

# **THURINGOWA CITY COUNCIL**

## **LOCAL LAW NO. 10M (PARKS AND RESERVES)**

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## PART 1 – PRELIMINARY

### Citation

1. This local law may be cited as Local Law No. 10M (Parks and Reserves).

### Objects

2. 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.

### Definitions

3. In this local law:-

“**authorised person**” means a person authorised by the local government to exercise the powers of an authorised person 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-

- (a) land dedicated as a reserve, or granted in trust, under the *Land Act 1994*<sup>1</sup> and for which the local government is the trustee under that Act; or
- (b) other land held in trust by the local government.

### Limitation on powers of local government under this local law

4. (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 powers under this local law over trust land if the proposed exercise of powers is consistent with the terms and conditions of the trust and any statutory provisions relevant to the land.

## **PART 2 - PARKS AND RESERVES**

### **Designation of parks and reserves**

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

### **Change of boundaries**

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

### **Name of park or reserve**

7. The local government may, by 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**

### **Opening hours for parks and reserves**

8. (1) The local government may, by 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 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 permission, enter or remain in a park or reserve outside the opening hours for the park or reserve.

Maximum penalty-20 penalty units.

### **Vehicular access to parks and reserves**

9. (1) The local government may, by local law policy, designate the whole, or a particular part, of a park or reserve as available for motor vehicle access.
- (2) A person must not bring a motor vehicle onto, or drive a motor vehicle on, a park or reserve, unless the whole of the park or reserve is designated as available for motor vehicle access, or the vehicle is kept within a part of the park or reserve designated as available for motor vehicle access.

Maximum penalty-40 penalty units.

- (3) The local government may, by 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.

*Example:-*

*The local government might, for example, prohibit the bringing of off-road vehicles onto a park or reserve or a particular part of a park or reserve.*

- (4) 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 subsection (3).

Maximum penalty-40 penalty units.

### **Exclusion of animals**

- 10.(1) The local government may, by local law policy, prohibit the bringing of animals, or animals of a 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.

- (3) Notice of prohibited animals must be exhibited at each public entrance to the park or reserve.

### **Power of closure**

- 11.(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 sensitive environmental features of the park or reserve.

- (3) If the local government closes a park or reserve to public access, a notice 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 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 permission, 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**

### **Lighting of fires**

12. 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 the local law policies.

Maximum penalty-50 penalty units.

### **Use of park or reserve for commercial purposes**

**13.(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)** If the relevant use of the park or reserve would constitute development under the *Integrated Planning Act 1997*, the local government's approval under this section is not required<sup>2</sup>.

### **Regulation of use of facilities**

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

*Examples:-*

*The local law policy might, for example:-*

- *provide that a person wanting 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.

**Prohibited activities**

**15.(1)** A local government may, by 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)** Notice of prohibited activities must be exhibited at each public entrance to the park or reserve.

**(3)** A person must not engage in a prohibited activity in a park or reserve.

Maximum penalty-20 penalty units.

**Restricted activities**

**16.(1)** A local government may, by 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.

*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 restricted activity in a particular park or reserve and restrict the playing of sport, or the relevant games, to specified parts of the park or reserve.*

**(2)** If the local government restricts an activity in a park or reserve, a notice of the restriction must be placed at each public entrance to the park or reserve and if the restriction applies to part of a park or reserve, notices must be placed to indicate clearly to users of the park or reserve the part subject to the restriction.

**(3)** 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.

**PART 5 - RIGHTS OF OCCUPATION AND USE****Rights of occupation and use**

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

*Examples:-*

*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 permit is necessary under the *Integrated Planning Act 1997* 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 unless the grant of the licence is consistent with the terms and conditions of the trust.

### **Term of licence**

**18.(1)** The term of a licence must be stated in the licence.

**(2)** The term of a licence cannot be more than 30 years.

### **Conditions of licence**

**19.(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 local law policy, prescribe conditions that must be imposed in a licence or will ordinarily be imposed in a licence.

### **Revocation of licence**

**20.(1)** The local government may, by written notice to the holder of a licence, revoke the licence for contravention of a condition of the licence.

(2) However, before revoking the licence, the local government must:-

- (a) give the holder of the licence written notice inviting the holder to make written representations about the proposed revocation within a reasonable time fixed in the notice; and
- (b) if the holder of the licence makes written representations within the time allowed in the notice-take the representations into account.

## **PART 6 - ENFORCEMENT**

### **Compliance orders**

21.(1) If a person (the "offender") engages in conduct that is, or is preparatory to, a contravention of a provision of this local law, an authorised person may require the offender:-

- (a) if the conduct is still continuing- to stop the conduct; and
- (b) whether or not the conduct is still continuing- to take specified action to remedy the contravention.

*Example-*

*If the offender lights a fire in a reserve in contravention of this local law, an authorised person may require the offender to put the fire out.*

(2) A person must comply with an order under this section.

Maximum penalty-20 penalty units.

### **Power to secure compliance with order**

22. If a person does not comply with a compliance order, the authorised person may take action reasonably necessary to have the order carried out and may use reasonable force for the purpose.

## **PART 7 - MISCELLANEOUS**

### **Damage to parks and reserves**

23. A person must not, without the local government's permission damage or interfere with:-

- (a) vegetation growing in a park or reserve; or
- (b) facilities, notices or equipment in a park or reserve.

Maximum penalty-50 penalty units.

## PART 8 - LOCAL LAW POLICIES

### Local law policies

24. The local government may make local law policies about:-

- (a) designating land under the local government's control as a park or reserve, changing the boundaries of a park or reserve, or assigning a name to or changing the name of a park or reserve;<sup>3</sup> or
- (b) the opening hours for a park or reserve;<sup>4</sup> or
- (c) designating a park or reserve or a particular part of a park or reserve as available for motor vehicle access, or restricting the kinds of vehicles that may be brought onto a park or reserve or a particular part of a park or reserve;<sup>5</sup> or
- (d) prohibiting the bringing of animals, or animals of a specified species into a park or reserve;<sup>6</sup> or
- (e) closing a park or reserve or part of a park or reserve to public access;<sup>7</sup> or
- (f) permitting fires in a park or reserve;<sup>8</sup> or
- (g) prescribing conditions for the use of facilities provided by the local government on a park or reserve;<sup>9</sup> or
- (h) prohibited or restricted activities;<sup>10</sup> or
- (i) conditions that must, or will ordinarily, be imposed in a licence;<sup>11</sup> or
- (j) other matters about which this local law specifically allows for the making of local law policies.

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### Footnotes:

- 1 See sections 31 and 35 of the *Land Act 1994*.
- 2 If the use constitutes development, a development permit is necessary under section 3.1.4 of the *Integrated Planning Act 1997*.
- 3 See sections 5, 6 and 7.
- 4 See section 8(1).
- 5 See section 9(1).
- 6 See section 10(1).

7 See section 11(2).

8 See section 12(b).

9 See section 14(1).

10 See sections 15 and 16.

11 See section 19(3).

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*This and the preceding 9 pages bearing my initials is a certified copy of Local Law No. 10M (Parks and Reserves) made in accordance with the provisions of the Local Government Act 1993, by the Thuringowa City Council by resolution dated nineteenth day of May, 1999.*

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Chief Executive Officer