



# Unauthorised Works in Road Reserves Policy

## *Local Law No.1 (Administration) 2011*

# 1. POLICY STATEMENT

Townsville City Council recognises that there are a number of unauthorised works carried out in road reserves across the local government area. Only a limited number of these unauthorised works cause concerns. Council will act in response to enquiries that demonstrate the unauthorised works have the capacity to contribute to the loss or damage of property (including council property) or which causes a road safety hazard.

## 2. PRINCIPLES

Council is committed to ensuring that unauthorised works in road reserves that have been identified as either possessing the capacity to contribute to the loss or damage of property (including council property) or which causes a road safety hazard, are removed or rectified by the land owner(s) and/or person who carried out the unauthorised works that are contributing to the loss, damage or hazard.

## 3. SCOPE

This policy applies to land owner(s) and/or the person who carried out unauthorised works on any road reserve under council's control within the Townsville local government area.

## 4. RESPONSIBILITY

The Director Infrastructure & Operations, General Manager Infrastructure Planning, Assets & Fleet and Team Manager Technical & Asset Planning Civil & Open Space are responsible for ensuring that this policy is understood and adhered to.

## 5. DEFINITIONS

**Council Standards** – means any drawing or conditions stated in the Road Works Permit issued by council.

**Road Reserve** – means an area of land under the council's control, dedicated, notified or declared to be a road for public use. An area may be a road reserve even though it does not need to contain a formed road. The road reserve extends from the property boundary on one side to the property boundary on the other side.

**Significant and Immediate Risk** – means an imminent event that is likely to cause loss of, damage to property or create a safety hazard. For example, water is lapping at the door of a habitable building, which has been caused by the unauthorised works and there is still significant rainfall expected over the area in the next 24 hours.

**Unauthorised Works** – means works that are carried out without a permit or approval from council. This may include but not limited to driveways, retaining walls, post boxes, garden beds, trees, irrigation systems and private stormwater drainage.

## 6. POLICY

Council will assess the risk(s) of unauthorised works which contribute to the loss or damage of property (including council property) or which cause a road safety hazard.

When Infrastructure Services staff responsible for assessing unauthorised works in road reserves believe that an item of unauthorised work in a road reserve is likely to cause loss or damage to any person or property (including council property), or cause a road safety hazard, council will direct the land owner(s) who benefit from the unauthorised works and/or the person who carried out the works to either remove or rectify the unauthorised works to council standards.

If the land owner(s) and/or the person who carried out the works without reasonable excuse do not remove or rectify the unauthorised works to council standards, council will prosecute the land owner(s) and/or the person who carried

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out the works under section 75(2) of the Local Government Act 2009 and failing to comply with a compliance notice under Local Law No.1 (Administration) 2011.

If the risk arising from the unauthorised work is both significant and immediate, council will remove or rectify the unauthorised works and as part of the prosecution will seek to recover the cost of any removal or rectification works.

If the likelihood of loss or damage is not deemed a significant and immediate risk, council will not carry out removal or rectification works until the benefited land owner(s) and/or the person who carried out the works has been prosecuted and again failed to rectify in accordance with the ruling and timing set by the courts

## 7. LEGAL PARAMETERS

*Local Government Act 2009*

*Local Law No. 1 (Administration) 2011*

*Subordinate Local Law 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011*

## 8. ASSOCIATED DOCUMENTS

Dealing with Unauthorised Works in the Road Reserve Procedure

## 9. DOCUMENT HISTORY

| Date | Version | Amendment | Reviewer | Approved |
|------|---------|-----------|----------|----------|
|      |         |           |          |          |
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