made either orally or in writing; or
 - (ii) the suspension or cancellation is—
 - (A) necessary for the protection of public health or safety; or
 - (B) necessary for the protection of the environment; or

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- (iii) the permit holder—
 - (A) has contravened, or is contravening, a provision of this local law; or
 - (B) has not complied, or is not complying, with a condition of the permit; or
 - (c) any ground prescribed by subordinate local law applies.
- (2) If the local government proposes to suspend or cancel a permit, the local government must give the permit holder written notice (a ***proposed suspension or cancellation notice***) stating—
 - (a) the local government proposes to suspend or cancel the permit; and
 - (b) the grounds for the suspension or cancellation; and
 - (c) the facts and circumstances that are the basis for the grounds; and
 - (d) if the local government proposes to suspend the permit—the suspension period; and
 - (e) that the permit holder may make written representations to the local government about the proposed suspension or cancellation within a reasonable period stated in the proposed suspension or cancellation notice.
- (3) If, after considering all the representations made by the permit holder within the period stated in the proposed suspension or cancellation notice, the local government still reasonably believes a ground exists to make the proposed suspension or cancellation, the local government may—
 - (a) if the local government proposed to suspend the permit for a stated period—suspend the permit for no longer than the proposed suspension period; or
 - (b) if the local government proposed to cancel a permit—cancel the permit or suspend the permit for a period.

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- (4) The local government is not required to comply with subsections (2) and (3) if the ground for suspending or cancelling the permit is the ground specified in subsection (1)(a) or (b)(ii).
- (5) If the local government suspends or cancels a permit under subsection (3) or (4), the local government must give the permit holder written notice (a **suspension or cancellation notice**) stating the particulars of the suspension or cancellation.
- (6) If the local government suspends a permit—
- (a) the permit is ineffective during the period of suspension; and
 - (b) the suspension has effect from—
 - (i) the date the suspension or cancellation notice is given; or
 - (ii) if a later date is stated in the suspension or cancellation notice—the later date.
- (7) If the local government cancels a permit, the cancellation has effect from—
- (a) the date the suspension or cancellation notice is given; or
 - (b) if a later date is specified in the suspension or cancellation notice—the later date.
- (8) If the local government cancels a permit, the suspension or cancellation notice may also require the removal of specified goods, facilities, structures or works used, installed or undertaken in accordance with the permit in the way and by the date stated in the suspension or cancellation notice.
- (9) If a suspension or cancellation notice requires the removal of goods, facilities, structures or works, the permit holder must comply with the requirement to remove, unless the permit holder has a reasonable excuse.

Maximum penalty—50 penalty units.

- (10) A permit may be suspended or cancelled regardless of whether or not a prosecution has been started for an offence against this local law.

28 Return of suspended or cancelled permit

- (1) If a permit is suspended or cancelled, the permit holder must return the permit to the local government within 14 business days after the suspension or cancellation takes effect, unless the permit holder has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) If a suspended permit is returned to the local government, the local government must return the permit to the permit holder at the end of the suspension period.

Division 4 Other licence related provisions

29 Production of permit

- (1) An authorised person may direct, orally or in writing, a person carrying on a permitted activity to produce to the authorised person the permit authorising the carrying on of the permitted activity within a time specified in the direction.
- (2) The person, to whom the direction is issued under this section, must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

30 Refusal notice

If the local government is required to give a refusal notice, the refusal notice must—

- (a) be in writing; and
- (b) state the following—
 - (i) the decision that is refused; and

- (ii) the reasons for the refusal.

Part 5 Enforcement

31 Compliance notice

- (1) This section applies if a person engages in conduct, or has engaged in conduct, that is a contravention of a provision of this local law or a condition of a permit.
- (2) An authorised person may give a written notice (a *compliance notice*) to—
- (a) the person in contravention; or
 - (b) the operator of the relevant permitted activity; or
 - (c) the permit holder; or
 - (d) any combination of the persons referred to in paragraphs (a) to (c).
- (3) A compliance notice may require the person, to whom the compliance notice is given, to—
- (a) if the contravention is of a continuing or recurrent nature—stop the contravention; or
 - (b) whether or not the contravention is of a continuing or recurrent nature—take specified action to remedy the contravention;
- within the time specified in the compliance notice.
- (4) A person, to whom a compliance notice is given, must comply with the compliance notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

32 Local government's power to have work carried out

- (1) If a person fails to comply with the requirements of a notice, the local government may itself carry out the requirements of the notice.
- (2) The local government may use reasonable force and assistance for the purpose of carrying out the requirements under subsection (1).
- (3) In carrying out the requirements under subsection (1) the local government may take whatever action it considers necessary to achieve the result which would have been achieved had the notice been complied with.

33 Powers of entry and cost recovery

- (1) If, in order to perform work under section 32, the local government needs to enter land of which it is not the owner or occupier, the local government may enter the land to perform the work—
 - (a) under section 1066 of the Act, if the person under section 32(1) is the owner or occupier of the land; or
 - (b) if not, under section 1070 of the Act⁴.
- (2) The local government may recover (together with interest) the amount properly and reasonably incurred by the local government in performing the work under section 32(1) from—
 - (a) the person under section 32(1); or
 - (b) the operator of the relevant permitted activity; or
 - (c) the relevant permit holder.

34 Evidentiary provisions

- (1) This section applies to a proceeding under or in relation to this local law.

⁴ A magistrate may make an order for entry to the land under section 1063 of the Act (Order an occupier who refuses to permit entry).

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- (2) A signature purporting to be the signature of the chief executive officer or an authorised person is evidence of the signature it purports to be.
- (3) A certificate purporting to be signed by the chief executive officer stating any of the following matters is evidence of the matter—
- (a) a stated document is a copy of a permit or notice issued or given under this local law; or
 - (b) on a stated day, or during a stated period, a stated person was or was not the holder of a permit issued or given under this local law; or
 - (c) a permit issued or given under this local law—
 - (i) was or was not issued or given for a stated term; or
 - (ii) was or was not in force on a stated day or during a stated period; or
 - (iii) was or was not subject to a stated condition; or
 - (d) on a stated day, a permit was suspended for a stated period or cancelled; or
 - (e) on a stated day, a stated person was given a stated notice under this local law; or
 - (f) a stated amount payable under this local law by a stated person has not been paid; or
 - (g) a stated road was or was not a State-controlled road on a stated day; or
 - (h) another matter prescribed by subordinate local law.
- (4) A certificate under subsection (3)—
- (a) may relate to a specified time or period; and
 - (b) if it is issued for a particular period—has the effect mentioned in subsection (3) for the entire period.

-
- (5) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.
 - (6) In a proceeding in which the local government applies to recover the costs and expenses incurred by it, a certificate purporting to be signed by the chief executive officer stating that stated costs and expenses were incurred and the way and purpose for which they were incurred is evidence of the matters stated.

35 Ceasing conduct of permitted activity

- (1) This section applies if—
 - (a) a permitted activity is being conducted at a location without a permit; or
 - (b) a permit for a permitted activity has expired or has been cancelled and the permitted activity is continuing to be conducted; or
 - (c) a compliance notice has not been complied with and the local government has not taken action under section 32⁵; or
 - (d) in the local government's opinion, it is necessary to stop the conduct of the activity at the location because of a serious risk to health, safety or the environment.
- (2) The local government may, by written notice (a ***cease conduct notice***), prohibit the conduct of the permitted activity at the location for a specified period.
- (3) A cease conduct notice may also require the removal of specified goods, facilities, structures or works used, installed or undertaken in association with the permitted activity at the location in the way and by the date stated in the cease conduct notice.
- (4) A cease conduct notice may be given to—

⁵ Section 32 (Local government's power to have work carried out).

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- (a) the operator of the permitted activity; or
 - (b) if—
 - (i) a permit is in force for the permitted activity—the permit holder; or
 - (ii) a permit for the permitted activity has expired or has been cancelled—the former permit holder.
- (5) A person must not conduct the permitted activity at the location to which a cease conduct notice relates, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (6) If a cease conduct notice requires the removal of specified goods, facilities, structures or works used, installed or undertaken in association with the permitted activity at the location, the person, to whom the cease conduct notice is given, must comply with the requirement to remove, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (7) If a permit is in force for the permitted activity—
- (a) the giving of a cease conduct notice cancels the permit; and
 - (b) the revocation or expiry of a cease conduct notice does not revive the cancelled permit.
- (8) However, if the local government—
- (a) revokes a cease conduct notice or a cease conduct notice expires; and
 - (b) grants a new permit for the conduct of the permitted activity at the location;

the location may be again used for the conduct of the permitted activity.

(9) To remove any doubt, if the local government issues a cease conduct notice in error, the local government must approve a new permit for the former permit holder.

(10) In this section—

location means—

- (a) the location at which the permitted activity is being conducted; or
- (b) if a permit is or was in force for the permitted activity—the location at which the permit specifies the permitted activity may be conducted.

Part 6 Miscellaneous

Division 1 Property in road structures on undedicated roads

36 Property in road structures on undedicated roads⁶

- (1) If a structure is erected or installed in, on, along, across, under or over an undedicated road, the structure becomes the property of the local government.
- (2) However, if a permit under this local law or a statutory permit, authorisation or approval under another law makes other provision about ownership of a structure erected or installed under the licence, statutory permit, authorisation or approval, the provisions of that licence, statutory permit, authorisation or approval prevails.

Division 2 Damage to local government roads

37 Damage to be made good

- (1) If—

⁶ Under section 95 of the *Land Act 1994*, the land in all roads dedicated and opened for public use (and hence the property in fixtures in or on that land) vests in, or remains vested in, the State.

-
- (a) a person conducts an activity or undertakes works in, on, along, across, under or over a road; and
 - (b) damage is caused to the road;

the person must pay to the local government the cost of reinstating the road.

- (2) If the damage under subsection (1) was caused by a vehicle being brought onto, or driven on, the road, the person who must pay the cost of reinstating the road under subsection (1) is the driver or the owner of the vehicle, unless the person has a reasonable excuse.
- (3) A certificate by the local government's chief executive officer as to the cost of reinstating the road is evidence of the amount of that cost.
- (4) The amount shown in a certificate in subsection (3) is payable on demand and recoverable as a liquidated debt.

Division 3 Subordinate local laws

38 Subordinate local laws

The local government may make subordinate local laws about—

- (a) additional activities requiring a permit⁷; and
- (b) additional information or material that must be included in or accompany an application for a permit⁸; and
- (c) criteria with which the conduct of the permitted activity would be consistent with⁹; and
- (d) standards with which the permitted activity may comply¹⁰; and

⁷ See section 19(2)(r).

⁸ See section 20(3).

⁹ See section 21(2)(a).

¹⁰ See section 21(2)(b).

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- (e) additional reasons or circumstances for which an application for a permit may or must be refused¹¹; and
- (f) additional information or material that must be included in or accompany an application to renew a permit¹²; and
- (g) additional reasons or circumstances for which an application to renew a permit may be refused¹³; and
- (h) additional subject matters the conditions of a permit may relate to¹⁴; and
- (i) conditions that must or may be imposed on a permit¹⁵; and
- (j) additional information or material that must be included in or accompany an application to transfer a permit¹⁶; and
- (k) additional grounds for which a permit may be suspended or cancelled¹⁷; and
- (l) additional matters for which a certificate purported to be signed by the chief executive officer states is evidence of the matter¹⁸; and
- (m) other matters about which this local law specifically allows for the making of subordinate local laws.

¹¹ See section 22(1) and 22(2).

¹² See section 22(3)(f).

¹³ See section 22(4)(d).

¹⁴ See section 23(2)(g).

¹⁵ See section 23(3).

¹⁶ See section 25(3)(b)(iv).

¹⁷ See section 27(1)(c).

¹⁸ See section 34(3)(h).

Schedule Dictionary

Section 3

Act means the *Local Government Act 1993*.

amendment notice see section 26(5)(a);

authorised person means a person authorised by the local government to exercise the powers of an authorised person under this local law;

cease conduct notice see section 35(2);

compliance notice see section 31(2);

development approval means a development approval issued under the *Integrated Planning Act 1997*;

fencing notice see section 13(2);

fencing repair notice see section 14(2);

footpath maintenance notice see section 16(2);

location for section 35, see section 35(10);

official traffic sign means a sign, signal, marking, light or device for regulating, warning or guiding traffic that is an official traffic sign under the *Traffic Act 1949*;

operator—

- (a) means a person who carries out a permitted activity; and
- (b) includes that person's employees and agents who are employed or engaged by that person in conjunction with the permitted activity;

permitted activity see section 19(2);

proposed amendment notice see section 26(2);

proposed suspension or cancellation notice see section 27(2);

road means a local government road and a State-controlled road;

roadside vending means—

- (a) the commercial supply of goods or services from a place on a road; or
- (b) the setting up on, or bringing onto, a road of a stall, vehicle, equipment or other thing for the commercial supply of goods or services;

but does not include roadside vending for a religious, charitable, educational or political purpose;

roadwork means work for the construction, maintenance, repair or improvement of a road under this local law;

ship means any kind of boat or other vessel used or, for a boat or vessel or other vessel being built, intended to be used, in navigation by water or for any other purpose on water and includes a boat or other vessel—

- (a) whatever its size; and
- (b) however it is propelled or moved.

State-controlled road means a State-controlled road under the *Transport Infrastructure Act 1994*;

suspension or cancellation notice see section 27(5).

traffic includes the use by any person of any road or off-street regulated parking area, or the presence therein or thereon of any person, vehicle, tram, train, animal, or other moveable article or thing whatsoever;

undedicated road means a local government road in which the land is not dedicated for public use as a road.

works notice see section 17(1).

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Bowen Shire Council

Subordinate Local Law No. 19 (Roads)



Bowen Shire Council

Subordinate Local Law No. 19 (Roads)

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Bowen Shire Council
Subordinate Local Law No. 19 (Roads)

Subordinate Local Law No. 19 (Roads)

[as amended by all amendments that commenced on or before 26 April 2006]

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 19 (Roads)*.

2 Object

The object of the subordinate local law is to provide the detailed information called upon by *Local Law No. 19 (Roads)* to—

- (a) ensure that the local government has the necessary powers to construct, maintain and improve roads within its area; and
- (b) provide for the naming of roads and the numbering of adjacent properties; and
- (c) regulate the making of alterations and improvements to roads; and
- (d) prevent damage to any road, private property or public place as a result of any works, activities or movement of traffic and to ensure reinstatement of any damage caused; and
- (e) regulate and prohibit the conduct of specified activities on roads.

3 Requirement to hold permit—Local Law, s 19(2)(r)

- (1) For the purposes of s19(2)(r) of the Local Law, the following activities are additional activities for which a permit is required—
 - (a) the placing, display, erection or installation of any sign on, along, across, over or adjacent to a road.
- (2) For the purpose of subsection (1), sign includes—

*Bowen Shire Council
Subordinate Local Law No. 19 (Roads)*

- (a) a sign;
- (b) a billboard;
- (c) a poster;
- (d) an information or notice board; and
- (e) any advertising device.

4 Deciding application for permit—Local Law, s 21(2)(a)

- (1) For the purposes of section 21(2)(a) of the Local Law, the following criteria are the criteria the local government must have regard to in deciding an application for a permit—
 - (a) any properly-made submission from members of the public directly affected by the activity the subject of the permit.
- (2) For the purpose of subsection (1), a properly-made submission is a submission—
 - (a) made to the local government; and
 - (b) in writing; and
 - (c) signed by the submitter; and
 - (d) stating the grounds of the submission; and
 - (e) stating the facts and circumstances relied on in support of the grounds; and
 - (f) made within the period allowed by the local government for the making of submissions.

*Bowen Shire Council
Subordinate Local Law No. 19 (Roads)*

CERTIFICATION

This and the preceding 4 pages bearing my initials is a consolidated version of *Subordinate Local Law No. 19 (Roads)* as amended up to and including *Roads (Amendment) Subordinate Local Law (No. 1) 2006*.

**John Finlay
Chief Executive Officer
Bowen Shire Council**

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Queensland
Government

Author: Karalyn Maluga
Your File / Ref number:
Our File / Ref number: ms/000155 pt 8
Directorate / Unit: State Land Asset Management

Natural Resources and Mines

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2 February 2005

The Chief Executive Officer
Bowen Shire Council
PO Box 306
Bowen Qld 4805

Attention: Graeme Hawes

Dear Mr Hawes

Re. Emerson Street

I refer to your letter dated 20 January 2005 regarding the proposed use of Emerson Street in conjunction with the adjoining property described as Lot 11 on B6686.

The placement of portable improvements on a road area, as an adjunct to a business being conducted on adjoining land for restaurant or similar purposes, which are to be removed and replaced daily, may be dealt with by a Local Government in terms of its Local Laws.

Where such improvements are intended to be a fixture, with the public having unrestricted access, the matter may be dealt with by the issue of a Permit to Occupy.

If the applicant requires control over people entering the area, the matter must be the subject of a road closure application.

There is a need to define the items on a road (which includes a mall) which may require tenure under the Land Act. Construction may be authorised under the Building Code of Australia and Local Government Local Laws, however, it is important for the individual to be aware that these authorisations do not convey title.

3rd Floor
State Govt Building
Cnr Stanley & Walker Streets
PO Box 5318,
Townsville Q 4810
Queensland 4821 Australia
Telephone + 61 7 47997563
Facsimile + 61 7 47997533
Website www.nrm.qld.gov.au
Email Karalyn.Maluga@nrm.qld.gov.au

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Should you wish to discuss this matter further please contact Ms Karralyn Maluga on telephone number (07) 47997663 and quote file reference number tns/000155 pt 8.

Yours faithfully

sch4p3(3) Prejudice the protection of an individuals right to privacy

Karralyn Maluga
Land Officer
State Land Asset Management
Land & Vegetation Services
North Region

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