

Gold Coast City Council



Local Law No. 12

(Animal Management) 2013

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Local Law No. 12 (Animal Management) 2013
made, in accordance with the provisions of the *Local Government Act 2009*,
by Council of the City of Gold Coast by resolution dated the 12 March 2013

Dale Dickson
Chief Executive Officer

**GOLD COAST CITY COUNCIL
Local Law No. 12 (Animal Management) 2013**

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Gold Coast City Council

Local Law No. 12 (Animal Management) 2013

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 12 (Animal Management) 2013*.

2 Objects

The objects of this local law are to—

- (a) regulate the keeping of animals—
 - (i) to protect the community against risk of injury and damage; and
 - (ii) to ensure that animals do not create a nuisance, or a hazard to health or safety; and
 - (iii) to prevent pollution and other environmental damage resulting from the keeping of animals and to protect the amenity of the local environment; and
 - (iv) to ensure that animals are kept and used in a way that is consistent with the rights and expectations of the local community; and
- (b) provide for—
 - (i) the proper control of animals in public places and koala conservation areas; and
 - (ii) the management of dangerous animals other than dogs; and
 - (iii) the seizure and destruction of animals in certain circumstances; and
- (c) regulate the breeding of cats and dogs; and
- (d) provide for the establishment and administration of animal pounds.

3 Definitions—the dictionary

The dictionary in the schedule (Dictionary) defines particular words used in this local law.

4 Relationship with other laws and application

- (1) The Animal Management Act is an Act for the identification, registration and management of cats and dogs.
- (2) The Animal Management Act does not prevent a local law from imposing requirements in relation to cats or dogs generally.
- (3) Without limiting subsection (2), a local government may make a local law prohibiting anyone in its local government area, other than an exempted person, from possessing a dog of a particular breed.
- (4) Subject to subsection (2), if the Animal Management Act and a local law are

inconsistent about a requirement, the local law is invalid to the extent of the inconsistency.¹

- (5) This local law is—
 - (a) in addition to, and does not derogate from—
 - (i) laws regulating the use or development of land; and
 - (ii) other laws about the keeping, control or welfare of animals, or animals of a particular species; and
 - (b) to be read with *Local Law No. 3 (Administration) 2008*.
- (6) This local law does not apply to the keeping and control of animals (other than guard dogs) kept within an animal entertainment park or animal sanctuary.
- (7) This local law applies in each bathing reserve and foreshore placed under the control of the local government under the *Local Government Act 2009*.

5 Local law repeal

This local law repeals *Local Law No. 12 (Keeping and Control of Animals) Law*.

Part 2 Keeping of animals

Division 1 Animals for which permit is required

6 Requirement to hold permit

- (1) A permit is required for keeping an animal or animals in the circumstances specified in a subordinate local law.
- (2) The circumstances in which a permit is required may be specified by reference to 1 or more of the following factors—
 - (a) the species, breed, age or sex of the animal;
 - (b) the number of animals to be kept;
 - (c) the part of the local government area in which the animal is to be kept;
 - (d) the nature of the premises at which the animal is to be kept;
 - (e) the purpose for which the animal is to be kept;
 - (f) the ability of the animal to breed;
 - (g) the number of litters that the animal may produce in a specified period;
 - (h) whether the animal is entire or not.

7 Obligation to hold permit

If a permit for keeping an animal is required, a person must not keep the animal unless the person holds a current permit from the local government authorising the person to keep the animal.

¹ See section 6 of the Animal Management Act.

Maximum penalty—50 penalty units.

Division 2 Animals for which registration is required

8 Registration obligation for cats and dogs

- (1) Chapter 3 of the Animal Management Act regulates the registration of cats and dogs.
- (2) Relevantly, an owner of a cat or dog must comply with section 46 of the Animal Management Act to register the cat or dog in a relevant local government's area within 14 days after starting to keep the cat or dog in the area unless the person has a reasonable excuse².
- (3) This local law imposes requirements in relation to the registration of cats and dogs generally.
- (4) If the Animal Management Act and this local law are inconsistent about a requirement, the local law is invalid to the extent of the inconsistency.

9 Registration requirements for cats and dogs

A subordinate local law may also prescribe or provide for other matters relating to the administration of the system of registration of animals (including the registration of cats and dogs), for example, the replacement of a registration device which is lost or destroyed³.

10 Obligations of keeper of registered animal

- (1) A person who keeps a registered animal must—
 - (a) subject to subsection (2), ensure that the animal carries the registration device required by resolution of the local government⁴; and
 - (b) ensure that the registration device is attached to a collar worn by the animal; and
 - (c) notify the local government within 14 days if the registration device for the animal has been lost or destroyed.

Maximum penalty for each of paragraphs (a), (b) and (c)—20 penalty units.

- (2) A subordinate local law may prescribe the grounds upon which the local government may grant an exemption from the requirement to wear a registration device.
- (3) For the purposes of section 45 of the Animal Management Act, the identification prescribed for a person who keeps a cat or dog, other than a regulated dog, at a place other than the address stated in the registration notice for the cat or dog, is the identification prescribed in a subordinate local law.

Division 3 Prohibited animals

² See section 44 of the Animal Management Act.

³ See section 46 of the Animal Management Act.

⁴ See section 12 of the Animal Management Act.

11 Prohibited animals

- (1) The local government may, by subordinate local law, prohibit the keeping of animals in prescribed circumstances.
- (2) A prohibition on the keeping of animals under subsection (1)—
 - (a) must relate to animals of a specified species or breed and may be related to animals of a particular sex or to animals above or below a specified age; and
 - (b) may prohibit the keeping of the animals described in the subordinate local law generally or may be limited to keeping a number of animals exceeding a limit prescribed in the subordinate local law; and
 - (c) may relate to the whole of the local government's area or may be limited to a particular part of the area; and
 - (d) may be limited to keeping animals in premises of a particular kind specified in the subordinate local law; and
 - (e) may relate to the keeping of animals for a purpose specified in the subordinate local law.

12 Possession of dog of prohibited breed

- (1) The local government may, by subordinate local law, prohibit anyone in its local government area, other than an exempted person, from possessing a dog of a prohibited breed in prescribed circumstances.
- (2) In this section—

breed includes crossbreed of a breed; and

prohibited breed, for a dog, means a dog of a breed (including a crossbreed of a breed) prescribed for this section by subordinate local law.

13 Animals must not be kept in contravention of a prohibition

A person must not, in contravention of a prohibition under this division—

- (a) keep an animal; or
- (b) possess a dog of a prohibited breed.

Maximum penalty for each of paragraphs (a) and (b)—50 penalty units.

Division 4 Minimum standards

14 Prescription of minimum standards by subordinate local law⁵

- (1) A subordinate local law may prescribe minimum standards for the keeping of animals, or a particular species or breed of animal.
- (2) The subordinate local law may, for example—
 - (a) require the regular cleaning of enclosures and the disposal of waste; and
 - (b) require adequate provision of food and water; and

⁵ See also sections 14 (Owner must ensure cat or dog is implanted) and 42 (Desexed cat or dog must be tattooed) of the Animal Management Act.

- (c) require the provision of adequate space for the animals; and
- (d) make other provision for the maintenance of proper standards of cleanliness and hygiene; and
- (e) provide for the separation of enclosures in which animals are kept from places used for human habitation or the preparation of food, or from watercourses or water catchment areas; and
- (f) make provision for the control and management of animals; and
- (g) require the keeper of an animal to take specified action to ensure that the animal does not cause any nuisance, inconvenience or annoyance to the occupiers of—
 - (i) adjoining premises; or
 - (ii) premises in the vicinity of the land on which the animal is ordinarily kept.

15 Obligation to comply with minimum standards

- (1) A person who keeps an animal must ensure that the relevant minimum standards prescribed by a subordinate local law are complied with.
Maximum penalty—10 penalty units.
- (2) If a person is required to hold a permit to keep an animal, the obligation to comply with the minimum standards prescribed by a subordinate local law is in addition to an obligation imposed by a condition of the permit.

Part 3 Permits

16 Application for permit

- (1) An application for a permit authorising the keeping of an animal or animals must state—
 - (a) the species, breed, age and gender of the animal or each of the animals for which the permit is sought; and
 - (b) the number of animals to be kept; and
 - (c) the area, or part of the area, in which the animal or animals are to be kept; and
 - (d) the nature of the premises at which the animal or animals are to be kept; and
 - (e) other information required under subordinate local laws.
- (2) The local government may, by subordinate local law, prescribe requirements with respect to an application for a permit under this local law.
- (3) The local government may, by subordinate local law, prescribe circumstances where an application for a permit authorising the keeping of an animal or animals may be made by a person other than the keeper of the animal or animals.

17 Grant of a permit

In deciding whether to grant a permit authorising a person to keep animals the

local government may have regard to—

- (a) the physical suitability of the land for the proposed use; and
- (b) the structural suitability of enclosures in which the animals are to be kept; and
- (c) the likelihood of the animals causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land; and
- (d) the likely effect on the amenity of the surrounding area; and
- (e) the likely effect on the local environment, including any impact on a particular sensitive species, and any possible pollution or other environmental damage; and
- (f) the period during which the animals have been kept on the premises identified in the application prior to the submission of the application to the local government; and
- (g) other factors that may be relevant in the circumstances of the particular application; and
- (h) other criteria specified by subordinate local law.

18 Term of a permit

- (1) A permit granted by the local government is for a term—
 - (a) specified in the permit; or
 - (b) otherwise specified in a subordinate local law.
- (2) A permit expires at the end of the day of the term specified in subsection (1).

19 Conditions of a permit

- (1) The local government may grant a permit under this local law on conditions it considers appropriate.
- (2) The conditions of a permit may, for example, require the holder of the permit to—
 - (a) care for the animals identified in the permit in accordance with appropriate standards; and
 - (b) keep the animals in enclosures that comply with specified structural requirements; and
 - (c) comply with specified standards of hygiene; and
 - (d) ensure that the animals wear or display an appropriate identifying tag; and
 - (e) take specified action to protect against possible harm to the local environment; and
 - (f) take specified action to ensure that the animals do not cause any nuisance, inconvenience or annoyance to the occupiers of adjoining land; and
 - (g) require the holder of the permit to give the local government specified written indemnities; and
 - (h) require the holder of the permit to take out and maintain during the term of the permit specified insurance indemnifying persons who may suffer personal injury, loss or damage as a result of the keeping of the animals; and

- (i) require the holder of the permit to give security to the local government to secure compliance with the permit and the provisions of this local law.
- (3) The local government may, by subordinate local law, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

20 Power to change the conditions of a permit

- (1) The local government may change⁶ a condition of a permit if—
 - (a) the holder of the permit agrees to the proposed change; or
 - (b) the change is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (v) the unsafe movement or obstruction of traffic or the unsafe use of a road.
- (2) If the local government is satisfied it is necessary to change a condition of a permit, the local government must—
 - (a) give the holder of the permit a written notice stating—
 - (i) the proposed change and the reason for the change; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed change; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which the written representations may be made; and
 - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (3) After considering any written representations made by the holder of the permit, the local government must give to the holder of the permit—
 - (a) if the local government is not satisfied the change is necessary — a written notice stating that it has decided not to change the condition; or
 - (b) if the local government is satisfied that the change is necessary — a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the written notice was given to the holder of the permit—
 - (a) under subsection (2)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
 - (b) under subsection (3)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local

⁶ A **change** to the conditions of a permit includes a change by omission, substitution, exception or addition (See *Acts Interpretation Act 1954*, section 36).

government decides that the change is necessary.

21 Amendment, renewal or transfer of a permit

- (1) The holder of a permit may make an application to the local government to—
 - (a) amend the permit; or
 - (b) renew the permit; or
 - (c) transfer the permit to another person.
- (2) An application to amend, renew or transfer a permit must be—
 - (a) made by the holder of the permit; and
 - (b) made in the prescribed form; and
 - (c) accompanied by the prescribed fee and such other information as is requested by the local government; and
 - (d) accompanied by, in the case of a transfer of the permit, the consent of the person to whom the permit will be transferred.
- (3) The local government may renew or transfer a permit—
 - (a) if the undertaking of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
 - (b) subject to such conditions as the local government considers appropriate.
- (4) The local government may amend a permit—
 - (a) if the undertaking of the regulated activity complies with the criteria specified in section 17 (Grant of a permit) of this local law; and
 - (b) subject to such conditions as the local government considers appropriate.
- (5) The local government must not amend a permit that has been granted for a specific location if the amendment is to the location of where the regulated activity is to be undertaken.
- (6) For the purposes of determining whether the criteria specified in subsections (3) and (4) have been satisfied, the local government is not obliged to look beyond—
 - (a) any information or materials submitted to the local government in respect of the application; and
 - (b) any other information held by the local government which is relevant to the application.

22 Renewal of a permit

- (1) The local government is taken to have requested the holder of a permit to renew the permit by giving to the holder of the permit a written notice.
- (2) The holder of a permit is taken to have made an application to the local government to renew the permit—
 - (a) if the written notice requires the payment of a prescribed fee—upon the payment of the prescribed fee; or
 - (b) if the written notice does not require the payment of a prescribed fee—if the local government is not otherwise notified by the holder of the permit within

30 days of the issue of the written notice.

- (3) The local government may renew a permit—
 - (a) if the undertaking of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
 - (b) if satisfied that any requirement specified in the written notice given by the local government pursuant to subsection (1) has been complied with; and
 - (c) subject to the conditions of the permit unless otherwise determined by the local government; and
 - (d) subject to such other conditions as the local government considers appropriate.
- (4) For the purposes of determining whether the criteria specified in subsection (3)(a) have been satisfied, the local government is not obliged to look beyond—
 - (a) any information or material submitted to the local government in respect of the renewal of the permit; and
 - (b) any other information held by the local government which is relevant to the renewal of the permit.
- (5) If the local government renews a permit subject to conditions pursuant to subsections (3)(c) or (3)(d), the local government must—
 - (a) when giving the holder of the permit a written notice pursuant to subsection (1), give the holder of the permit a written notice stating—
 - (i) the proposed conditions of the permit; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed conditions of the permit; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which the written representations may be made; and
 - (b) consider any written representations made by the holder of the permit within the time stated in the written notice; and
 - (c) after considering any written representations made by the holder of the permit, give to the holder of the permit—
 - (i) if the local government is satisfied the condition is not necessary—a written notice stating that it has decided not to impose the conditions; or
 - (ii) if the local government is satisfied that the conditions are necessary—a written notice stating that it has decided to impose the conditions.
- (6) A renewal of a permit granted by the local government is for a term—
 - (a) specified in the written notice; or
 - (b) otherwise specified in a subordinate local law.
- (7) A renewal of a permit expires at the end of the day of the term specified in subsection (6).

23 Cancellation of a permit

- (1) The local government may cancel a permit if—
 - (a) the holder of the permit agrees to the cancellation; or
 - (b) the cancellation is urgently necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (v) the unsafe movement or obstruction of traffic or the unsafe use of a road; or
 - (c) the holder of the permit contravenes—
 - (i) this local law; or
 - (ii) a condition of the permit; or
 - (iii) a requirement of a compliance notice; or
 - (d) the undertaking of the regulated activity does not comply with—
 - (i) the provisions of each Local Government Act that regulates the undertaking of the regulated activity; or
 - (ii) the prescribed criteria; or
 - (e) the permit was granted on the basis of false, misleading or incomplete information; or
 - (f) changes in circumstances since the permit was granted make the continued operation of the permit inappropriate.
- (2) The local government may specify, by subordinate local law, the changes in circumstances since a permit was granted that make the continued operation of the permit inappropriate.
- (3) If the local government is satisfied it is necessary to cancel a permit, the local government must—
 - (a) give the holder of the permit a written notice stating—
 - (i) the reason for the proposed cancellation; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed cancellation; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which written representations may be made; and
 - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (4) After considering any written representations made by the holder of the permit the local government must give to the holder of the permit—
 - (a) if the local government is not satisfied that the cancellation is necessary—a written notice stating it has decided not to cancel the permit; or
 - (b) if the local government is satisfied that the cancellation is necessary—a written notice stating it has decided to cancel the permit.

- (5) Before the local government cancels a permit under subsection (4), the local government must consider the impact of the cancellation of the permit, other than a financial impact on the holder of the permit, on those persons who would be affected by the regulated activity ceasing to be undertaken.
- (6) The cancellation of the permit takes effect from the day the written notice was given to the holder of the permit—
 - (a) under subsection (3)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
 - (b) under subsection (4)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the cancellation is necessary.
- (7) When the local government has cancelled a permit, the holder of the permit must cease to undertake the regulated activity immediately.
Maximum penalty for subsection (7)—20 penalty units.

24 General compliance provision

- (1) The holder of a permit must ensure that the conditions of the permit are complied with.
Maximum penalty for subsection (1)—20 penalty units.
- (2) The holder of a permit and any person undertaking a regulated activity must ensure that the undertaking of the regulated activity—
 - (a) does not result in harm to human health or safety or personal injury; and
 - (b) does not result in property damage or a loss of amenity; and
 - (c) does not result in environmental harm or environmental nuisance; and
 - (d) does not result in a nuisance; and
 - (e) does not result in the unsafe movement or obstruction of traffic or the unsafe use of a road; and
 - (f) complies with the prescribed criteria.Maximum penalty for subsection (2)—20 penalty units.

Part 4 Control of animals

Division 1 Animals in public places generally

25 Animals must be under effective control

- (1) The keeper of an animal must ensure that the animal is kept under effective control.
Maximum penalty—10 penalty units.
- (2) A dog is not regarded as being under *effective control* unless—
 - (a) if the dog is in an off leash dog exercise area—the dog is under the

- supervision of a person who—
- (i) is able to control the dog by voice command; and
 - (ii) does not cause or allow the dog to attack or worry another person or another animal; and
 - (iii) ensures that the dog remains in the immediate vicinity⁷ of the person exercising the dog; or
- (b) if the dog is participating in an obedience trial, or training for an obedience trial in a public place under the control of the local government — the trial or training, as the case may be, is conducted —
 - (i) under the supervision of an organisation recognised by the local government for the purposes of this section; and
 - (ii) at a time and place approved by the local government in writing; or
 - (c) the dog is being exhibited at an exhibition under the supervision of an organisation recognised by the local government for the purposes of this section; or
 - (d) if the dog is in a restricted access workplace area—
 - (i) the keeper of the dog has provided and maintains at the restricted access workplace area a proper enclosure to keep the dog in the restricted access workplace area and prevent the dog from wandering or escaping from the restricted access workplace area; and
 - (ii) the dog is kept in the proper enclosure at all times whilst the premises, of which the restricted access workplace area forms part, are open to the public or used by the public; or
 - (e) if the dog is tethered in or on a vehicle—the dog is unable to reach beyond the vehicle extremities; or
 - (f) if the dog is at a place other than an off leash dog exercise area, a restricted access workplace area or the premises at which the dog is ordinarily kept and paragraphs (b), (c) and (e) do not apply—
 - (i) a person who is physically able to control the dog is holding the dog by a chain, cord or leash not more than 2m long; or

Example for paragraph (f)(i)—

In a bathing reserve in the local government's area which is not an off leash dog exercise area, a dog is regarded as being under effective control if a person who is physically able to control the dog is holding the dog by a leash not more than 2m long.

- (ii) the dog is—
 - (A) tethered to a fixed object which cannot be moved by the dog; and
 - (B) under the continuous supervision of a person who is physically able to control the dog; or
- (iii) the keeper of the dog—
 - (A) has provided and maintains at the place a proper enclosure to

⁷ See definition of *immediate vicinity* in the dictionary.

keep the dog at the place and prevent the dog from wandering or escaping from the place; and

(B) keeps the dog in the proper enclosure at all times.

Example for paragraph (f)(iii)—

If the dog is at a place other than the premises at which the dog is ordinarily kept, for example, a place owned or controlled by an acquaintance of the keeper of the dog, the keeper complies with the obligations of the keeper if the place is provided with a proper enclosure to keep the dog at the place and prevent the dog from wandering or escaping from the place and the dog is kept in the proper enclosure at all times.

- (3) Also, a dog is not regarded as being under effective control at the premises at which the dog is ordinarily kept if the dog is at a part of the premises which is a public place unless—
- (a) a person who is physically able to control the dog is holding the dog by a chain, cord or leash not more than 2m long; or
 - (b) the dog is—
 - (i) tethered to a fixed object which cannot be moved by the dog; and
 - (ii) under the continuous supervision of a person who is physically able to control the dog.
- (4) Subsections (2) and (3) apply to a dog other than a regulated dog.⁸
- (5) An animal other than a dog is regarded as being under *effective control* only if a person is able to effectively control and direct the animal so as to ensure that it does not—
- (a) attack or worry a person; or
 - (b) damage property; or
 - (c) enter premises other than the premises on which the animal is usually kept (unless the owner or occupier of the other premises consents to the entry).
- (6) If an animal (including, without limitation, a dog) in a public place or a restricted access workplace area is not under effective control, an authorised person may seize and impound the animal.
- (7) For the avoidance of doubt, subsection (6) applies to a dog other than a regulated dog.
- (8) For the purposes of subsection (2)(d) and (f)(iii), a proper enclosure is a fenced area or other facility as required by a subordinate local law.
- (9) For the avoidance of doubt, a subordinate local law mentioned in subsection (8) may treat buildings or structures (other than fences) which effectively contain an animal as forming part of a proper enclosure.

26 Person in charge of animal to clean up animal faeces

- (1) When a dog is in a public place, the person in charge of the dog must carry a bag, implement or container suitable to pick up and dispose of the dog's faeces if the dog defecates.

⁸ See section 64 (When a regulated dog is under effective control) and schedule 1 section 3 (Muzzling and effective control in place that is not relevant place) of the Animal Management Act.

Maximum penalty—5 penalty units.

- (2) If an animal, for example a dog or a horse, defecates in a public place, the person in charge of the animal must immediately remove, and dispose of, the faeces in a sanitary way.

Maximum penalty—5 penalty units.

- (3) In this section, the *person in charge* of an animal is the person who has actual or apparent control of the animal or the person who otherwise appears to accompany the animal.

Division 2 Animals in public places under local government control

27 Designation of area as an animal control area

- (1) The local government may, by subordinate local law or resolution—
 - (a) designate the whole or any part or parts of a park, reserve (including a town reserve), foreshore (including a lake foreshore) or bathing reserve under the control of the local government as an *animal control area*; and
 - (b) designate the whole or any part or parts of an animal control area as an area where a person is prohibited from bringing an animal or an animal of a specified species—
 - (i) at all times; or
 - (ii) on specified days; or
 - (iii) during specified hours on specified days; and
 - (c) designate the whole or any part or parts of an animal control area as an area where a person is restricted from bringing an animal, or an animal of a specified species, except subject to conditions; and
 - (d) designate the whole or any part or parts of an animal control area as an area where a person may exercise a dog off leash (an *off leash dog exercise area*)—
 - (i) at all times; or
 - (ii) on specific days; or
 - (iii) during specified hours on specified days.
- (2) The local government must decide its own process for making a resolution about a designation under subsection (1).
- (3) However, the process must be consistent with this section.
- (4) The process must require the local government to—
 - (a) consult with the public about the proposed designation for at least 21 days; and
 - (b) consider every submission properly made to it about the proposed designation.
- (5) A designation under subsection (1) is not effective for the purposes of this local law until the designation is recorded in the animal control area register of the local

government.

- (6) For the avoidance of doubt, the local government may, from time to time, by resolution, repeal or amend a resolution about a designation under subsection (1).
- (7) Each designation of an area as an animal control area under subsection (1)(a) must include a description of the area designated as an animal control area and, where required for identification purposes, the real property description of the land on which the animal control area is located or some other description sufficient to identify the animal control area designation with certainty.

28 Register of animal control areas

- (1) The local government must establish and maintain a register of each animal control area (the *animal control area register*) which must be kept available for public inspection.
- (2) If the local government makes a resolution about a designation under section 27(1), the animal control area register must specify, for the designation—
 - (a) if the designation is made under section 27(1)(a)—the information specified in section 27(7); and
 - (b) if the designation is made under section 27(1)(b)—the times, days or specified hours on specified days when a person is prohibited from bringing an animal or an animal of a specified species on to the animal control area; and
 - (c) if the designation is made under section 27(1)(c)—the conditions which restrict a person from bringing an animal or an animal of a specified species on to the animal control area; and
 - (d) if the designation is made under section 27(1)(d)—the times, days or hours on specified days when a person may exercise a dog off leash at the off leash dog exercise area.

29 Prohibitions prescribed for parks, reserves etc.

- (1) If the local government makes a designation under section 27(1)(b) prohibiting a person from bringing an animal or an animal of a specified species on to an animal control area then notice of the prohibition must, as a minimum, be displayed at a prominent place within the animal control area.
- (2) A person must not bring an animal, or an animal of a specified species, on to an animal control area contrary to a prohibition prescribed under section 27(1)(b).

Maximum penalty—20 penalty units.

30 Conditions prescribed for parks, reserves etc

- (1) The local government may—
 - (a) by subordinate local law, prescribe conditions applicable to the bringing of an animal or an animal of a specified species on to an animal control area designated under section 27(1)(c); or
 - (b) by subordinate local law, prescribe conditions applicable to the bringing of an animal or an animal of a specified species on to parks, reserves, foreshores and bathing reserves generally.

- (2) If the local government prescribes conditions under subsection (1) then notice of the conditions must, as a minimum, be displayed at a prominent place within, as the case may be—
 - (a) the animal control area designated under section 27(1)(c); or
 - (b) the park, reserve, foreshore or bathing reserve.
- (3) A person must not bring an animal, or an animal of a specified species, on to, as the case may be, an animal control area designated under section 27(1)(c) or a park, reserve, foreshore or bathing reserve contrary to a condition prescribed under subsection (1).

Maximum penalty— 20 penalty units.

31 Conditions prescribed for off leash dog exercise areas

- (1) The local government may, by subordinate local law, prescribe conditions applicable to the bringing of a dog on to an animal control area designated as an off leash dog exercise area.
- (2) If the local government prescribes conditions applicable to the bringing of a dog on to an off leash dog exercise area, notice of the conditions must, as a minimum, be displayed at a prominent place within the off leash dog exercise area.
- (3) A person must not bring a dog on to an off leash dog exercise area contrary to a condition prescribed under subsection (1).

Maximum penalty— 20 penalty units.

Division 3 Proper enclosures and koala conservation

32 Duty to provide proper enclosure

- (1) This section applies to an animal other than a regulated dog.⁹
- (2) A person who keeps an animal must maintain a proper enclosure to keep the animal on the person's land and prevent the animal from wandering or escaping from the land.

Maximum penalty—50 penalty units.

- (3) The local government may, by subordinate local law, prescribe requirements for a proper enclosure for an animal or a species or breed of animal.
- (4) For the avoidance of doubt, a subordinate local law mentioned in subsection (3) may—
 - (a) provide that a proper enclosure is a fenced area or other facility; and
 - (b) treat buildings or structures (other than fences) which effectively contain an animal as forming part of a proper enclosure.
- (5) If an animal is found wandering at large, the keeper of the animal is guilty of an offence.

Maximum penalty for subsection (5)—10 penalty units.

⁹ Schedule 1 section 4 of the Animal Management Act specifies permit conditions and conditions about an enclosure for a regulated dog.

- (6) It is a defence to a prosecution for an offence against subsection (5) for the defendant to prove that the defendant—
 - (a) maintained a proper enclosure for the animal; and
 - (b) could not, by the exercise of reasonable diligence, have prevented the escape of the animal.
- (7) In deciding whether, for the purposes of subsection (6)(b), the defendant exercised reasonable diligence so as to prevent the escape of the animal, regard must be had to—
 - (a) the minimum standards for proper enclosures prescribed by a subordinate local law; and
 - (b) where the animal has a history of escaping from its enclosure — the adequacy of the measures taken by the defendant to prevent the escape of the animal from the enclosure including, without limitation, measures taken by the defendant in addition to compliance with the minimum standards for proper enclosures prescribed by a subordinate local law.

33 Koala conservation requirements

- (1) The local government may, by subordinate local law, prescribe requirements for keeping a dog on land that is within a koala area.
- (2) The prescribed requirements may relate to—
 - (a) the enclosure in which the dog must be kept between sunset and sunrise; or
 - (b) tethering the dog between sunset and sunrise to prevent it from attacking a koala; or
 - (c) fencing that must be in place to separate dogs from koalas on the land or on a part of the land; or
 - (d) other measures that will be likely to prevent an attack by the dog on a koala between sunset and sunrise.
- (3) A person who keeps a dog on land that is within a koala area must comply with requirements prescribed under this section.

Maximum penalty for subsection (3)—20 penalty units.

- (4) In this section—

koala area means—

- (a) a koala habitat area; or
- (b) an area designated by subordinate local law as a koala area.

koala habitat area means an area designated as a koala habitat by—

- (a) a conservation plan made under the *Nature Conservation Act 1992*; or
- (b) a State planning instrument.

Division 4 Animal noise nuisance

34 Duty to avoid animal noise nuisance

- (1) A person must not keep an animal on land if the animal causes an animal noise nuisance.
- (2) An animal causes an animal noise nuisance if it makes a noise which —
 - (a) occurs more than once; and
 - (b) disrupts or inhibits an activity ordinarily carried out on adjoining or nearby residential premises.

Example for subsection (2) —

The barking of a dog which disrupts a person—

- (a) holding a conversation; or
- (b) watching television; or
- (c) listening to a radio or recorded material; or
- (d) sleeping.

In order for a nuisance under subsection (2) to occur, it is not necessary that the degree of interference from the barking is such as to be continuous, or to make it practicably impossible to—

- (a) hold a conversation; or
- (b) watch television; or
- (c) listen to a radio or recorded material at ordinary volumes; or
- (d) fall or stay asleep.

Any occurrence by which a person is woken from sleep, or by which a person is distracted or annoyed during the course of carrying out some other ordinary activity, in a way which would not occur in the absence of the dog barking, is a disruption to or an inhibition of an activity ordinarily carried out on residential premises. It is not necessary that the barking totally drowns out the sound of the conversation, television, radio or recorded material. It is sufficient if attention is merely diverted from this sound by the barking of the dog. It is not necessary that it be a repeated or ongoing interruption of sleep or that it be the total shattering of sleep.

- (3) The criteria an authorised person must consider when deciding whether an animal makes a noise which disrupts or inhibits an activity ordinarily carried out on adjoining or nearby residential premises include—
 - (a) has the local government received 3 complaints of a contravention of subsection (1) from 3 persons all of whom occupy separate premises in the same or an adjoining street to the premises the subject of the complaints;
 - (b) has the local government received 2 complaints of a contravention of subsection (1) in circumstances where the land the subject of the complaints is not located in an area occupied predominantly by residential premises.
- (4) An authorised person may, on receiving a complaint of a contravention of subsection (1) by an animal, give the keeper of the animal a compliance notice under section 61.

35 Nuisances caused by more than 1 dog on land

- (1) This section applies if—
 - (a) more than 1 dog is kept on land; and
 - (b) 1 or more of the dogs kept on the land causes a nuisance by making a noise which satisfies the criteria in section 34(2); and
 - (c) an authorised person cannot distinguish which of the dogs is causing the nuisance.

- (2) The criteria an authorised person must consider when deciding whether the dogs are making a noise which disrupts or inhibits an activity ordinarily carried out on adjoining or nearby residential premises include—
- (a) has the local government received 3 complaints of a contravention of section 34(1) from 3 persons all of whom occupy separate premises in the same or an adjoining street to the premises the subject of the complaints;
 - (b) has the local government received 2 complaints of a contravention of section 34(1) in circumstances where the land the subject of the complaints is not located in an area occupied predominantly by residential premises.
- (3) An authorised person may, on receiving a complaint of a contravention of section 34(1) by the dogs on the land, give the keeper of the dogs a compliance notice under section 61.

Division 5 Aggressive animals

36 Animal attacks

- (1) This section applies to an animal other than a dog.¹⁰
- (2) A person must not cause, encourage, permit or allow an animal to attack or worry another person or another animal.

Maximum penalty—

- (a) where a person suffers physical injury or bodily harm as a result of the attack—100 penalty units; or
 - (b) in all other cases—20 penalty units.
- (3) In this section, ***another animal*** does not include vermin that are not the property of anyone.

Example of vermin that are someone's property—

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992*.¹¹

37 Defences for offence against s36

It is a defence to a prosecution for an offence against section 36 for the defendant to prove that the defendant's animal attacked, or worried, the person (***complainant***) or other animal—

- (a) as a result of the defendant's animal being attacked, mistreated, teased or provoked by the complainant or another animal under the supervision of the complainant, including a dog; or
- (b) to protect the defendant, or a person accompanying the defendant (an ***accompanying person***), or the defendant's or accompanying person's property.

¹⁰ See sections 194 (Relevant person must ensure dog does not attack or cause fear), 195 (Prohibition on allowing or encouraging dog to attack or cause fear) and 196 (Defences for offence against s194 or 195) of the Animal Management Act.

¹¹ See section 83 of that Act.

Division 6 Dangerous animals other than dogs¹²

38 Declaration of dangerous animal other than a dog

- (1) An authorised person may declare an animal other than a dog to be a declared dangerous animal if the animal attacks or worries a person or another animal.
- (2) A declaration under subsection (1) takes effect at the time the local government gives the keeper of the animal written notice of the declaration.

39 Power to require keeper of declared dangerous animal to take specified action

An authorised person may, by giving a compliance notice,¹³ require the keeper of a declared dangerous animal to take specified action—

- (a) to warn persons who enter land on which the animal is kept of the presence of a declared dangerous animal on the land; and
- (b) to ensure that the animal remains in secure custody and is unable to attack or worry persons or other animals or cause damage to another person's property.

Part 5 Seizure, impounding and destruction of animals

Division 1 Seizure of animals

40 Seizure of animals

- (1) An authorised person may seize an animal, other than a dog,¹⁴ in the following circumstances—
 - (a) the animal is found wandering at large; or
 - (b) the keeper of the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law including, for example, a condition of a permit granted under this local law; or
 - (c) the animal has attacked, or worried, a person or another animal; or
 - (d) the authorised person considers on reasonable grounds that the animal has been abandoned, left or found on a road in the circumstances mentioned in section 100(12) of the *Transport Operations (Road Use Management) Act 1995*.¹⁵

¹² Dangerous dogs are dealt with in the Animal Management Act.

¹³ See section 61 regarding the requirements for a compliance notice and the offence of not complying with a compliance notice.

¹⁴ See the Animal Management Act, section 125, for seizure of a dog.

¹⁵ The *Transport Operations (Road Use Management) Act 1995*, section 100(13) provides: "If a local law

- (2) An authorised person may seize a dog in the following circumstances—
 - (a) the dog is found wandering at large; or
 - (b) the keeper of the dog has not complied with a compliance notice that has been issued in relation to compliance with this local law or a Local Government Act including, for example, a condition of a permit granted under this local law; or
 - (c) the authorised person considers on reasonable grounds that the dog has been abandoned, left or found on a road in the circumstances mentioned in section 100(12) of the *Transport Operations (Road Use Management) Act 1995*.
- (3) The authorised person may seize an animal under subsection (1)(a) or a dog under subsection (2)(a) where—
 - (a) another person has found the animal or dog wandering at large and delivered it to the authorised person; or
 - (b) an occupier of land has found the animal or dog wandering at large on the occupier's land and—
 - (i) requested the authorised person to enter the land and seize it; or
 - (ii) seized the animal or dog and delivered it to the authorised person.
- (4) However, an authorised person is not obliged to accept the custody of an animal (including a dog) under this section.
- (5) For the purposes of seizing an animal, an authorised person may take any action which is reasonable in the circumstances to capture or control the animal including, for example, the use of force and tranquilizing devices.

Division 2 Destruction of animal without notice

41 Power to immediately destroy seized animal

- (1) This section applies if an authorised person has seized an animal, other than a regulated dog, under this local law or another law.
- (2) An authorised person may, without notice, immediately destroy the animal if—
 - (a) the authorised person reasonably believes the animal is dangerous and the authorised person can not control it; or
 - (b) the animal is significantly suffering as a result of disease, severe emaciation or serious injury; or
 - (c) the keeper of the animal has requested the authorised person to destroy it.

42 Destruction at request of keeper

- (1) This section applies to an animal other than a regulated dog¹⁶.
- (2) This section applies if an authorised person has seized an animal under this local

provides for a matter mentioned in subsection (12), subsections (3) to (11) no longer apply in the local government's area."

¹⁶ See section 100 (Surrender of regulated dog) of the Animal Management Act.

law or another law and the keeper of the animal has requested the authorised person to destroy it under section 41(2)(d).

- (3) The local government may, by subordinate local law, prescribe a procedure with which the keeper of the animal must comply prior to destruction of the animal.

Division 3 Return or impounding of animals

43 Immediate return of animal seized wandering at large

- (1) This section applies if —
 - (a) an animal has been seized under section 40(1)(a) or section 40(2)(a); and
 - (b) the authorised person who seizes the animal knows, or can readily find out, the name and address of the keeper of the animal.
- (2) The authorised person may return the animal to the keeper of the animal.
- (3) If the authorised person does not return the animal to the keeper under subsection (2), the authorised person may impound the animal under section 44.

44 Impounding of seized animal

- (1) An authorised person who seizes an animal under this local law or another law may impound the animal at a place of care for animals (each an *animal pound*) operated by—
 - (a) the local government; or
 - (b) another organisation or local government.

Example for paragraph (a)—

An animal pound operated by the local government.

Example for paragraph (b)—

A veterinary surgery or an animal refuge.

- (2) The local government may, by subordinate local law, fix the types of animal (if any) which will be accepted at an animal pound otherwise than pursuant to an impounding under this local law.

45 What is a notice of impounding

- (1) A *notice of impounding* means a written notice, given to the keeper of an animal, stating that—
 - (a) the animal has been impounded; and
 - (b) the animal may be reclaimed within the prescribed period¹⁷ provided that—
 - (i) the cost-recovery fee¹⁸ is paid; and
 - (ii) if a permit or registration is required for the keeping of the animal and the keeper does not have the permit or registration—the permit or registration is obtained; and

¹⁷ See definition of *prescribed period* in the dictionary.

¹⁸ See definition of *cost-recovery fee* in the dictionary.

- (iii) if the animal has been seized under section 40(1)(b) or section 40(2)(b)— the keeper has complied with the relevant compliance notice; and
 - (iv) continued retention of the animal is not needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; and
 - (v) no destruction order has been made for the animal.
- (2) In this section, **relevant compliance notice** means the compliance notice mentioned in section 40(1)(b) or section 40(2)(b).

46 Dealing with an animal seized and impounded for wandering at large

- (1) Subsection (2) applies if—
- (a) an authorised person has impounded an animal seized under section 40(1)(a) or section 40(2)(a); and
 - (b) the animal is not a declared dangerous animal at the time of being seized; and
 - (c) if the animal is a dog—
 - (i) the dog is not a regulated dog; and
 - (ii) the local government does not propose to make a regulated dog declaration under section 90 of the Animal Management Act about the dog; and
 - (c) the authorised person knows, or can readily find out, the name and address of the keeper of the animal.
- (2) The authorised person must give the keeper a notice of impounding.
- (3) Subsection (4) applies if an authorised person has impounded—
- (a) a declared dangerous animal seized under section 40(1)(a); or
 - (b) a dog seized under section 40(2)(a) more than 2 times during a 12 month period.
- (4) The authorised person may—
- (a) give the keeper of the animal a notice of impounding; or
 - (b) make a destruction order for the animal under section 51.

47 Dealing with animal seized and impounded for non-compliance with local law

- (1) This section applies if an authorised person has impounded—
- (a) an animal seized under section 40(1)(b); or
 - (b) a dog seized under section 40(2)(b).
- (2) The authorised person may—
- (a) give the keeper of the animal a notice of impounding; or
 - (b) dispose of the animal (including a dog) under division 5 if the animal—
 - (i) was being kept in contravention of part 2, division 3 of this local law;

or

- (ii) is an animal for which a permit cannot be granted under this local law;
or
- (iii) is an animal for which an application for a permit under this local law has been rejected.

48 Dealing with animal seized and impounded for attacking etc a person or another animal

- (1) This section applies if an authorised person has impounded an animal seized under section 40(1)(c).
- (2) The authorised person may¹⁹—
 - (a) give the keeper of the animal a notice of impounding; or
 - (b) make a destruction order for the animal under section 51.

49 Dealing with animal seized and impounded on a road

- (1) This section applies if an authorised person has impounded an animal seized under section 40(1)(d) or section 40(2)(c).
- (2) If the authorised person knows, or can readily find out, the name and address of the keeper of the animal, the authorised person must give the keeper of the animal a notice of impounding.
- (3) If the authorised person does not know, and cannot readily find out, the name and address of the keeper of the animal, the authorised person may, after the expiry of the prescribed period, without notice—
 - (a) immediately destroy the animal; or
 - (b) dispose of the animal (including a dog) under division 5.

50 Reclaiming an impounded animal

- (1) This section applies if—
 - (a) the keeper of an animal has been given a notice of impounding; or
 - (b) an authorised person—
 - (i) has impounded an animal seized under section 40(1)(a) or section 40(2)(a); and
 - (ii) does not know, and cannot readily find out, the name and address of the keeper of the animal.
- (2) The animal may be reclaimed by the keeper if the keeper—
 - (a) reclaims the animal within the prescribed period; and
 - (b) pays the cost-recovery fee; and
 - (c) if a permit or registration is required for the keeping of the animal and the keeper does not have the permit or registration—obtains the permit or registration; and

¹⁹ An authorised person may also declare an animal as a declared dangerous animal under section 38.

- (d) if the keeper has not complied with a current compliance notice that has been issued in relation to compliance with this local law—complies with the compliance notice.
- (3) However, the animal may not be reclaimed by the keeper if—
 - (a) continued retention of the animal is needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; or
 - (b) a destruction order has been made for the animal.
- (4) The animal may be reclaimed by the keeper if an event as follows happens—
 - (a) if subsection (3)(a) applies—
 - (i) an authorised person advises the keeper that the animal’s continued retention as evidence is no longer required; and
 - (ii) the keeper has satisfied subsection (2)(b) to (d) inclusive; or
 - (b) if subsection (3)(b) applies—
 - (i) an application for a review or an appeal is made relating to the destruction order and, as a result of the review or appeal, the order is no longer in force; and
 - (ii) the keeper has satisfied subsection (2)(b) to (d) inclusive.
- (5) If the keeper of an animal is given a notice of impounding for the animal and the animal may be reclaimed, but the keeper neglects or refuses to reclaim the animal by the expiry of the prescribed period specified in the notice of impounding, the keeper of the animal commits an offence.

Maximum penalty for subsection (5)—50 penalty units.

Division 4 Destruction of animal following notice

51 Destruction orders

- (1) An authorised person may make an order (a ***destruction order***) stating the person proposes to destroy an animal 10 days after the order is served.
- (2) A destruction order may only be made in 1 or more of the following circumstances—
 - (a) the animal has attacked or worried a person or another animal; or
 - (b) the animal was found wandering at large and impounded in the circumstances specified in section 46(3).
- (3) The destruction order must be served on the keeper of the animal.
- (4) If a destruction order is made for the animal, the authorised person may destroy the animal 10 days after the order is served if, relative to the decision to make the order, no application has been made for—
 - (a) a review of the decision; or
 - (b) an appeal against the decision.
- (5) If an application for review has been made relating to the decision to make the order, the authorised person may destroy the animal if—
 - (a) the review is finally decided or is otherwise ended; and

- (b) the order is still in force; and
 - (c) the time allowed for filing a notice of appeal has expired and no notice of appeal has been filed.
- (6) If an appeal is made against the decision to make the order, the authorised person may destroy the animal if—
- (a) the appeal is finally decided or is otherwise ended; and
 - (b) the order is still in force.
- (7) If the animal has been impounded, the keeper of the animal may reclaim the animal if—
- (a) a review relating to the decision to make the order is finally decided or is otherwise ended; and
 - (b) no application for an appeal has been made against the order; and
 - (c) the order is no longer in force; and
 - (d) the keeper has satisfied section 50(2)(b) to (d) inclusive.
- (8) If the animal has been impounded, the keeper of the animal may reclaim the animal if—
- (a) an appeal relating to the decision to make the order is finally decided or is otherwise ended; and
 - (b) the order is no longer in force; and
 - (c) the keeper has satisfied section 50(2)(b) to (d) inclusive.
- (9) In this section—

review means a review conducted under the process mentioned in part 6 of *Local Law No. 3 (Administration) 2008*.

appeal means an appeal under part 6 of this local law.

Division 5 Disposal of impounded animals

52 Application of this division

This division applies if—

- (a) an impounded animal has not been reclaimed within the prescribed period under section 50(2); or
- (b) if section 50(3)(a) applies— the impounded animal has not been reclaimed within 3 days of an authorised person’s advice to the keeper that the animal’s continued retention as evidence is no longer required; or
- (c) if section 50(3)(b) applies—the impounded animal has not been reclaimed within 3 days of the completion of a review or appeal that caused a destruction order to no longer be in force; or
- (d) an authorised person has seized an animal mentioned in section 47(2)(b); or
- (e) the keeper of an animal has surrendered the animal to the local government.

53 Sale, disposal or destruction of impounded animals

- (1) The local government may —
- (a) offer the animal for sale by public auction or tender; or
 - (b) if the animal is an animal mentioned in section 47(2)(b) or is of a species, breed or class specified by subordinate local law for this paragraph—
 - (i) sell the animal by private agreement; or
 - (ii) dispose of the animal in some other way without destroying it; or
 - (iii) destroy the animal or have it destroyed.²⁰

Example for paragraph (b) —

The subordinate local law might specify dogs, cats and other small domestic animals for which a public auction or tender might not be practicable. These could then be sold by private agreement, given away or destroyed if not reclaimed within the relevant period.

- (2) If an animal is to be offered for sale at a public auction under this section, notice of the auction, stating the time and place of the auction, must be exhibited at the animal pound for at least 2 days before the date of the auction.
- (3) An amount realised on sale of an impounded animal must be applied—
 - (a) first, towards the costs of the sale; and
 - (b) second, towards the cost recovery fee for impounding; and
 - (c) third, in payment of the remainder to the former owner of the animal unless the owner surrendered the animal to the local government.
- (4) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (3)(c) within 1 year of the date of the sale, the amount becomes the absolute property of the local government.
- (5) If the animal is offered for sale by public auction or tender but not sold, the local government may dispose of the animal as it considers appropriate.

Examples—

1. The local government may give the animal away.
 2. The local government may have the animal destroyed.
- (6) The local government may decide not to sell or otherwise dispose of an animal if it is satisfied that the circumstances of the sale or disposal will result in the animal being kept in contravention of a requirement of this local law.

Examples—

- A pig that has been seized because it is being kept in an urban area in contravention of a prohibition under a subordinate local law could be sold to a person outside the urban area but not to another person in an urban area.
 - An animal that a subordinate local law has prohibited in any part of the local government area could not be sold to a person who resides within the local government area.
 - A declared dangerous animal could only be sold to a person who has complied with any specified requirements for keeping such an animal.
- (7) Also, if the local government offers an animal for sale by public auction, the local government is not obliged to accept a bid for the animal from a person who was the keeper of the animal prior to the impounding of the animal.

²⁰ This section should be read in conjunction with Part 2, Chapter 4 of the *Local Government (Finance, Plans and Reporting) Regulation 2010*.

Division 6 Miscellaneous

54 Register of impounded animals

- (1) This section applies to an animal other than a dog seized under section 125 of the Animal Management Act.
- (2) The local government must ensure that a proper record of impounded animals (the *Register of Impounded Animals*) is kept.
- (3) The Register must contain the following information about each impounded animal—
 - (a) the species, breed and sex of the animal; and
 - (b) the brand, colour, distinguishing markings and features of the animal; and
 - (c) if applicable — the registration number of the animal; and
 - (d) if known — the name and address of the keeper; and
 - (e) the date and time of seizure and impounding; and
 - (f) the name of the authorised person who impounded the animal; and
 - (g) the reason for the impounding; and
 - (h) if applicable — the details of all fees and charges claimed in relation to the impounding; and
 - (i) a note of any order made by an authorised person relating to the animal; and
 - (j) the date and details of whether the animal was sold, released, destroyed or disposed of in some other way.
- (4) The Register must be kept available for public inspection at the animal pound or, if the animal pound has no public office, at an office prescribed by subordinate local law.
- (5) However, a person may not inspect the Register unless the person satisfies the local government that the person is the keeper of an impounded animal by, for example, providing to the local government a statutory declaration detailing the facts and circumstances of the seizure or impounding of the impounded animal.
- (6) The keeper of an impounded animal may only inspect that part of the information on the Register that relates to the impounding of the impounded animal.

Part 6 Appeals against destruction orders

55 Who may appeal

- (1) The keeper of an animal the subject of a destruction order may appeal to the Magistrates Court against the decision to make the destruction order.
- (2) However, the decision to make the destruction order is not appealable if the decision is made under section 41.

56 Starting appeal

- (1) If a review of the decision to make the destruction order is started, an appeal must not be started unless a review of the decision has been finally decided or otherwise ended.
- (2) An appeal is started by—
 - (a) filing a notice of appeal with the Magistrates Court; and
 - (b) serving a copy of the notice of appeal on the local government; and
 - (c) complying with the rules of the court applicable to the appeal.
- (3) The appeal must be started within 14 days after—
 - (a) if the decision to make the destruction order is the subject of a review—the review has been finally decided or otherwise ended; or
 - (b) if the decision to make the destruction order is not the subject of a review—notice of the decision to make the destruction order is given to the keeper of the animal.
- (4) For the avoidance of doubt, an appeal is not started for the purposes of subsection (3) unless—
 - (a) for the appeal—a notice of appeal is filed with the Magistrates Court; and
 - (b) a copy of the notice of appeal is served on the local government.
- (5) However, the Court may, at any time, extend the time within which an appeal must be started under subsection (3).
- (6) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

57 Stay of destruction order

If the appeal is started, the destruction order is stayed until the earlier of—

- (a) the Court decides the appeal; or
- (b) the applicant in the appeal withdraws the appeal; or
- (c) the applicant and the local government agree in writing to discontinue the appeal.

58 Hearing procedures

- (1) In deciding an appeal, the Magistrates Court—
 - (a) has the same powers as the local government; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

59 Court's powers on appeal

- (1) In deciding an appeal, the Magistrates Court may—
 - (a) confirm the decision appealed against; or

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- (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the matter to the local government with directions the Court considers appropriate.
- (2) If the Court substitutes another decision, the substituted decision is, for the purposes of this local law, other than this part, taken to be the decision of the local government.
- (3) The Court may only set aside the decision appealed against if satisfied that—
- (a) the keeper of the animal will in future ensure that the animal is properly kept and controlled in accordance with this local law; and
 - (b) the circumstances that led to the making of the decision are unlikely to recur; and
 - (c) at all relevant times prior to the making of the decision, the keeper of the animal acted responsibly in relation to the keeping of the animal; and
 - (d) if a previous decision to destroy the animal has been set aside by the Court—there are exceptional circumstances justifying setting aside the decision.
- (4) For the purposes of subsection (3), before setting aside the decision appealed against, the Court may have regard to —
- (a) steps taken by the keeper of the animal, before the incident which resulted in the seizure and impounding of the animal, to prevent the animal from—
 - (i) attacking any person or animal; or
 - (ii) causing injury or damage to any person or animal; or
 - (iii) creating a significant risk of injury or damage to any person or animal; and
 - (b) evidence of the character of the keeper of the animal which is relevant to the appeal before the Court; and
 - (c) evidence of the foreseeability of the events and circumstances which resulted in the seizure and impounding of the animal; and
 - (d) evidence of the behaviour of the animal, and in particular, whether or not, in the event that the decision appealed against is set aside by the Court, the animal is or is likely to—
 - (i) attack any person or animal; or
 - (ii) cause injury or damage to any person or animal; or
 - (iii) create a significant risk of injury or damage to any person or animal; or
 - (iv) injure any person or animal by biting, attacking, worrying, rushing at or chasing the person or animal; and
 - (e) evidence of the risk to the community in the event that the decision appealed against is set aside by the Court and the animal returned to its keeper, and in particular, persons who it is anticipated will reside in the proximity of the animal; and
 - (f) whether or not the keeper of the animal—
 - (i) where a permit is required to keep the animal under this local law —

- has a current permit to keep the animal;
 - (ii) has at all times complied with all the conditions in any permit issued for the keeping of the animal;
 - (iii) has been found guilty of an offence against this local law or paid an infringement notice fine as a consequence of the issue of an infringement notice for an offence against this local law;
 - (iv) took all reasonable precautions to prevent the occurrence of the circumstances that led to the making of the decision appealed against;
 - (v) had a reasonable and lawful excuse for the occurrence of the circumstances that led to the making of the decision appealed against; and
 - (g) such other matters, as the Court considers appropriate in the circumstances.
- (5) If the Court sets aside a decision to destroy an animal the subject of a destruction order—
- (a) the keeper must, in any case, pay to the local government the cost-recovery fee relative to the impounding of the animal prior to the local government returning the animal unless the Court otherwise orders; and
 - (b) despite the setting aside of the decision— the Court may order that the keeper pay the local government's costs of the appeal if the animal was lawfully seized and there was a lawful basis for the making of the decision to destroy the animal.
- (6) An order for the costs of an appeal may only be made against the local government if the Court is satisfied that—
- (a) the animal was unlawfully seized; or
 - (b) there was no reasonable basis for making the decision appealed against.
- (7) If the Court sets aside a decision to destroy an animal but makes an order requiring the keeper to pay to the local government the cost-recovery fee referred to in subsection (5), the Court may also make an order that if the keeper fails or refuses to pay the fees required by subsection (5) within 14 days of the date of the Court's order, then the Court's order (setting aside the local government's decision to destroy) shall be vacated and the local government may immediately destroy the animal.

60 Appeal to District Court

An appeal lies to a District Court from a decision of the Magistrates Court, but only on a question of law.

Part 7 Enforcement

61 Compliance notice

- (1) The local government may give a compliance notice to—
- (a) a person who contravenes this local law; or

- (b) any person involved in the contravention of this local law pursuant to section 64 (Liability of third parties) of this local law.²¹
- (2) A compliance notice may require the person to whom it is given to—
- (a) stop the contravention, if the contravention is of a continuing or recurrent nature; and
 - (b) perform work or otherwise take specified action to remedy the contravention (including the making of an application for a permit or approval under a relevant law) for or within a time specified in the compliance notice, whether or not the contravention is of a continuing or recurrent nature; and
 - (c) perform work or otherwise take specified action for or within a time specified in the compliance notice to ensure—
 - (i) compliance with this local law; or
 - (ii) compliance with the conditions of a permit; or
 - (iii) that the operation of a regulated activity—
 - (A) does not result in harm to human health or safety or personal injury; or
 - (B) does not result in property damage or a loss of amenity; or
 - (C) does not result in environmental harm or environmental nuisance; or
 - (D) does not result in a nuisance; or
 - (E) does not result in the unsafe movement or obstruction of traffic or the unsafe use of a road; or
 - (F) does not have an adverse effect on the surrounding community; or
 - (G) complies with the prescribed criteria for the regulated activity.
- (3) A person to whom the compliance notice is given must comply with the compliance notice.
- Maximum penalty for subsection (3)—50 penalty units.
- (4) The compliance notice must set out—
- (a) the provisions of this local law under which the requirement is made; and
 - (b) the time within which compliance is required; and
 - (c) the consequences of contravention of the notice.
- (5) The specified action required under subsection (2) must not be inconsistent with action required by a remedial notice, to be taken under another Local Government Act.

62 Inspection of premises or regulated activity

²¹ Where a compliance notice is given to the owner of a property and requires action to be taken in relation to that property, then it will constitute a remedial notice under section 138(2) of the *Local Government Act 2009*.

- (1) An authorised person may inspect the undertaking of a regulated activity on any premises, including any vehicle, equipment, animal, plant or thing on the premises, to establish whether there is compliance with²²—
 - (a) the requirements of this local law; or
 - (b) the prescribed criteria; or
 - (c) the conditions of a permit; or
 - (d) the requirements of a compliance notice.
- (2) An authorised person may direct the owner or occupier of premises or the person undertaking the regulated activity to produce for inspection²³—
 - (a) all permits granted by the local government; or
 - (b) any records that are required to be kept as a condition of the permit or as specified in a subordinate local law and may take copies or extracts from those records; or
 - (c) any vehicle, equipment, animal, plant or thing used on the premises or involved in the undertaking of the regulated activity; or
 - (d) any inspection, monitoring or management program required to be kept as a condition of the permit or as a requirement of the prescribed criteria or as specified in a subordinate local law.
- (3) An authorised person may measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected pursuant to this section.²⁴
- (4) The owner or occupier of the premises or the person who is undertaking the regulated activity must comply with²⁵—
 - (a) a direction of an authorised person pursuant to subsection (2); or
 - (b) the terms of a periodic inspection, monitoring or management program specified in a subordinate local law.

Maximum penalty for subsection (4)—50 penalty units.
- (5) In this section, ***regulated activity*** includes the activity of keeping an animal, or a particular species or breed of animal, on premises, if the activity is regulated under this local law.

Part 8 Administrative provisions

63 Attempts to commit offences

- (1) A person who attempts to commit an offence against this local law commits an offence.

Maximum penalty for subsection (1)—half the maximum penalty for committing the

²² See Division 1, Part 2 of Chapter 5 of the *Local Government Act 2009*.

²³ See Division 1, Part 2 of Chapter 5 of the *Local Government Act 2009*.

²⁴ See Division 1, Part 2 of Chapter 5 of the *Local Government Act 2009*.

²⁵ See Division 1, Part 2 of Chapter 5 of the *Local Government Act 2009*.

offence.

- (2) The provisions of the *Criminal Code* relevant to attempts to commit an offence apply to the attempt.

64 Liability of third parties

- (1) Any person involved in a contravention of this local law commits an offence.

Maximum penalty for subsection (1)—the penalty for which any person who committed the contravention would be liable.

- (2) For the purposes of subsection (1), a person involved in a contravention of this local law is any person who—
 - (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced, whether by threats or promises or otherwise, the contravention; or
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) has conspired with others to effect the contravention; or
 - (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

65 Executive officers must ensure the corporation complies with this local law

- (1) The executive officers of a corporation must ensure the corporation complies with this local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the corporation's executive officers also commit an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) This section applies so as not to limit or affect in any way the liability of a corporation to be proceeded against and punished for an offence committed by the corporation in contravention of this local law.

66 Owners and occupiers must ensure compliance with this local law

- (1) The owner and occupier of premises must ensure that an offence against a

provision of this local law is not committed on the premises.

- (2) If an offence against a provision of this local law is committed on the premises, the owner and occupier of the premises also commit an offence.

Maximum penalty for subsection (2)—the penalty for the commission of the offence on the premises.

- (3) Evidence that an offence against a provision of this local law has been committed on the premises is evidence that the owner and occupier of the premises committed the offence.
- (4) However, it is a defence for an owner or occupier to prove that—
- (a) the owner or occupier exercised reasonable diligence to ensure that an offence was not committed on the premises; or
 - (b) the offence was committed on the premises without that person's knowledge or consent.

Part 9 Miscellaneous

67 Sale of animals

- (1) This section applies subject to sections 13 (Supplier must ensure cat or dog is implanted), 66 (Prohibition on supply of restricted dog) and 67 (Prohibition on supply of declared dangerous dog or menacing dog) of the Animal Management Act.
- (2) The local government may, by subordinate local law—
- (a) specify conditions to be complied with by a person who offers animals, or a particular species or breed of animal, for sale; and
 - (b) prohibit the sale or offering for sale of—
 - (i) animals in particular circumstances; or
 - (ii) a particular species or breed of animal.
- (3) A person must not offer or display animals for sale in the local government's area—
- (a) unless the person complies with conditions specified by subordinate local law under subsection (2)(a); or
 - (b) contrary to a prohibition specified by subordinate local law under subsection (2)(b).

Maximum penalty for each of paragraphs (a) and (b)—20 penalty units.

68 Prohibition of identifying tags designed to confuse

A person must not manufacture, sell, or have in possession for sale, identifying tags for animals designed to be confused with the identifying tags required for animals under this local law.

Maximum penalty—20 penalty units.

69 Prohibition on removing identifying tag

A person, not being the keeper of an animal, or a person authorised by the keeper of an animal, must not remove an identifying tag from the animal.

Maximum penalty—20 penalty units.

70 Prohibition on altering or defacing identifying tag

A person must not alter or deface an identifying tag.

Maximum penalty—20 penalty units.

71 Prohibition on affixing incorrect identifying tag

A person must not affix an identifying tag to an animal not being the animal to which the number inscribed on the identifying tag has been allocated.

Maximum penalty — 20 penalty units.

72 Prohibition on using altered or defaced identifying tag

A person must not use or cause or allow to be used any identifying tag which has been altered or defaced.

Maximum penalty — 20 penalty units.

73 Prohibition on rescuing seized or impounded animals

(1) A person must not, without the authority of an authorised person, rescue or attempt to rescue or assist another person in rescuing or attempting to rescue an animal seized—

(a) for the purposes of being impounded by an authorised person pursuant to this local law; or

(b) impounded in the local government’s facility for the keeping of impounded animals.

Maximum penalty for each of paragraphs (a) and (b)— 50 penalty units.

(2) Any costs arising from damage or loss caused by a person contravening subsection (1) are recoverable by the local government as a debt.

74 Prohibition on obstructing or impeding seizure by authorised officer

(1) This section applies subject to section 137 (Obstruction of authorised person) of the Animal Management Act.

(2) A person must not obstruct or impede the seizure of an animal by an authorised person pursuant to this local law.

Maximum penalty — 50 penalty units.

75 Prohibition on releasing animal from land on which it is kept

A person must not release or allow to be released an animal from the land upon which it is kept.

Maximum penalty — 50 penalty units.

76 Abandonment of animals

- (1) This section applies to an animal other than a regulated dog²⁶.
- (2) A person must not abandon an animal.

Maximum penalty—50 penalty units.

- (3) A person who delivers an animal into the custody of the authorised person in charge of an animal pound is not to be regarded as having abandoned the animal.

77 Proprietary and ownership rights

- (1) For the avoidance of doubt, it is not the intention of the local government that this local law confer proprietary or ownership rights in respect of any animal on any person.
- (2) For example, and without limitation, proprietary or ownership rights to an animal are not necessarily attributable to a person because the person is —
 - (a) the holder of a permit granted by the local government authorising the keeping of the animal; or
 - (b) the holder of a current registration for the animal from the local government; or
 - (c) for the purposes of the administration or enforcement of the local law, the keeper, owner or person in charge of the animal.

78 Transitional for the Repealed Local Law

- (1) This section applies to each of the following —
 - (a) a permit to keep an animal under part 2, division 1 of the Repealed Local Law; and
 - (b) a permit authorising the use of land for the purpose of a pet shop, cattery or kennel under part 2, division 4 of the Repealed Local Law; and
 - (c) a destruction order made under part 5 of the Repealed Local Law.
- (2) If the permit or order is in force immediately before the commencement of this local law, the permit or order is taken to be a permit or order under this local law and continues in force as a permit or order properly issued or made under this local law until the permit or order would have ceased to have effect under the Repealed Local Law.

79 Transitional provision for the regulation of animals upon parks, reserves, foreshores and beaches

- (1) This section is about the transition of areas identified by subordinate local law under section 21 of the Repealed Local Law from the subordinate local law to the animal control area register established, or to be established, under section 28 of this local law.

²⁶ See section 68 (Abandonment prohibited) of the Animal Management Act.

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- (2) Under the Repealed Local Law, the local government may, by subordinate local law—
 - (a) prohibit absolutely a person from allowing an animal to be brought on to a park, reserve, foreshore or beach under the control of the local government; and
 - (b) prescribe the conditions upon which a person may bring an animal on to a park, reserve, foreshore or beach under the control of the local government.
 - (3) By subordinate local law, the local government identified areas (each a Dog Prohibited Area) where a person is prohibited from allowing a dog to be brought.²⁷
 - (4) By subordinate local law, the local government also—
 - (a) identified areas (each an Off Leash Dog Exercise Area); and
 - (b) designated each area as an Off Leash Dog Exercise Area; and
 - (c) prescribed conditions upon which a person may bring a dog on to the Off Leash Dog Exercise Areas.²⁸
 - (5) On and from the commencement of this local law, the local government is, for the purposes of section 28 of this local law, deemed to have established an animal control area register as follows—
 - (a) each Dog Prohibited Area identified by subordinate local law under the Repealed Local Law is—
 - (i) for the purposes of section 27(1)(a) of this local law, designated as an animal control area; and
 - (ii) for the purposes of section 27(1)(b) of this local law, designated as an area where a person is prohibited from bringing a dog at all times; and
 - (b) each Off Leash Dog Exercise Area identified by subordinate local law under the Repealed Local Law is—
 - (i) for the purposes of section 27(1)(a) of this local law, designated as an animal control area; and
 - (ii) for the purposes of section 27(1)(d) of this local law, designated as an off leash dog exercise area; and
 - (iii) if the subordinate local law prescribes a period of time for the Off Leash Dog Exercise Area, the area is an off leash dog exercise area only during the period prescribed in the subordinate local law; and
 - (iv) if the subordinate local law does not prescribe a period of time for the Off Leash Dog Exercise Area, the area is an off leash dog exercise area at all times.
 - (6) For the avoidance of doubt, the local government may, from time to time, by subordinate local law or resolution under section 27, repeal or amend a designation recorded in the animal control area register under this section.

²⁷ See *Gold Coast City Council Subordinate Local Law No. 12 (Keeping and Control of Animals) 2007*, schedule 2, part 1 and schedule 3.

²⁸ See *Gold City Council Subordinate Local Law No. 12 (Keeping and Control of Animals) 2007*, schedule 2, part 2 and schedule 3.

80 No right to compensation

The exercise or purported exercise in good faith by the local government or an authorised person of a power under this local law does not give rise to a claim for compensation by any person.

81 Defences

It is a defence to any breach or non-compliance of any provision contained in this local law if a person has a lawful excuse or defence.

Example—

It is a defence to any breach or non-compliance of any provision contained in this local law if a person was not criminally responsible in accordance with chapter 5 of the *Criminal Code*.

82 Facilitation of proof—dog of prohibited breed

A certificate purporting to be signed by an authorised person stating, or to the effect, that a dog is of a prohibited breed is evidence that the dog is of a prohibited breed.

83 Subordinate local laws

The local government may in a subordinate local law specify—

- (a) the circumstances in which a permit is required for the keeping of animals pursuant to section 6(1)(Requirement to hold permit) of this local law; and
- (b) registration requirements for animals pursuant to section 9(1)(Registration requirements for cats and dogs) of this local law; and
- (c) matters relating to the administration of the system of registration pursuant to section 9(2)(Registration requirements for cats and dogs) of this local law; and
- (d) grounds upon which the local government may grant an exemption from the requirement to wear a registration device pursuant to section 10(2)(Obligations of keeper of registered animal) of this local law; and
- (e) prescribed identification requirements for cats and dogs pursuant to section 10(3)(Obligations of keeper of registered animal) of this local law; and
- (f) circumstances in which the keeping of animals is prohibited pursuant to section 11(1)(Prohibited animals) of this local law; and
- (g) a prohibition of possession of a dog as a dog of a prohibited breed pursuant to section 12(Possessing a dog of a prohibited breed) of this local law; and
- (h) minimum standards for the keeping of animals or animals of a particular species pursuant to section 14(1)(Prescription of minimum standards by subordinate local law) of this local law; and
- (i) the information to be stated in an application for a permit pursuant to section 16(1)(Application for permit) of this local law; and
- (j) requirements with respect to an application for a permit pursuant to section 16(2)(Application for permit) of this local law; and
- (k) circumstances where an application for a permit may be made by a person other than the keeper of an animal pursuant to section 16(3)(Application for

- permit) of this local law; and
- (l) criteria the local government may have regard to in deciding whether to grant a permit authorising a person to keep animals pursuant to section 17(g)(Grant of a permit) of this local law; and
 - (m) the term for which a permit is to be granted pursuant to section 18(1)(Term of a permit) of this local law; and
 - (n) the conditions that must, or will ordinarily, be imposed in a permit pursuant to section 19(3)(Conditions of a permit) of this local law; and
 - (o) the term for which a permit is to be renewed pursuant to section 22(6)(Renewal of a permit) of this local law; and
 - (p) changes that make the continued operation of a permit inappropriate pursuant to section 23(2)(Cancellation of a permit) of this local law; and
 - (q) requirements for a proper enclosure pursuant to section 25(7)(Animals must be under effective control) of this local law; and
 - (r) particulars of parks, reserves, foreshores and bathing reserves designated as an animal control area pursuant to section 27(1)(a)(Designation of area as an animal control area) of this local law; and
 - (s) particulars of animal control areas where a person is prohibited from bringing an animal or an animal of a specified species pursuant to section 27(1)(b)(Designation of area as an animal control area) of this local law; and
 - (t) particulars of animal control areas subject to conditions pursuant to section 27(1)(c)(Designation of area as an animal control area) of this local law; and
 - (u) particulars of off leash dog exercise areas pursuant to section 27(1)(d)(Designation of area as an animal control area) of this local law; and
 - (v) conditions applicable to the bringing of an animal, or an animal of a specified species, on to an animal control area pursuant to section 30(1)(a)(Conditions prescribed for parks, reserves etc) of this local law; and
 - (w) conditions applicable to the bringing of an animal, or an animal of a specified species, on to parks, reserves, foreshores and bathing reserves generally pursuant to section 30(1)(b)(Conditions prescribed for parks, reserves etc) of this local law; and
 - (x) conditions prescribed for off leash dog exercise areas pursuant to section 31(1)(Conditions prescribed for off leash dog exercise areas) of this local law; and
 - (y) the requirements for a proper enclosure pursuant to section 32(3)(Duty to provide proper enclosure) of this local law; and
 - (z) requirements for keeping a dog on land that is within a koala area pursuant to section 33(1)(Koala conservation requirements) of this local law; and
 - (aa) areas designated as a koala area pursuant to section 33(4)(Koala conservation requirements) of this local law; and
 - (bb) a procedure for accepting animals for destruction pursuant to section 42(3)(Destruction at request of keeper) of this local law; and
 - (cc) the types of animal which will be accepted at an animal pound otherwise than pursuant to an impounding pursuant to section 44(2)(Impounding of

- seized animal) of this local law; and
- (dd) the classes of animal which may be sold by private agreement, disposed of or destroyed without being offered for sale by public auction pursuant to section 53(1)(Sale, disposal or destruction of impounded animals) of this local law; and
 - (ee) the office at which the Register of Impounded Animals must be kept available for public inspection pursuant to section 54(4)(Register of impounded animals) of this local law; and
 - (ff) the records that are required to be kept for inspection pursuant to section 62(2)(b)(Inspection of premises or regulated activity) of the local law; and
 - (gg) an inspection, monitoring or management program pursuant to section 62(2)(d)(Inspection of premises or regulated activity) of this local law; and
 - (hh) the conditions to be complied with by a person who offers animals, or a particular species of animal, for sale pursuant to section 67(2)(a)(Sale of animals) of this local law; and
 - (ii) a prohibition about the sale or offering for sale of animals in particular circumstances or by reference to a particular species of animal pursuant to section 67(2)(b)(Sale of animals) of this local law; and
 - (jj) animals excluded from the application of this local law pursuant to the schedule (Dictionary) of this local law; and
 - (kk) a mall, square, court or other public place that is subject to this local law pursuant to the schedule (Dictionary) of this local law; and
 - (ll) the prescribed criteria with which the undertaking of a regulated activity must comply pursuant to the schedule (Dictionary) of this local law; and
 - (mm) the prescribed period within which an impounded animal may be reclaimed pursuant to the schedule (Dictionary) of this local law; and
 - (nn) a thing as a structure pursuant to the schedule (Dictionary) of this local law; and
 - (oo) a thing as a vehicle pursuant to the schedule (Dictionary) of this local law; and
 - (pp) such other matters as are provided for in this local law.

Schedule Dictionary

section 3

accompanying person see section 37.

animal includes any live member of a species, including any mammal, reptile, amphibian, bird (including poultry) and fish but does not include an animal of a species excluded by subordinate local law from the application of this local law.

animal control area see section 27(1).

animal control area register see section 28(1).

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 means the *Animal Management (Cats and Dogs) Act 2008*.

animal pound see section 44(1).

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

approval means a consent, permit, licence, authorisation, registration, membership or approval under a Local Government Act or a local law and includes all conditions of a consent, permit, licence, authorisation, registration, membership or approval.

attack (by an animal) includes —

- (a) the act of an animal holding any part of a person, animal or thing in its mouth whether or not the holding is accompanied by shaking, pulling, or pushing and whether or not the person, animal or thing suffers any physical injury or bodily harm; and
- (b) the act of an animal contacting a person or another animal with any part of the animal's body in circumstances where the contact causes the person or other animal to —
 - (i) fall to the ground; or
 - (ii) suffer physical injury or bodily harm.

authorised person means a person authorised by the local government, pursuant to *Local Law No. 3 (Administration) 2008*, to exercise the powers of an authorised person under this local law.

bathing reserve means a part of the seashore and adjacent land and sea placed under the control of the local government as a bathing reserve under the *Local Government Act 2009*.

bodily harm has the meaning given in the *Criminal Code*.

breed see section 12(2).

building has the meaning given in the *Building Act 1975*.

business day has the meaning given in the *Acts Interpretation Act 1954*.²⁹

complainant see section 37.

compliance notice means a written notice given pursuant to section 61 (Compliance notice) of this local law.

corporation means a corporation as defined in the *Corporations Act 2001 (Cth)* and includes an association as defined in the *Associations Incorporation Act 1981*.

cost-recovery fee means the fee fixed by the local government to cover the costs associated with seizing and impounding an animal.³⁰

Court means the court of law which has jurisdiction to deal with offences under this local law.

declared dangerous animal means an animal declared under section 38 of this local law to be a declared dangerous animal.

destroy, an animal, includes causing it to be destroyed.

destruction order see section 51(1).

direction means a direction given by an authorised person pursuant to this local law.

effective control see section 25.

entire, for an animal which is a cat or dog, means the gonads of the animal have not been removed and the animal is capable of reproducing.

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

executive officer of a corporation means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

exempted person has the meaning given in section 6 of the *Animal Management Act*.

foreshore means foreshore placed under the control of the local government under the *Local Government Act 2009*.

identifying tag—

- (a) means a mark or object to identify an animal including, for example—
 - (i) a metal or plastic disc or plate; or
 - (ii) a collar; or
 - (iii) a tattoo or brand; or
 - (iv) an implant bearing an electronic code; and

²⁹ Section 36 of the *Acts Interpretation Act 1954* defines a business day to mean a day that is not—

- (a) a Saturday or Sunday; or
- (b) a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done.

³⁰ See section 97 of the *Local Government Act 2009*.

(b) includes a registration device.

immediate vicinity (of a person exercising a dog in an off leash dog exercise area) means within a radius of 10m of the person exercising the dog.

impound (an animal) means to shut up, incarcerate, or keep hold of the animal after the animal has been seized.

infringement notice has the meaning given in the *State Penalties Enforcement Act 1999*.

infringement notice fine has the meaning given in the *State Penalties Enforcement Act 1999*.

keep (an animal)—

- (a) includes board, breed and train; and
- (b) in the absence of evidence to the contrary, a person is presumed to keep an animal on land if the person —
 - (i) feeds and cares for the animal on the land; and
 - (ii) the animal is observed by an authorised person on the land on more than 1 occasion during a month.

keeper (of an animal) —

- (a) means—
 - (i) the person who has the immediate custody and control of the animal; or
 - (ii) if the person who has the immediate custody and control of the animal is a minor, the minor's parent or guardian; or
 - (iii) the occupier of the land on which the animal is ordinarily kept provided always that if an animal is observed by an authorised person on land on more than 1 occasion, the animal is, in the absence of evidence to the contrary, presumed to be kept on the land by the occupier of the land; or
 - (iv) the person who feeds and cares for the animal; and
- (b) includes—
 - (i) the person who is registered as the owner of the animal under the Animal Management Act; and
 - (ii) if the animal is a dog released on residential premises or non-residential premises without a handler for the primary purpose of acting as a deterrent to intruders by a person who operates a business as a security provider—the proprietor of the business; and
 - (iii) if the animal is a dog released on residential premises or non-residential premises without a handler by a person who operates a business as a security provider and the dog has been trained to attack for the purpose of guarding either persons or property—the proprietor of the business; and
- (c) if the animal is a female cat or dog and the female has offspring — includes, for the avoidance of doubt, the keeper of the offspring of the animal immediately after the birth of the offspring.

knowledge includes actual or constructive knowledge.

koala area see section 33(4).

koala habitat area see section 33(4).

land has the meaning given in the *Sustainable Planning Act 2009*.

Local Government Act has the meaning given in the *Local Government Act 2009* and includes all approvals granted pursuant to a Local Government Act.

local government area has the meaning given in the *Local Government Act 2009*.

local government road means—

- (a) a road under the *Local Government Act 2009*; and
- (b) a mall, square, court or other public place under the local government's control that is specified in a subordinate local law to be subject to this local law.

local government worker has the meaning given in the *Local Government Act 2009*.

muzzle means a device placed over an animal's mouth to prevent the animal from biting.

non-residential premises means premises other than residential premises.

notice of impounding see section 45(1).

nuisance has the meaning given in *Local Law No. 8 (Public Health, Safety and Amenity) 2008*.

occupier, of premises—

- (a) means the person who has the control or management of the premises; and
- (b) includes the owner of the premises where there is no person in apparent occupation of the premises.

off leash dog exercise area see section 27(1)(d).

owner (of a cat or dog) has the meaning given in section 9 of the Animal Management Act.

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 the 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.

park—

- (a) has the meaning given in *Local Law No. 9 (Parks and Reserves) 2008*; but

(b) includes a reserve.

perform work includes—

- (a) take action to comply with a Local Government Act; and
- (b) work required to be performed pursuant to a legal instrument or an approval; and
- (c) without limiting sub-paragraph (b), seizing and removing a thing.

person in charge see section 26(3).

plant means any tree, bush, shrub, grass, fungi, algae or other thing terrestrial or aquatic including all natural parts of it or things naturally produced, of, by or from it.

premises means any land, building or structure and includes any part thereof.

prescribed criteria means the criteria specified in a subordinate local law with which the undertaking of the regulated activity must comply.

prescribed fee means the fee prescribed by the local government for the matter in respect of which the term is used³¹.

prescribed form means the form prescribed by the local government for the matter in respect of which the term is used.

prescribed period means the period, fixed by subordinate local law, commencing on the day a notice of impounding is given to a person or, if no notice is given to a person, on the day of the seizure.

prohibited breed see section 12(2).

property means premises, goods or any other thing.

public place has the meaning given in the *Local Government Act 2009*.

registered has the meaning given in the Animal Management Act.

Register of Impounded Animals see section 54.

registration (for a cat or dog) means the animal is registered under the Animal Management Act.

registration device see section 10(1)(a).

regulated activity means an activity the undertaking of which requires a permit under this local law.

regulated dog has the meaning given in the Animal Management Act.

Repealed Local Law means *Local Law No. 12 (Keeping and Control of Animals) Law*.

reserve —

- (a) has the meaning given in *Local Law No. 9 (Parks and Reserves) 2008*; but
- (b) includes—
 - (i) land dedicated as a reserve, or granted in trust, under the *Land Act 1994* and for which the local government is a trustee under that Act; and
 - (ii) other land held in trust by the local government; and

³¹ The local government may fix cost-recovery fees under section 97 of the *Local Government Act 2009*.

(iii) a park.

residence means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) a self-contained unit used by, or intended for the exclusive residential use of, one household.

residential premises means premises used, or intended to be used, predominantly as a place of residence.

restricted access workplace area means a workplace, or a part of a workplace, other than a public place.

restricted dog has the meaning given in section 63 of the Animal Management Act.³²

road means a local government road or a State-controlled road.

sale, of an animal, (including in paragraphs (b) to (d) of this definition) includes doing any of the following things if doing the thing affects possession of the animal, other than the mere temporary custody of it—

- (a) exchange, give or sell;
- (b) offer or agree to exchange, give, sell or otherwise supply;
- (c) cause or permit to be given, supplied or otherwise sold;
- (d) possess for sale or supply.

security provider has the meaning given in the *Security Providers Act 1993*.

seize (an animal)—

- (a) means to take hold of, capture, take possession of or otherwise take into custody the animal; and
- (b) **seized** has a corresponding meaning.

State-controlled road means a State-controlled road under the *Transport Infrastructure Act 1994*.

State planning instrument has the meaning given in the *Sustainable Planning Act 2009*.

structure has the meaning given in the *Local Government Act 2009* and includes a structure as defined under the *Building Act 1975* and any other thing specified in a subordinate local law.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes anything specified as a vehicle in a subordinate local law.

wandering at large means—

- (a) wandering or being on a public place while not being under effective control; or
- (b) wandering or being on any other land (other than the land upon which the

³² Section 63 of the Animal Management Act provides that a **restricted dog** is a dog of a breed prohibited from importation into Australia under the *Customs Act 1901 (Cwlth)*. Also, a dog is a restricted dog if it is the subject of a restricted dog declaration.

- animal is ordinarily kept) while not being under effective control; or
- (c) wandering or being on the land upon which the animal is ordinarily kept while not being —
- (i) under effective control; or
 - (ii) in a proper enclosure maintained on the land to keep the animal on the land and prevent the animal from wandering or escaping from the land³³.

Example for paragraph (c) —

A dog is wandering at large on the land upon which it is ordinarily kept if —

- (a) the dog is not under effective control; and
- (b) a proper enclosure is maintained on the land and the enclosure is located at the rear of the land; and
- (c) the dog is wandering at the front of the land in an area which does not form part of a proper enclosure for the purposes of section 32.

workplace has the meaning given in the *Work Health and Safety Act 2011*³⁴.

worry (by an animal) means the act of an animal rushing at or approaching a person, another animal or thing in a manner such that the person or other animal suffers or could reasonably be expected to suffer—

- (a) fear or alarm; or
- (b) physical injury or bodily harm.

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³³ See section 32 (Duty to provide proper enclosure).

³⁴ See section 8 of the *Work Health and Safety Act 2011*. A **workplace** is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.