

**McKINLAY SHIRE COUNCIL
SUBORDINATE LOCAL LAW
NO. 12
(COMMERCIAL USE OF ROADS)
2002**

This subordinate local law is to be read with *Local Law No. 12 (Commercial Use of Roads) 2002*.

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1. Short title

This subordinate local law may be cited as *Subordinate Local Law No. 12 (Commercial Use of Roads) 2002*.

2. Objects

The objects of this subordinate local law is to provide detailed information called upon by *Local Law No. 12 (Commercial Use of Roads) 2002* in order to-

- (a) regulate soliciting of business on roads; and
- (b) regulate the use of roads for conduct of business.

3. Definitions

- (1) All terms have the same meaning as those provided for in *Local Law No. 12 (Commercial Use of Roads) 2002*.
- (2) For the purpose of the definition of "road" in the schedule to the Local Law, the areas of land under the control of the local government that are declared to be subject to the Local Law are set out in the Schedule to this subordinate local law.

4. Local Law - Section 5(c) - Application for a permit

For the purpose of section 5(c) of the Local Law, an application for a permit must include or be accompanied by-

- (a) details of other approvals, permits or permits required under another law; and
- (b) details of any promotional or advertising material intended to be used in connection with the activity; and
- (c) details about any procedures which will be taken to ensure that the amenity of the surrounding area will not be adversely affected; and
- (d) details about any procedures which will be taken to ensure that the activity will not cause a nuisance to neighbouring residents; and
- (e) plans of any temporary structures that will be placed on the road; and
- (f) if relevant, details about procedures which will be taken to ensure that the activity does not significantly detract from the capacity of the road to provide a vehicular and, where relevant, pedestrian thoroughfare.

5. Local Law - Section 6(2) - Grant of a permit

For the purpose of section 6(2) of the Local Law, the granting of the permit will be consistent with the relevant criteria if-

- (a) the applicant holds all other necessary statutory approvals for the activity; and

- (b) the activity will not be inconsistent with the terms and conditions of the trust and any statutory provisions relevant to the land; and

Example of section 5(b)-

The activity is intended to be carried out on trust land under the *Land Act 1994* but if carried out would be inconsistent with the terms of the trust for that land.

- (c) plans showing any temporary structure intended to be erected on the road as part of the activity indicate that it is structurally sound; and
- (d) the activity will not be conducted within close proximity of a business carrying out another commercial activity or, if it will be conducted within close proximity of that business - the activity will not be likely to have an adverse effect on that other business; and
- (e) if relevant, the activity will not significantly detract from the capacity of the road to provide a vehicular and, where relevant, pedestrian thoroughfare; and
- (f) the activity will not constitute a nuisance to any person; and
- (g) the activity will not constitute a danger to any person or property; and
- (h) if relevant, the activity will not obstruct access from the footpath to kerbside parking; and
- (i) the activity will not have an adverse effect on the amenity of the area; and
- (j) the activity will not have an adverse effect on existing services located in, on or over the road.

6. Local Law - Section 7(3)(a) - Term of a permit

For the purpose of section 7(3)(a) of the Local Law, the term for which a permit is to be granted or renewed is-

- (a) in the case of an application for a permit for a single occasion – the period stated in the permit; or
- (b) in the case of an application for a permit to continually operate a commercial activity on roads, until the next 30 June following the grant or renewal of the permit.

7. Local Law - Section 8(3) - Conditions of a permit

For the purpose of section 8(3) of the Local Law, the conditions that may be imposed on a permit are as follows-

- (a) the holder of the permit must take out a public liability insurance policy to the value of FIVE MILLION DOLLARS (\$5,000,000.00) with the local government being endorsed as an insured party; and

- (b) the public liability insurance policy referred to in subsection (a) must be submitted to the local government prior to the carrying out of the activity; and
- (c) the holder of the permit must enter into a binding agreement with the local government to indemnify the local government against claims (including claims made against the holder of the permit by the local government) for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the permit; and
- (d) if relevant, the holder of the permit must comply with the provisions of the *Health Act 1937*, the *Health Regulation 1996*, the *Food Act 1981* and the *Food Hygiene Regulation 1989*; and
- (e) if the holder of the permit or the holder's employee or agent damages the road it must pay to the local government the amount it would cost the local government to rectify the damage to the road; and
- (f) notwithstanding subsection (e), the local government may allow the holder of the permit to carry out the rectification works at their cost for damage caused to the road if this is appropriate in the circumstances; and
- (g) any rectification works carried out under subsection (f) must be to the satisfaction of the local government and will be without prejudice to its rights to carry out any further works needed to rectify the damage to the road at the cost of the holder of the permit; and
- (h) the holder of the permit must not adversely obstruct the movement of vehicles and pedestrians along the road; and
- (i) the holder of the permit must ensure that the activity (including any disposal of waste water as part of that activity) does not cause a danger or nuisance to neighbouring residents or users of the road; and
- (j) the holder of the permit must ensure that the activity does not have an adverse effect on the amenity of the surrounding area; and
- (k) the holder of the permit must not interfere with the existing services located in, on or over a road; and
- (l) the holder of the permit must properly dispose of any waste generated as a result of the activity and provide a rubbish receptacle for customers visiting their business; and
- (m) any advertising signs intended to be erected must be in accordance with any local law or planning scheme requirements relating to the regulation of advertising and advertising devices or any development permit given under the *Integrated Planning Act 1997*.

SCHEDULE

ROADS SUBJECT TO THE LOCAL LAW

Section 3(2)

No.	Name of Park	Description
R 53	Peter Dawes Park	Lot 6 and 7 on JC5571, Parish of Hilton
R 90	George Sills Lions Park	Lot 54 on EN152, Parish of Hilton
	McKinlay Centenary Park	Lot 2 on RP726325, Parish of Murkiburra
R 33	Kev Bannah Oval	Lot 2 on JC55727, Parish of Hilton
R 11	Racecourse Reserve	Lot 3 on CP902030, Parish of Hilton