

**McKINLAY SHIRE COUNCIL  
LOCAL LAW NO. 13  
(CARAVAN PARKS  
AND CAMPING) 2002**

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## **PART 1 - PRELIMINARY**

### **1. Short title**

This local law may be cited as *Local Law No. 13 (Caravan Parks and Camping) 2002*.

### **2. Objects**

The objects of this local law are to -

- (a) ensure that caravan parks are operated and maintained to acceptable standards of public health and safety; and
- (b) provide convenient and comfortable accommodation for short term and long term residents; and
- (c) regulate conduct in caravan parks and prohibited camping.

### **3. Relationship with other laws**

This local law is in addition to and does not derogate from other laws about caravan parks and camping.

### **4. Definitions - the dictionary**

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

## **PART 2 - APPROVAL TO OPERATE A CARAVAN PARK**

### **5. Approval required**

A person must not operate a caravan park on land (other than a local government caravan park) except in accordance with a current approval issued under this local law.

Maximum Penalty - 50 penalty units

### **6. Application for approval**

- (1) An application for approval to operate a caravan park must include or be accompanied by -
  - (a) if the applicant is not the owner of the land on which the caravan park is situated - the written consent of the owner to the application; and
  - (b) the name and address of the proposed resident manager of the caravan park and the proposed resident manager's written agreement accepting the duties of the resident manager as set out in section 14; and
  - (c) other information specified in a subordinate local law.

- (2) Before the application is granted, the applicant must provide evidence of any necessary development approval -
  - (a) for the development and use of the relevant land as a caravan park; and
  - (b) for the occupation or use of buildings and structures on the land in connection with the operation of the caravan park.

## **7. Criteria for approval**

The local government must consider every application for an approval having regard to the following criteria -

- (a) whether any development approval for the caravan park has been issued and the terms and conditions of that approval; and
- (b) whether the proposed resident manager is a suitable person to be a resident manager of the caravan park; and
- (c) whether the operation and management of the caravan park will comply with any criteria prescribed in a subordinate local law.

## **8. Term of approval**

- (1) An approval is granted for a term specified in the approval.
- (2) The local government may, on application prior to the expiration of the approval by the operator, renew the approval.
- (3) The term for which an approval is granted or renewed is to be -
  - (a) fixed by a subordinate local law; or
  - (b) decided by the local government when it grants the approval or renewal.
- (4) However, the local government must, on application for renewal of an approval made before the end of the term for which the approval was granted or last renewed, renew the approval for a further term unless -
  - (a) the local government has given the operator reasonable written notice of its intention not to renew the approval; or
  - (b) there are proper grounds for cancellation of the approval.<sup>1</sup>

## **9. Conditions of approval**

- (1) An approval may be granted subject to conditions the local government considers appropriate.

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<sup>1</sup> Proper grounds for cancellation of an approval exist if an operator fails to remedy a contravention of this local law or a condition of an approval within the time allowed in a notice to remedy breach (see section 26).

- (2) The conditions of approval may, for example -
- (a) limit the number of persons to be accommodated on site; and
  - (b) limit the type of accommodation to be provided on site; and
  - (c) require the operator to maintain buffer zones between accommodation sites and roads, external boundaries, or facilities on the caravan park; and
  - (d) require the operator to provide and maintain electricity supply, telephone and postal services and other specified services for the benefit of residents generally or a particular class of residents; and
  - (e) require the operator to maintain adequate toilet, ablution, laundry and recreational facilities; and
  - (f) require the operator to maintain sewerage, drainage and refuse collection services; and
  - (g) require the provision of overhead and internal lighting in the caravan park for specified hours; and
  - (h) require the operator to maintain all painting, paving and other internal and external treatment of buildings, structures and sites; and
  - (i) if the operator supplies bedding - require the operator -
    - (i) to keep it in a clean and sanitary condition; and
    - (ii) if bed linen is provided, to change and replace it with clean bed linen whenever there is a change of occupation of the relevant accommodation site.
- (3) However, the conditions of the approval must not be inconsistent with the conditions of any relevant development approval.
- (4) The local government may, by a subordinate local law, prescribe conditions that may be imposed on an approval.

## **10. Compliance with conditions**

An operator must ensure that the conditions of approval are complied with.

Maximum Penalty - 50 penalty units

## **11. Transfer of Approval**

- (1) An operator may, with the written approval of the local government, transfer the operator's approval to another person.
- (2) The local government may impose conditions on the transfer of an approval.

- (3) However, the local government cannot -
  - (a) unreasonably refuse its approval of the transfer of an approval; or
  - (b) impose unreasonable conditions on the transfer of an approval.

### **PART 3 - RESIDENT MANAGER OF CARAVAN PARK**

#### **12. Management of caravan park**

The operator must ensure that the caravan park is managed and supervised by an individual (the "**resident manager**") who is resident at or near the caravan park.

Maximum Penalty - 50 penalty units

#### **13. Who is the resident manager?**

- (1) The resident manager nominated in the operator's application for an approval is the resident manager of the caravan park.
- (2) The operator may change the resident manager by providing the local government with the following -
  - (a) written notice of the name and address of the new nominee; and
  - (b) a statement by the new nominee consenting to accept the responsibilities of resident manager of the caravan park; and
  - (c) any other information and materials required by a subordinate local law.
- (3) If the operator is an individual, the operator may be the resident manager of the caravan park.

#### **14. Duties of the resident manager**

- (1) The resident manager must take reasonable steps to ensure that -
  - (a) a satisfactory register is kept showing the following particulars -
    - (i) the name and address of every person using an accommodation or site; and
    - (ii) where applicable, the registered number (and State or Territory of registration) of the vehicle towing or bringing the accommodation to the site; and
    - (iii) the number of the site so used; and
    - (iv) the dates upon which such use commenced and finished; and

- (b) the register mentioned in subsection (a), is certified in writing as being complete and correct when requested by the authorised person to do so; and
  - (c) accommodation and sites of various types upon a caravan park -
    - (i) do not exceed the number shown on the approved layout plan; and
    - (ii) are not located in a different location from that shown on the approved layout plan; and
  - (d) the number of persons occupying any accommodation do not exceed the number for which that accommodation was designed; and
  - (e) an accommodation is not brought onto the caravan park which is in a state of disrepair such that -
    - (i) it is not weatherproof; or
    - (ii) it is otherwise unfit for habitation as a residence; and
  - (f) the caravan park and all buildings, structures and park facilities on the caravan park are maintained -
    - (i) in the same layout as is shown on the approved layout plan; and
    - (ii) in the state and condition required by or shown in any development approval relating to the caravan park; and
    - (iii) otherwise in a clean, serviceable, comfortable and sanitary condition and sound state of repair; and
  - (g) no accumulation, aggregation or proliferation of -
    - (i) discarded or disused machinery, goods or wares;
    - (ii) refuse, scrap, bottles or second-hand materials of any description; or
    - (iii) dead, overgrown or untended trees and vegetation,
 occurs on any part of a caravan park.
- (2) The resident manager must not fail to carry out the duties imposed upon him or her under subsection (1).

Maximum Penalty for subsection (2) - 20 penalty units

## **15. Power of local government to require change of resident manager**

- (1) If the local government is not satisfied that a resident manager of a caravan park is a suitable person to be the resident manager, the local government may, by written notice, require the operator to change the resident manager within a time stated in the notice.

- (2) The operator must comply with the notice under subsection (1).

Maximum Penalty for subsection (2) - 20 penalty units

#### **PART 4 - LOCAL GOVERNMENT CARAVAN PARKS**

##### **16. Conditions of caravan park use**

- (1) The local government may set conditions applying to the operation and use of a local government caravan park, including but not limited to -
- (a) time and days for administration of visitors' arrival and departure; and
  - (b) conditions of stay; and
  - (c) minimum requirements for condition and maintenance of caravans; and
  - (d) conditions applying to the use of any facilities or services in the caravan park; and
  - (e) prohibited activities; and
  - (f) any prescribed fees for services or use of facilities.
- (2) A notice advising of the conditions must be placed at each public entrance to the caravan park to which the conditions apply.
- (3) A person must not operate or use a caravan park in breach of conditions imposed under subsection (1).

Maximum Penalty for subsection (3) - 20 penalty units

##### **17. Expulsion of visitors**

- (1) An authorised person may direct any person to leave the caravan park forthwith or within a specified time, where that person is found to be -
- (a) acting in a disorderly or objectionable manner; or
  - (b) contravening a condition or requirement of this local law, which contravention will, in the authorised person's opinion, adversely impact on the safety or amenity of other caravan park users.
- (2) A person must comply with a direction of an authorised person to leave the caravan park.

Maximum Penalty for subsection (2) - 20 penalty units

**18. Dilapidated, unsightly and overcrowded caravans**

- (1) The local government may by written notice require the removal of a caravan which in the local government's opinion is dilapidated, unsightly or overcrowded, within the specified time.
- (2) The person to whom the notice is given must comply with the notice within the specified time.

Maximum Penalty for subsection (2) - 20 penalty units

**PART 5 - GENERAL**

**19. Fire prevention**

A person must not light or maintain a fire in the open air (including the use of an incinerator) in a caravan park except for the purpose of a barbecue -

- (a) which is shown on the approved layout plan; or
- (b) approved by the local government.

Maximum Penalty - 20 penalty units

**20. Responsibility of occupiers**

- (1) A person who occupies an accommodation in a caravan park must -
  - (a) keep the accommodation and the site in a clean, tidy, serviceable, comfortable and sanitary condition and good state of repair at all times; and
  - (b) deposit all refuse generated at the accommodation in the refuse containers provided for that purpose; and
  - (c) dispose of all liquid wastes in the disposal systems provided for that purpose; and
  - (d) not cast or throw waste water onto the ground; and
  - (e) not permit waste water to discharge onto the ground from the accommodation; and
  - (f) use all sanitary conveniences, ablutionary facilities and laundry facilities in a clean and sanitary manner; and
  - (g) except where bedding is supplied by the operator of the caravan park, provide bedding that is of a clean and sanitary condition for each occupant of such accommodation; and
  - (h) not permit such accommodation to be occupied by more persons than it is designed to accommodate.

- (2) A person who occupies an accommodation in a caravan park must not fail to carry out any of his or her responsibilities imposed under subsection (1).

Maximum Penalty for subsection (2) - 20 penalty units

## **PART 6 - LOCATION OF CAMPS, CARAVANS AND TENTS**

### **21. Camping other than in a caravan park is prohibited**

- (1) A person must not camp within the areas prescribed by a subordinate local law except in a caravan park.

Maximum Penalty - 20 penalty units

- (2) However, subsection (1) only applies to camping on a State-controlled road where the local government has received the written approval of the Chief Executive of the department administering chapter 5 of the *Transport Infrastructure Act 1994*.

### **22. Camping on private property**

Section 21 does not apply to camping in an accommodation which is on private property -

- (a) with the consent of the owner or occupier of the property; and
- (b) where neither the owner nor the occupier of the property receive any fee or reward in association with the camping; and
- (c) where such camping takes place in accordance with the prior written approval of the local government.

### **23. Application for approval to camp on private property**

An application for an approval under section 22 must include -

- (a) the written consent of the owner or occupier of the property where the person intends to camp; and
- (b) details of the period of stay; and
- (c) other information required by a subordinate local law.

### **24. Criteria of approval**

The local government must consider every application for an approval under section 22 having regard to the following criteria -

- (a) the number of persons camping on the site; and
- (b) any other criteria prescribed by a subordinate local law.

## **25. Conditions of approval**

- (1) An approval under section 22 may be granted on conditions the local government considers appropriate.
- (2) The conditions of approval may for example -
  - (a) limit the number of persons on the site; and
  - (b) limit the period of camping to a specified term.
- (3) The local government may, by subordinate local law, prescribe conditions that may be imposed on an approval under section 22.
- (4) The holder of an approval must ensure that the conditions of approval are complied with.

Maximum Penalty for subsection (4) - 20 penalty units

## **PART 7 - MISCELLANEOUS**

### **26. Notice to remedy breach**

- (1) If a person was, or is, in breach of this local law or a condition of approval, the local government may by written notice require the person in breach or the operator to -
  - (a) cease use of the land as a caravan park; or
  - (b) remedy the breach; or
  - (c) do such work and undertake such action as specified in the notice, within the specified time.
- (2) The person to whom the notice is given must comply with the notice within the specified time.

Maximum Penalty for subsection (2) - 50 penalty units

### **27. Local government's powers on default**

Where the requirements of a notice given under section 18(1) or section 26(1) are not complied with within the time specified in the notice, the local government may if practicable carry out the requirements of the notice in which event its costs of so doing are recoverable as a summary debt from the person to whom the notice is given.<sup>2</sup>

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<sup>2</sup>See Chapter 15, Parts 4 and 5, *Local Government Act 1993*.

## 28. Summary closure

Where -

- (a) the requirements of a notice given under either section 18(1) or section 26(1) are not complied with within the specified time and the local government has not taken action under section 27; or
- (b) in the opinion of the local government -
  - (i) the breach of this local law or a condition of approval constitutes a public nuisance or a risk to public health or safety or the environment; and
  - (ii) the local government's other remedies are inadequate to secure the abatement of the nuisance or risk within a reasonable time,

the local government may take whatever action it considers necessary to close and prevent the further use of the premises as a caravan park or to abate the nuisance or risk in which event its costs of so doing are recoverable as a summary debt from the operator.

## 29. Defences

It is a defence to any breach or non-compliance of any provision of this local law if a person has a reasonable and lawful excuse.

## 30. Review of decisions

- (1) A person who is aggrieved by a decision made by the local government under this local law (a "**person aggrieved**") is, subject to subsection (2), entitled to a review of the decision.
- (2) A person aggrieved is not entitled to a review of a decision under this section if the decision -
  - (a) was made by a resolution of the local government; or
  - (b) was made as a result of an emergency; or
  - (c) has been carried into full force and effect; or

*Example of a decision being carried into full force and effect -*

An action by an authorised person properly taken to summarily close a caravan park if he or she is authorised to do so under a local law in the circumstances of a particular case.

- (d) was made on an earlier application for review.

- (3) An application for review must -
- (a) be in writing and addressed to the Chief Executive Officer; and
  - (b) specify an address in Australia to which notices under this local law may be sent to the person aggrieved; and
  - (c) be lodged with the local government within 14 days after the day on which notice of the decision was given to the person aggrieved; and
  - (d) if the person aggrieved seeks to make representations through an agent - state the name of the agent; and
  - (e) include any other information specified in a subordinate local law.

- (4) The decision of the local government on a review under this section must not be made by the person who made the original decision or any person who holds a less senior position than the person who made the original decision.

*Example -*

If the original decision was made by the Chief Executive Officer then the only entity which can make a decision on the review is the full local government or a local government committee which has been delegated decision making power under the local law.

- (5) The local government must make a decision on the review within 28 days (the "**review decision making period**") of receiving the application under subsection (3).
- (6) If the local government fails to notify the person aggrieved within the timeframe specified in subsection (5), the local government is taken to have confirmed the original decision.
- (7) Both the person aggrieved and the person who made the original decision are entitled to make written representations, either personally or through an agent, to the local government prior to a final decision on the review being made.
- (8) To remove any doubt, the local government in making a decision on the review has the same powers as the person who made the original decision and, without limiting those powers, can -
- (a) confirm the original decision; or
  - (b) quash or set aside the original decision or part of the original decision and substitute it with a new decision.
- (9) The review of the decision is to be conducted on an informal basis but in accordance with the rules of natural justice.

**31. Subordinate local laws**

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

**SCHEDULE**  
**DICTIONARY**

Section 4

**"accommodation"** means -

- (a) a caravan (including an on-site caravan); or
- (b) a cabin; or
- (c) a tent; or
- (d) any other demountable or readily transportable accommodation.

**"approved layout plan"** means a plan of the caravan park which has been approved by the local government, whether as part of a development approval or otherwise, and may show the location of sites, roads and park facilities.

**"authorised person"** means a person appointed as an authorised person for this local law.<sup>3</sup>

**"bedding"** includes mattresses, pillows, bed linen, blankets, bed clothes and coverings.

**"cabin"** means a relocatable home, building or fixed structure (other than a building or structure used exclusively as a resident manager's or caretaker's quarters or an office) in a caravan park and which is used either continuously or intermittently for human habitation.

**"camp"** in relation to land includes the physical occupation of, or staying overnight on land by a person, whether in an accommodation, car or otherwise sleeping out.

**"caravan"** means a vehicle designed for use as a residence which -

- (a) is, or is designed to be, fitted with wheels for immediate towing by a motor vehicle; or
- (b) is a motorised caravan capable of moving under its own motive power.

**"caravan park"** is a place made available for the purpose of providing accommodation and rendering services to travellers, tourists and the general public.

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

**"local government caravan park"** means a caravan park operated by the local government on land owned by it or under its control.

**"occupier"** of land includes a person who reasonably appears to be the occupier of, or in charge of, the place.

**"operator"** is any of the following persons -

- (a) a person who operates the caravan park;

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<sup>3</sup> See Section 14 of *Local Law No. 1 (Administration)*.

- (b) the owner of land used as a caravan park;
- (c) the occupier of land used as a caravan park.

**"park facilities"** means all improvements and facilities provided in a caravan park other than those brought to the park by residents, and includes buildings and structures, cabins, permanently parked caravans, toilet, ablution and laundry facilities, recreation facilities, services, lighting, landscaping and roadways.

**"person aggrieved"** see section 30(1).

**"relocatable home"** means a Class 1 or Class 3 building under the Building Code of Australia (or its equivalent) which is -

- (a) constructed away from the site at which it is erected; and
- (b) designed to be moved from one location to another; and
- (c) ordinarily able to be moved within 24 hours of commencement of work associated with the move.

**"resident manager"** see section 12.

**"review decision making period"** see section 30(5).

**"site"** means an area designated for a single accommodation of a particular type.

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