

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 — evidence that the animal is currently registered

with the local government.

- (6) A drawing showing the design and dimensions of any enclosure in which the animal or animals are to be kept.

4. Additional criteria for the granting of an approval

- (1) The physical suitability of the land for the proposed use and 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 — whether the animals identified in the application are registered with the local government.
- (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.
- (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; or
 - (d) adversely affect native flora and fauna.
- (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) Whether compassionate grounds exist for the granting of the approval.
- (15) Whether the applicant is a current member of, and whether the animals are registered with, the recognised governing body for the activity, for example, Dogs Queensland or the Queensland Feline Association Inc.
- (16) If the application relates to the keeping of a rooster—whether the applicant is a registered exhibitor of poultry.

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 approval may require the approval holder to—
- (a) limit the number of animals kept to the number identified in the approval; and
 - (b) take reasonable steps to keep the animals from breeding; and
 - (c) if the local government is satisfied that the approval holder is a reputable animal breeder and is recognised as an animal breeder by a recognised governing body for animal breeders—take only specified, or no steps to keep the animals from breeding; and
 - (d) take care of the animals in accordance with appropriate standards; and
 - (e) keep the animals in enclosures that comply with specified structural requirements; and
 - (f) ensure that—
 - (i) the animals are properly supervised; and

- (ii) each animal wears or displays an appropriate identifying tag; and
 - (iii) the animals do not cause a nuisance, inconvenience or annoyance to any person; and
 - (iv) any enclosure in which an animal is kept is properly drained and that run-off is kept off adjoining premises; and
 - (v) 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
 - (g) if the approval authorises the keeping of dogs—ensure that any enclosure in which the dogs are kept is maintained in—
 - (i) a clean and sanitary condition and disinfected regularly; and
 - (ii) an aesthetically acceptable condition; and
 - (h) 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*.
- (2) If the approval authorises the keeping of dogs, the conditions of the approval may also require the approval holder to —
- (a) provide adequate food, water, shelter and open space for the dogs; and
 - (b) ensure that all kennels, runs and areas set aside for use by the dogs are—
 - (i) set back a minimum of 3m from the side and rear boundaries of the premises on which the dogs are kept; and
 - (ii) located not less than 15m from any residence located on land adjoining the premises at the time of the grant of the approval; and
 - (c) limit the number of dogs to a maximum of 4; and
 - (d) take all reasonable steps to prevent the dogs from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of other premises.
- (3) If the approval authorises the keeping of cats, the conditions of the approval may also require the approval holder to—
- (a) limit the number of cats to a maximum of 4; and

- (b) provide adequate food, water and shelter for the cats; and
 - (c) ensure that the cats are kept in accommodation and enclosure areas on the premises which prevent the cats from wandering or escaping from the premises; and
 - (d) ensure that each cat is fitted with an approved microchip within a specified period; and
 - (e) if the approval authorises the keeping of cats—desex each cat—
 - (i) within 3 months of the issue of the approval if the cat is aged 6 months or over; and
 - (ii) otherwise, 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.
- (4) If the approval authorises the keeping of poultry (including a rooster), budgerigars, canaries or other birds of a similar size, the conditions of the approval may also require the approval holder to—
- (a) ensure that the birds are kept in a properly constructed enclosure; and
 - (b) ensure that the enclosure is—
 - (i) constructed to a specified standard; and
 - (ii) a weatherproof structure which is adequate for the keeping and sheltering of the birds; and
 - (c) if the birds are poultry—ensure that the enclosure includes a yard which is of a size sufficient to permit the poultry to run free; and
 - (d) if the bird is a rooster—
 - (i) limit the number of roosters to a maximum of 1; and
 - (ii) take all reasonable steps to prevent the rooster from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of other premises.
- (5) If the approval authorises the keeping of a horse or horses at a stable in a designated town area, the conditions of the approval may also require the approval holder to—
- (a) ensure that—
 - (i) each building, and any yard which comprises part of the stable in which a horse or horses are kept, is not located within a 20m radius of a residence, shop or factory on adjoining premises; and

- (ii) the building or structure comprising the stable is of single brick or like construction and is provided with—
 - (A) adequate lighting and ventilation; and
 - (B) a concrete or other approved impervious floor which is rendered smooth and graded to a common outlet or approved silt trap; and
 - (C) an adequate supply of water for cleansing purposes; and
 - (iii) drainage is maintained to effectively convey all urine, liquid filth and liquid refuse to a sewerage system or other approved disposal system; and
 - (iv) the health, comfort, convenience and welfare of persons living on premises which adjoin, or are in the vicinity of, the premises identified in the approval is maintained by limiting—
 - (A) the number of horses which may be kept on the premises; and
 - (B) the number and dimensions of each stable constructed, or to be constructed, on the premises; and
 - (C) the number and dimensions of each yard in which a horse or horses are to be kept on the premises; and
 - (b) restrict the undertaking of the prescribed activity to a specified part of the premises having an area not less than 1000m²; and
 - (c) ensure that a dust nuisance is not created by the undertaking of the prescribed activity on the premises and take specified measures to avoid or abate any dust nuisance.
- (6) If the approval authorises the keeping of dogs at a kennel or the keeping of cats at a cattery, the conditions of the approval may also require the approval holder to ensure that—
- (a) the prescribed activity is not undertaken on premises unless the premises have an area not less than 1 hectare; and
 - (b) any enclosure in which an animal is kept for the purposes of the undertaking of the prescribed activity is not located within a radius of 30m of a residence situated on adjoining premises as at the date of the grant of the approval; and
 - (c) each building and structure used in the undertaking of the prescribed activity is constructed of materials which are designed to prevent excessive noise; and
 - (d) the approval holder provides and maintains, at the premises used for the undertaking of the prescribed activity, landscaping, including trees and shrubs, which are—

- (i) in a healthy state; and
 - (ii) capable of reducing the acoustic and visual impact of the undertaking of the prescribed activity on adjoining premises used for residential purposes; and
- (e) each building and structure used in the undertaking of the prescribed activity is constructed and maintained so as to take into account—
- (i) the size, breed and nature of the animals to be kept in the building or structure; and
 - (ii) the health of the animals to be kept in the building or structure, and in particular, the need for adequate protection from the weather, access to fresh air and light, the provision of water, and the availability of adequate drainage; and
 - (iii) the need to provide the animals kept in the building or structure with adequate exercise facilities.

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).

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

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

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*.

sewerage system has the meaning given in the *Plumbing and Drainage Act 2002*.

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

This and the preceding 12 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.5 (Keeping of Animals) 2011* made in accordance with the provisions of the *Local Government Act 2009* by Mackay Regional Council by resolution dated the day of **(insert the date of the relevant resolution of Council)** 2011.

.....
Chief Executive Officer