

Subordinate Local Law No. 1.5 (Keeping of Animals) 2018

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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) 2018*.

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) 2018* 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) 2018* (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; and
- (h) the area of 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 *Planning Act 2016*.

(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) If the application is for a vet care approval for an animal — written evidence from a veterinary surgeon detailing—

- (a) the species, breed, age and gender of the animal; and
- (b) whether the veterinary surgeon is responsible for the veterinary care of the animal; and

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- (c) why the veterinary surgeon is providing veterinary care for the animal, for example, the treatment of an injury or disease suffered by the animal; and
 - (d) why the treatment of the animal at the premises identified in the application will facilitate the care, treatment, or recovery, of the animal; and
 - (e) the period during which the veterinary surgeon is likely to provide veterinary care for the animal at the premises.
- (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.
- (7) If the application is for a drought care approval for an animal — written evidence from the applicant detailing—
- (a) each place at which the animal is usually depastured by the applicant; and
 - (b) the carrying capacity of each place at which the animal is usually depastured; and
 - (c) the extent (if any) to which stock (other than the animal) are depastured, or permitted to be depastured, at each place; and
 - (d) how, and the extent to which, the carrying capacity of each place is impacted by drought conditions or the like.
- (8) If each animal the subject of the application is a horse—
- (a) and the application relates to *Subordinate Local Law No. 2 (Animal Management) 2018*, schedule 2, item 2(a), (b) or (c)— evidence, for example, the delivery to the local government of a statutory declaration of the applicant, that each horse is to be kept on the allotment solely for private domestic purposes; and
 - (b) and the application relates to *Subordinate Local Law No. 2 (Animal Management) 2018*, schedule 2, item 2(d)— evidence, for example, the delivery to the local government of a statutory declaration or the taxation records of the applicant, that all of the horses are to be kept on the allotment primarily for the undertaking of a business or commercial purpose, for example, the breaking in of the horses on a commercial basis.

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.

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- (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) 2018*.
 - (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 — 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.
 - (10) If the application relates to the keeping of dogs —
 - (a) whether the dogs (other than stock dogs) have been desexed; and
 - (b) whether the dogs have been fitted with an approved microchip.
 - (11) If the application is for a vet care approval for an animal—
 - (a) whether a veterinary surgeon is providing veterinary care for the animal; and
 - (b) whether the keeping of the animal at the premises identified in the application will facilitate the care, treatment, or recovery, of the animal; and
 - (c) the period during which the veterinary surgeon is likely to provide veterinary care for the animal at the premises.
 - (12) If the application is for a drought care approval for an animal—
 - (a) whether the carrying capacity of each place at which the animal is usually depastured by the applicant is impacted by drought conditions or the like; and

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- (b) whether stock (other than the animal) are depastured, or permitted to be depastured, at each place at which the animal is usually depastured by the applicant.
- (13) 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.
- (14) Whether the applicant has been refused a similar type of approval by the local government or another local government.
- (15) If the application relates to the keeping of 3 non-stock dogs on premises in a designated town area—whether the premises on which the non-stock dogs are to be kept has an area not less than 4,046.86m².
- (16) If the application relates to the keeping of 4 non-stock dogs on premises in a designated town area—
- (a) whether compassionate grounds exist for granting the approval; and
- Example—*
Compassionate grounds for the grant of an approval exist if—
- (a) 3 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 *fourth dog*); and
- (c) the second person is, due to the occurrence of an event (the *intervening event*) which is beyond the control of the second person, for example, a serious injury, sickness or the death of the second person, unable to keep the fourth dog; and
- (d) the first person, as a result of, or after the occurrence of, the intervening event, wishes to keep the fourth dog on the premises.
- (b) whether the premises on which the non-stock dogs are to be kept has an area not less than 10,117.14m².
- (17) If the application relates to the keeping of 1 or more sheep, alpaca or llama on premises in a designated town area—
- (a) whether the premises on which the animal or animals are to be kept is appropriately sized so as to be able to sustain the keeping of the animal or animals on the premises; and
- (b) whether the premises on which the animal or animals are to be kept is appropriately sized so that the density of the animals on the premises is not more than 1 animal per 800m² of the area of the premises.
- (18) If the application relates to the keeping of animals on premises other than multi-residential premises—
- (a) 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; and

- (b) whether the applicant has been granted, or refused, a similar type of approval by the local government in respect of the keeping of 1 or more other animals on the premises.
- (19) If the application relates to the keeping of 1 or more horses on an allotment—
- (a) and the application relates to *Subordinate Local Law No. 2 (Animal Management) 2018*, schedule 2, item 2(a), (b) or (c)— whether the horses are to be kept on the allotment solely for private domestic purposes;
 - (b) and the application relates to *Subordinate Local Law No. 2 (Animal Management) 2018*, schedule 2, item 2(d)— whether the horses are to be kept on the allotment primarily for the undertaking of a commercial or business purpose, for example, the breaking in of the horses on a commercial basis.

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 to keep dogs (including, unless otherwise specified, both stock dogs and non-stock dogs) on premises are—
- (a) a condition requiring that the approval holder 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; and
 - (b) a condition requiring that the approval holder ensure that any enclosure in which the dogs are kept 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 the dogs are kept is maintained in—
 - (i) a clean and sanitary condition and disinfected regularly; and
 - (ii) an aesthetically acceptable condition; and
 - (e) a condition limiting the approval to the number of dogs specified in the approval, without any reference, in the approval, to the identity of any of the dogs the keeping of which is authorised by the approval; and
 - (f) a condition requiring that the approval holder —
 - (i) ensure that—

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- (A) each dog (regardless of whether the dog is a stock dog or a non-stock dog) is registered with the local government within a specified period; and
 - (B) each dog (regardless of whether the dog is a stock dog or a non-stock dog) is fitted with an approved microchip within a specified period; and
 - (ii) deliver to the local government written evidence that each dog is fitted with an approved microchip within a specified period; and
 - (g) a condition requiring that the approval holder—
 - (i) if the approval authorises the keeping of 3 non-stock dogs on premises—ensure that 1 of the non-stock dogs is desexed within a specified period; and
 - (ii) if the approval authorises the keeping of 4 non-stock dogs on premises—ensure that 2 of the non-stock dogs are desexed within a specified period; and
 - (iii) deliver to the local government written evidence of the desexing within a specified period.
- (2) The conditions of a vet care approval may—
- (a) limit the term of the approval to the period during which ongoing veterinary care of the animal identified in the approval by a veterinary surgeon at the premises is reasonably necessary; and
 - (b) if the approval relates to the keeping of a stallion—in addition to the requirements specified in *Subordinate Local Law No. 2 (Animal Management) 2018*, schedule 8, item 1, require that the proper enclosure—
 - (i) effectively encloses the stallion so that the stallion can not reach over or through the fence to adjoining land or any public place; and
 - (ii) is constructed within an additional or second suitable and adequate fence or enclosure that is provided on the land on which the stallion is kept to a standard approved by an authorised person.
- (3) The conditions of a drought care approval for an animal may limit the term of the approval to the period during which each place at which the animal is usually depastured by the approval holder is impacted by drought conditions or the like.
- (4) The conditions of an approval in respect of the keeping of 1 or more horses on an allotment may—
- (a) if the approval relates to *Subordinate Local Law No. 2 (Animal Management) 2018*, schedule 2, item 2(a), (b) or (c)—

- (i) require that each horse is only kept on the allotment solely for private domestic purposes; and
- (ii) limit the approval to each horse identified in the approval; and
- (b) if the approval relates to *Subordinate Local Law No. 2 (Animal Management) 2018*, schedule 2, item 2(d)—
 - (i) require that each horse is kept on the allotment primarily for the undertaking of a business or commercial purpose, for example, the breaking in of each horse on a commercial basis; and
 - (ii) limit the approval to the number of horses specified in the approval without reference, in the approval, to 1 or more identified horses.
- (5) The conditions that will ordinarily be imposed on an approval to keep an animal (other than a dog) 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) 2018*—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) 2018*; 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) 2018*.

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.

development approval has the meaning given in the *Planning Act 2016*.

drought care approval has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2018*.

multi-residential premises has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2018*.

non-stock dog has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2018*.

owner (of an animal) has the meaning given in *Local Law No. 2 (Animal Management) 2018*.

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) 2018*.

proper enclosure has the meaning given in *Local Law No. 2 (Animal Management) 2018*.

public place has the meaning given in *Local Law No. 1 (Administration) 2018*.

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

residence has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2018*.

stock dog has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2018*.

vet care approval has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2018*.

veterinary surgeon has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2018*.

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

This and the preceding 13 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.5 (Keeping of Animals) 2018* prepared and adopted in accordance with section 32 of the *Local Government Act 2009* by Balonne Shire Council by resolution dated the 17th day of November 2022.



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Chief Executive Officer