

**McKINLAY SHIRE COUNCIL
LOCAL LAW
NO. 7
(PARKS AND RESERVES)**

TABLE OF CONTENTS

PART 1 - PRELIMINARY	3
1. Citation.....	3
2. Objects.....	3
3. Definitions.....	3
4. Limitation on powers of local government under this local law	4
PART 2 - PARKS AND RESERVES	4
5. Designation of parks and reserves.....	4
6. Change of boundaries.....	4
7. Name of park or reserve.....	5
PART 3 - ACCESS TO PARKS AND RESERVES.....	5
8. Opening hours for parks and reserves.....	5
9. Vehicular access to parks and reserves.....	5
10. Exclusion of animals	5
11. Power of closure.....	6
PART 4 - REGULATION OF ACTIVITIES IN PARKS AND RESERVES	6
12. Lighting of fires.....	6
13. Use of park or reserve for commercial purposes.....	6
14. Regulation of use of facilities	7
15. Prohibited activities.....	7
16. Restricted activities	7
17. Damage to parks and reserves.....	8
PART 5 - RIGHTS OF OCCUPATION AND USE.....	8
18. Rights of occupation and use	8
19. Term of licence	9
20. Conditions of licence.....	9

21. Compliance with conditions.....	9
PART 6 - ENFORCEMENT.....	10
22. Notice to remedy breach	10
23. Authorised person's powers on default	10
PART 7 - LOCAL LAW POLICIES.....	10
24. Local law policies	10

PART 1 - PRELIMINARY

1. Citation

This local law may be cited as *Local Law No. 7 (Parks and Reserves)*.

2. Objects

The objects of this local law are to:

- (a) provide for the establishment of parks and reserves on land under the local government's control; and
- (b) provide for appropriate public access to parks and reserves for active and passive recreation; and
- (c) protect the safety of persons using parks and reserves; and
- (d) preserve features of the natural and built environment and other aspects of the amenity of parks and reserves; and
- (e) regulate activities in parks and reserves and ensure appropriate standards of conduct are maintained.

3. Definitions

In this local law:

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

"native wildlife" has the meaning given to it under the *Nature Conservation Act 1992*;

"official sign" means a sign caused to be erected by the local government under this local law;

"park" means land under the local government's control that is designated by local law policy as a park;

"reserve" means land under the local government's control that is designated by local law policy as a reserve;

"trust land" means land:

- (a) dedicated as a reserve, or granted in trust, under the *Land Act 1994*;¹ and
- (b) for which the local government is the trustee under the *Land Act 1994*.²

¹ See sections 31 and 35 of the *Land Act 1994*

² See section 44 of the *Land Act 1994*

4. Limitation on powers of local government under this local law

- (1) The local government may only exercise powers under this local law to the extent that the proposed exercise of powers is consistent with the *Integrated Planning Act 1997*.
- (2) The local government may only exercise its powers under this local law over trust land if the proposed exercise of powers is consistent with:
 - (a) the terms and conditions of the trust; and
 - (b) the *Land Act 1994*.

PART 2 - PARKS AND RESERVES

5. Designation of parks and reserves

- (1) The local government may, by a local law policy, designate land under the local government's control as a park.
- (2) The local government may, by a local law policy, designate land under the local government's control as a reserve.
- (3) Trust land may (subject to the terms and conditions of the trust) be designated as a park or reserve under this section.³
- (4) Land should be designated as a park (rather than as a reserve) if it is to be used predominantly for public recreation.

6. Change of boundaries

The local government may by a local law policy change the boundaries of a park or reserve.⁴

³ Trust land does not automatically become a park or reserve subject to this local law. Section 56 of the *Land Act 1994* makes the following provision about the regulation of trust land by the local government:

- (4) If the local government is the trustee it may:
 - (a) make local laws for the land under the *Local Government Act 1993* or the *City of Brisbane Act 1924*; and
 - (b) adopt a model by-law.
- (5) If a local government adopts a model by-law, it must follow the procedure under the *Local Government Act 1993* for adopting a model local law when it adopts the model by-law.
- (6) A local law made under subsection (4)(a) must not be inconsistent with this Act.

The local government therefore has 3 alternatives in relation to trust land: (a) it may make a local law specifically dealing with the land in question (see section 56(4)(a) of the *Land Act 1994*); (b) it may adopt the model by-law under the *Land Act 1994* (see section 56(4)(b) of the *Land Act 1994*); (c) it may designate the trust land as a park or reserve under this local law and thus bring the land under the controls envisaged under this local law.

⁴ Under section 31(2) of the *Land Act 1994* the Minister may, by Gazette notice, change the boundaries of a reserve if the reserve is unallocated Crown land dedicated as a reserve under that Act. Hence the power conferred by this section would be inapplicable to such land.

7. Name of park or reserve

The local government may by a local law policy:

- (a) assign a name to a park or reserve; or
- (b) change the name of a park or reserve.

PART 3 - ACCESS TO PARKS AND RESERVES

8. Opening hours for parks and reserves

- (1) The local government may by a local law policy fix the times when a park or reserve is open to the public (the "**opening hours**" for the park or reserve).
- (2) If the local government fixes opening hours for a park or reserve, a notice or official sign showing the opening hours must be placed at each public entrance to the park or reserve.
- (3) A person must not, without the local government's approval, enter or remain in a park or reserve outside the opening hours for the park or reserve.

Maximum Penalty - 20 penalty units

9. Vehicular access to parks and reserves

- (1) The local government may by a local law policy designate the whole, or a particular part, of a park or reserve as available for motor vehicle access.
- (2) The local government may by a local law policy restrict the kinds of vehicles that may be brought onto a park or reserve, or a particular part of a park or reserve.
- (3) A person must not bring a motor vehicle onto, or drive a motor vehicle on, a park or reserve in contravention of a restriction imposed under subsections (1) or (2).

Maximum Penalty - 40 penalty units

10. Exclusion of animals

- (1) The local government may by a local law policy prohibit the bringing of animals, or animals of specified species, into a park or reserve.
- (2) A person must not bring an animal into a park or reserve in contravention of a prohibition imposed under subsection (1).

Maximum Penalty - 20 penalty units

11. Power of closure

- (1) The local government may temporarily close a park or reserve, or part of a park or reserve, to public access to allow for the carrying out of construction, maintenance, repair or restoration work.

- (2) The local government may by local law policy permanently close a park or reserve, or part of a park or reserve, to public access to protect public safety, sensitive cultural and/or environmental features of the park or reserve.
- (3) If a park or reserve is closed to public access under subsection (1) or (2), a notice or official sign advising of the closure must be placed at each public entrance to the park or reserve and if part of a park or reserve is closed to public access, notices or signs must be placed to indicate clearly to users of the park or reserve the part subject to the closure.
- (4) A person must not, without the local government's approval, enter or remain in a park or reserve, or part of a park or reserve, while it is closed to public access under this section.

Maximum Penalty - 20 penalty units

PART 4 - REGULATION OF ACTIVITIES IN PARKS AND RESERVES

12. Lighting of fires

- (1) The local government may by a local law policy determine the circumstances in which a fire may be lit in a park or reserve.
- (2) A person must not light or maintain a fire in a park or reserve unless:
 - (a) the fire is in a fireplace established by the local government for the purpose; or
 - (b) the fire is permitted under a local law policy.

Maximum Penalty - 50 penalty units

13. Use of park or reserve for commercial purposes

- (1) A person must not use a park or reserve for a commercial purpose unless:
 - (a) if the park or reserve is established on trust land - the use has been approved under the *Land Act 1994*; or
 - (b) if the park or reserve is not established on trust land - the use has been approved in writing by the local government.
- (2) The local government's approval under subsection (1) may be given on conditions the local government considers appropriate.
- (3) A person must not:
 - (a) use a park or reserve for a commercial purpose in contravention of subsection (1); or
 - (b) contravene a condition of an approval for the use of a park or reserve for a commercial purpose.

Maximum Penalty - 50 penalty units

- (4) This section does not apply if a development approval is required for the relevant use of the park or reserve.⁵

14. Regulation of use of facilities

- (1) The local government may by a local law policy prescribe conditions for the use of facilities provided by the local government on a park or reserve.

Example:

The local law policy might, for example -

- *provide that a person waiting to use a tennis court must reserve the court for a specified period and pay a specified fee;*
- *require compliance with specified standards of dress and behaviour by persons using facilities provided by the local government in the park or reserve.*

- (2) A person who uses facilities provided by the local government on a park or reserve must not contravene a condition for the use of the facilities prescribed under this section.

Maximum Penalty - 20 penalty units

15. Prohibited activities

- (1) The local government may by a local law policy declare a particular activity to be a prohibited activity in a particular park or reserve.

Example:

The local government, might for example, make a local law policy declaring that the playing of sport generally, or the playing of certain games, is a prohibited activity in a particular park or reserve.

- (2) A person must not engage in a prohibited activity in a park or reserve.

Maximum Penalty - 20 penalty units

16. Restricted activities

- (1) The local government may by a local law policy:
- (a) declare a particular activity to be a restricted activity in a particular park or reserve; and
 - (b) impose restrictions on persons engaging in the activity in the park or reserve.

⁵ If the use constitutes development, a development permit is necessary under Section 3.1.4 of the *Integrated Planning Act 1997*.

Example:

The local government might, for example make a local law policy declaring the that the playing of sport generally, or the playing of certain games is a restricted activity in a particular park or reserve and restrict the playing of sport, or the relevant games, to specified parts of the parks or reserves.

- (2) A person must not engage in a restricted activity in a park or reserve in contravention of a restriction applying to the relevant activity under this section.

Maximum Penalty - 20 penalty units

17. Damage to parks and reserves

A person must not damage or interfere with:

- (a) native wildlife in a park or reserve; or
- (b) vegetation in a park or reserve; or
- (c) facilities, notices or equipment in a park or reserve,

except in accordance with a current approval issued under this local law for that purpose.

Maximum Penalty - 50 penalty units

PART 5 - RIGHTS OF OCCUPATION AND USE

18. Rights of occupation and use

- (1) The local government may grant a licence conferring rights of occupation and use of a specified part of a park or reserve.

Example:

A licence might, for example, authorise a sporting association to:

- *mark out a playing field in a specified location on the park or reserve;*
- *exclude the public from the relevant part of the park or reserve either temporarily (eg during the playing of a game) or over the whole of the period of the licence.*

- (2) However:

- (a) a licence may only be granted if:
 - (i) the purposes for which the land is to be used under the licence are consistent with the objects of this local law; and
 - (ii) if a development approval is necessary for the use of the land for the purposes for which the land is to be used under the licence - the necessary permit has been granted.

- (b) a licence cannot be granted under this section over trust land.⁶

19. Term of licence

- (1) The term of a licence must be stated in the licence.
- (2) The term of a licence cannot be more than 30 years.

20. Conditions of licence

- (1) A licence may be granted on conditions the local government considers appropriate.
- (2) The conditions may for example:
- (a) require the holder of the licence to make periodic payments to the local government; and
 - (b) require the holder of the licence to make facilities installed under the licence available for use by the public at specified times or over specified periods; and
 - (c) require the holder of the licence to take specified precautions to protect the safety of persons who enter the land subject to the licence; and
 - (d) require the proper maintenance of equipment and facilities; and
 - (e) require the holder of the licence to insure itself and the local government against liability for injury, loss or damage arising on the land subject to the licence.
- (3) The local government may by a local law policy prescribe conditions that may be imposed in a licence.

21. Compliance with conditions

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

Maximum Penalty - 50 penalty units

PART 6 - ENFORCEMENT

22. Notice to remedy breach

- (1) If a person engages in conduct that is preparatory to a breach of this local law or a condition of approval, an authorised person may by verbal direction require the person in breach and/or the holder of approval to cease the conduct.
- (2) If there is occurring or has occurred a breach of this local law or a condition of approval, an authorised person may by written notice require the person in breach to:
- (a) remedy the breach; and/or

⁶ In the case of trust land, rights of occupation are governed by the *Land Act 1994*.

- (b) do such work and undertake such action as are specified in the notice; and/or
- (c) lodge an application with the local government for an approval under this local law,

within the specified time.

- (3) The person to whom the direction or notice is given must comply with the direction or notice within the specified time.

Maximum Penalty - 20 penalty units

23. Authorised person's powers on default

Where the requirements of a direction or notice given under section 22 are not complied with within the time specified in the direction or notice, an authorised person may if practicable carry out the requirements of the direction or notice in which event the costs of doing so are recoverable as a debt from the person to whom the direction or notice was given.

PART 7 - LOCAL LAW POLICIES

24. Local law policies

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