



## Attachment 2

### High-use / high-impact commercial use of community land permits

#### Statutory Obligations

The following outlines the legalities associated with the issuing of permits for the 2016 High-use / high-impact commercial use of community land application process.

For activities approved to take place on freehold land, pathways, footpaths, bathing reserves, foreshores and roads, the provisions set out in Council's local laws will apply. Applicable local laws include:

- Local Law 1 (Administration) 2011 and Subordinate Local Law 1 (Administration), Schedule 6 Commercial use of local government controlled areas and roads
- Local Law 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011 and Subordinate Local Law 4
- Local Law 5 (Parking) 2011 and Subordinate Local Law 5
- Local Law 6 (Bathing Reserves) 2011 and Subordinate Local Law 6.

As Trustee, Council is required to adhere to the provisions set out in the *Land Act 1994* regarding Trustee Permits, and therefore must comply with the following conditions:

#### Section 60 Trustee Permits

1. A trustee may issue a trustee permit for the use of all or part of trust land.
2. A trustee permit must not be inconsistent with the community purpose of the trust land and the requirements prescribed under a regulation.
3. If a trustee is for more than 1 year, the trustee must lodge a copy of the permit for registration in the appropriate register.
4. A trustee permit must not be for more than 3 years.
5. If there is a registered mandatory standard terms document that applies generally to trustee permits –
  - a. A trustee must not issue a trustee permit under this section unless the standard terms document forms part of the trustee permit; and
  - b. The trustee permit is of no effect if the document does not form part of the trustee permit.
6. Subsection (5) applies to a trustee permit whether or not it is required to be registered.

In addition, the *Land Regulation 2009* states the following requirements in relation to Trustee Permits:

Part 2 Reserves and deeds of grant in trust

Division 2 Trustee permits and trustee leases

Subdivision 1 Requirements for trustee permits

Section 13 Requirements for trustee permits – Act, s 60

1. This sections prescribes, for section 60 (2) of the Act, the requirements with which a trustee permit must not be inconsistent.
2. A trustee permit for the use of all or part of trust land –
  - a. must state that the Minister or the trustee must give the permittee 28 days notice of the Minister's or the trustee's intention to cancel the permit; and
  - b. may not be issued for a part of the trust land that is subject to a trustee lease; and
  - c. must not allow the construction of structural improvements; and
  - d. may allow the modification or use of structural improvements existing when the permit is issued; and
  - e. if there is a management plan for the trust land under section 48 of the Act – must be consistent with the management plan; and
  - f. must state that it is a condition of the permit that the permittee holds the permit so that the trust land may be used for the community purpose for which it was reserved or granted in trust without under interruption or obstruction; and
  - g. must state the permittee's permitted use of the trust land; and
  - h. must not give a right
    - i. to renew the permit; or
    - ii. to be given a more secure tenure over the trust land; and
  - i. must not allow the permittee to transfer, sublet or mortgage the permittee's right to use the trustee land.

Given trustee land has been included in the approved locations and activities, Council as trustee has an obligation to ensure that these requirements are adhered to, and therefore this has been taken into consideration when determining the proposed activities and locations included in the 2016 High-use / High-impact Commercial Use of Community Land application process. These requirements will also be detailed on permits issued to successful applicants.

Approved activities that rely on the need to use Sunshine Coast waterways must be in accordance with the provisions set out in the *Transport Infrastructure (Waterways Management) Regulation 2012*, and the *Transport Operations (Marine Safety) Regulation 2004* regarding the Noosa River Marine Zone (Schedule 14A). This state legislation makes particular reference to prohibited activities such as freestyling, surfing and wave jumping.