

Subordinate Local Law No. 1.5 (Keeping of Animals) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.5 (Keeping of Animals) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
 - (a) various matters regarding the granting of approvals for prescribed activities; and
 - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
 - (a) names a prescribed activity in section 1; and
 - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
 - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
 - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

6 Approvals that are non-transferable—Authorising local law, s 15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

Schedule 1 Keeping of animals

Section 5

1. Prescribed activity

Keeping of animals.

2. Activities that do not require an approval under the authorising local law

The keeping of animals at an animal entertainment park or an animal sanctuary.

3. Documents and materials that must accompany an application for an approval

- (1) An application detailing—
 - (a) the species, breed, age and gender of each animal for which the approval is sought; and
 - (b) the number of animals to be kept; and
 - (c) the nature of the premises at which the animal or animals are to be kept; and
 - (d) the area, or the part of the area, in which the animal or animals are to be kept; and
 - (e) the materials out of which any enclosure in which the animal or animals to be kept is (or is to be) constructed and any other details of the enclosure; and
 - (f) the location of the enclosure on the premises; and
 - (g) the name of each person who is to occupy any residence located on the premises on which the animal or animals are to be kept.
- (2) Proof that the applicant currently holds any development approval relating to the prescribed activity that is required under the *Sustainable Planning Act 2009*.
- (3) If the applicant is not the owner of the premises on which the animal or animals are to be kept — the written permission of the owner of the premises to the keeping of the animal or animals on the premises.
- (4) Where the animal or animals are to be kept on multi-residential premises and the keeper of the animal or animals is entitled to make use of an area used in common with others (a *common area*) for the purpose of keeping the animal or animals — the written permission of the person or body which manages or controls the common area to use the common area for the purpose of keeping the animal or animals.
- (5) If an animal the subject of the application is required to be registered under the Animal Management Act —

- (a) evidence that the animal is currently registered with the local government; or
- (b) evidence that—
 - (i) the owner of the animal has given to the local government a registration form for the animal that complies with section 47 of the Animal Management Act; and
 - (ii) the registration form was accompanied by the registration fee for the animal.
- (6) A drawing showing the design and dimensions of any enclosure in which the animal or animals are to be kept.
- (7) If the application is for an excess dogs approval—an explanation of the facts and circumstances relevant to each dog which is to be kept on the premises identified in the application, including an explanation of why an approval is being sought in respect of the keeping of each dog on the premises.

4. Additional criteria for the granting of an approval

- (1) Whether the premises on which the animal or animals are to be kept is appropriately sized so that the animal or animals can be effectively and comfortably kept on the premises.
- (2) Whether a residence exists on the premises.
- (3) Whether a proper enclosure is maintained on the premises in accordance with the requirements of *Local Law No. 2 (Animal Management) 2011*.
- (4) Whether the applicant for the approval or some other suitable person to supervise the animal or animals will be resident on the premises on which the animal or animals are to be kept.
- (5) Whether the animal or animals will be properly supervised.
- (6) If the application relates to the keeping of dogs or cats—
 - (a) whether the animals identified in the application are registered with the local government; or
 - (b) whether—
 - (i) the owner of the animal or animals has given to the local government a registration form for each animal that complies with section 47 of the Animal Management Act; and
 - (ii) each registration form was accompanied by the registration fee for the animal.
- (7) If section 14 of the Animal Management Act applies to the applicant for the approval — whether the applicant has complied with the requirements of the section.

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- (8) Whether the applicant is a suitable person to hold the approval.
- (9) Whether the grant of the approval for the prescribed activity on the premises is likely to —
- (a) cause nuisance, inconvenience or annoyance to occupiers of adjoining land; or
 - (b) affect the amenity of the surrounding area; or
 - (c) have a deleterious effect on the local environment or cause pollution or other environmental damage.
- (10) If the application relates to the keeping of cats —
- (a) whether the cats have been desexed; and
 - (b) whether the cats have been fitted with an approved microchip.
- (11) If the application relates to the keeping of an animal or animals on multi-residential premises —
- (a) whether the applicant is entitled to make use of a common area; and
 - (b) whether the applicant has exclusive possession and control of the whole or a part of the common area for the purpose of keeping the animal or animals; and
 - (c) whether the applicant has the written permission of the person or body which manages or controls the common area to use the common area, or a part of the common area, for the purpose of keeping the animal or animals.
- (12) Where the animal or animals are to be kept on premises other than multi-residential premises and the applicant is not the owner of the premises — whether the applicant has the written permission of the owner of the premises to keep the animal or animals on the premises.
- (13) Whether the applicant has been refused a similar type of approval by the local government or another local government.
- (14) If the application relates to the grant of an excess dogs approval—
- (a) whether each dog which is to be kept on the premises identified in the application is implanted with a prescribed permanent identification device in accordance with section 14 of the Animal Management Act; and
 - (b) whether the geographical features and size of the premises identified in the application on which the dogs are to be kept are appropriate so that the dogs can be effectively and comfortably kept on the premises; and

Example —

It may not be appropriate to have more than two 60kg dogs on premises with an area

of 500m².

- (c) whether grounds which are consistent with the purpose of the authorising local law exist for granting the approval; and

Example —

Grounds for the grant of an approval exist if—

- (a) 2 dogs are registered with the local government as kept by a person (the *first person*) on the premises; and
 - (b) another person (the *second person*) is the keeper of another dog (the *third dog*); and
 - (c) the second person is, due to the occurrence of an event (the *intervening event*) which is beyond the reasonable control of the second person unable to keep the dog, for example, the second person moves residence to an aged care facility and the second person is not permitted to keep the third dog at the aged care facility; and
 - (d) the first person, as a result of, or after the occurrence of, the intervening event, wishes to keep the third dog on the premises.
- (d) whether a proper enclosure (with self closing gates) is maintained on the premises in accordance with the requirements of *Local Law No. 2 (Animal Management) 2011*; and
- (e) whether the grant of the approval is likely to—
- (i) cause nuisance, inconvenience or annoyance to occupiers of adjoining land; or
 - (ii) affect the amenity of the surrounding area; or
 - (iii) have a deleterious effect on the local environment or cause pollution or other environmental damage; and
- (f) whether the applicant is a suitable person to hold the approval.

Example 1 —

The applicant may not be a suitable person to hold the approval if the applicant has failed to comply with a compliance notice about a contravention of section 8 (Minimum standards for keeping animals), section 12 (Control of animals in public places) or section 14 (Duty to provide proper enclosure and prevent animal from wandering) of *Local Law No. 2 (Animal Management) 2011*.

Example 2 —

The applicant may not be a suitable person to hold the approval if the applicant is in contravention of a prohibition under section 5 (Prohibition on keeping animals in prescribed circumstances) of *Local Law No. 2 (Animal Management) 2011* and has neglected or refused to take action to remedy the contravention.

5. Conditions that must be imposed on an approval

No conditions prescribed.

6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions that will ordinarily be imposed on an excess dogs approval to keep dogs on premises are —

-
- (a) a condition requiring that the approval holder take all reasonable steps to prevent each and every dog kept on the premises from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of other premises; and
 - (b) a condition requiring that the approval holder ensure that any enclosure in which any dog is kept on the premises is properly drained and that run-off is kept off adjoining premises; and
 - (c) a condition requiring that the approval holder ensure that excreta, food scraps and other material that is, or is likely to become, offensive is collected daily and, if not immediately disposed of, is kept in a waste container of a kind approved by an authorised person; and
 - (d) a condition requiring that the approval holder ensure that any enclosure in which any dog is kept on the premises is maintained in—
 - (i) a clean and sanitary condition and disinfected regularly; and
 - (ii) an aesthetically acceptable condition; and
 - (e) if the approval authorises the keeping of—
 - (i) 3 dogs on the premises—a condition limiting the approval to the 3 dogs identified in the approval; or
 - (ii) 4 dogs on the premises—a condition limiting the approval to the 4 dogs identified in the approval; or
 - (iii) 2 dogs on multi-residential premises — a condition limiting the approval to the 2 dogs identified in the approval; and
 - (f) a condition requiring that a proper enclosure is maintained on the premises in accordance with the requirements of *Local Law No. 2 (Animal Management) 2011*; and
 - (g) a condition requiring that each and every dog kept on the premises identified in the approval is—
 - (i) implanted with a prescribed permanent identification device in accordance with section 14 of the Animal Management Act; and
 - (ii) registered with the local government.
- (2) The conditions that will ordinarily be imposed on an approval to keep cats on premises are—
- (a) a condition requiring that each cat be fitted with an approved microchip; and
 - (b) a condition limiting the approval to the cats identified in the approval; and
 - (c) a condition requiring the approval holder to—
 - (i) desex each cat within 3 months of the issue of the approval if

- the cat is aged 6 months or over; and
- (ii) otherwise, desex each cat within 3 months after the cat reaches 6 months of age; and
 - (iii) produce to the local government evidence, by way of, for example, a statutory declaration, that the cat has been desexed.
- (3) The conditions that will ordinarily be imposed on an approval to keep an animal (other than a dog or a cat) are—
- (a) if minimum standards for the keeping of the species or breed of the animal are prescribed in schedule 5 of *Subordinate Local Law No. 2 (Animal Management) 2011*—the animal must be kept in accordance with the minimum standards for the species or breed of animal prescribed in schedule 5 of *Subordinate Local Law No. 2 (Animal Management) 2011*; and
 - (b) if the approval relates to the keeping of 1 or more animals and the animal or animals are identified in the approval—a condition limiting the approval to the animal or animals identified in the approval.

7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.
- (3) An approval may be granted for a term of up to 1 year.

8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) The term for which an approval may be renewed or extended must not exceed 1 year.
- (3) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

Table 1 – Third party certification

| Column 1 Application requirement | Column 2 Individuals or organisations that are third party certifiers | Column 3 Qualifications necessary to be a third party certifier |
|---|--|--|
| No application requirements stated. | | |

Schedule 2 Categories of approval that are non-transferable

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

Schedule 3 Dictionary

Section 4

animal entertainment park means a public place which includes, as part of its entertainment, the exhibiting of animals for the amusement or entertainment of the public.

Animal Management Act has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

animal sanctuary means a park, reserve or other place used for the preservation, protection or rehabilitation of animals.

approved microchip (for an animal)—

- (a) means a microchip which—
 - (i) is capable of being read by the local government’s microchip reader; and
 - (ii) bears an electronic code which permanently identifies the animal for identification purposes; and
- (b) includes a permanent identification device.

common area has the meaning given in schedule 1, section 3(4).

development approval has the meaning given in the *Sustainable Planning Act 2009*.

excess dogs approval has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

multi-residential premises has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

owner (of an animal) has the meaning given in *Local Law No. 2 (Animal Management) 2011*.

owner (of land) includes—

- (a) the registered proprietor of freehold land; and
- (b) the purchaser of land to be held as freehold land that is being purchased from the State under an Act; and
- (c) the holder of a leasehold interest from the State; and
- (d) the holder of a mining claim or a mining lease to which the *Mineral Resources Act 1989* applies; and
- (e) another person who is entitled to receive the rent for the land.

owner (of premises) means the person for time being entitled to receive the rent for the premises or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

permanent identification device has the meaning given in the *Animal Management Act*.

premises has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

proper enclosure has the meaning given in *Local Law No. 2 (Animal Management) 2011*.

public place has the meaning given in *Local Law No. 1 (Administration) 2011*.

registered has the meaning given in the *Animal Management Act*.

residence has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

waste has the meaning given in the *Environmental Protection Act 1994*.

This and the preceding 11 pages bearing my initials is a certified copy of a consolidated version of *Subordinate Local Law No. 1.5 (Keeping of Animals) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Maranoa Regional Council by resolution dated the 28th day of October 2015.



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Chief Executive Officer