# Mareeba Shire Council

## Subordinate Local Law No. 2 (Animal Management) 2018

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# Part 1 Preliminary

## 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 2 (Animal Management) 2018.*

## 2 Purpose and how it is to be achieved

(1) The purpose of this subordinate local law is to supplement *Local Law No. 2 (Animal Management) 2018*, which provides for regulation of the keeping and control of animals within the local government's area.

(2) The purpose is to be achieved by providing for—

(a) the circumstances in which the keeping of animals is prohibited or requires approval; and

(b) requirements for keeping animals, including minimum standards, mandatory desexing, proper enclosures, koala conservation and identification; and

(c) the control of animals in public places; and

(d) matters regarding the impounding of animals and the sale or disposal of impounded animals; and

(e) the conditions to be complied with by persons who offer animals, or a particular species of animals, for sale; and

(f) the declaration of a species of animal as a declared dangerous animal and the criteria for declaration of a specific animal as a declared dangerous animal.

## 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Animal Management) 2018* (the ***authorising local law***).

## 4 Definitions

Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law, unless otherwise defined in the dictionary in Schedule 13 of this subordinate local law.

# Part 2 Keeping of animals

## 5 Circumstances in which keeping animals prohibited—Authorising local law, s 5(1)

For section 5(1) of the authorising local law, keeping an animal or animals mentioned in column 1 of schedule 1 is prohibited in the circumstances described in column 2 of schedule 1.

### 6 Circumstances in which keeping animals requires approval—Authorising local law, s 6(1)

For section 6(1) of the authorising local law, keeping an animal or animals mentioned in column 1 of schedule 2 requires approval in the circumstances described in column 2 of schedule 2.

### 7 Animals that must be desexed—Authorising local law, s 7

For section 7 of the authorising local law, an animal of the species or breed mentioned in column 1 of schedule 3 must be desexed once it reaches the age specified in column 2 of schedule 3 except in the circumstances described in column 3 of schedule 3.

### 8 Minimum standards for keeping animals—Authorising local law, s 8(1)

(1) For section 8(1) of the authorising local law, the minimum standards for the keeping of animals are set out in schedule 4.

(2) For section 8(1) of the authorising local law, column 2 of schedule 5 sets out the minimum standards for keeping an animal of the species or breed mentioned in column 1 of schedule 5.

### 9 Identification for cats and dogs in certain circumstances—Authorising local law, s 9

For section 9 of the authorising local law, the identification required for a dog that is at a place other than the address stated in the registration notice for the dog is a tag attached to a collar of a dog.

## Part 3 Control of animals

### 10 Public places where animals are prohibited—Authorising local law, s 10(1)

For section 10(1) of the authorising local law, the species or breeds of animals mentioned in column 2 of schedule 6 are prohibited in the public places described in column 1 of schedule 6.

### 11 Dog off-leash areas—Authorising local law, s 11(1)

For section 11(1) of the authorising local law, the areas described in schedule 7 are designated as dog off-leash areas.

### 12 Animal faeces in public places—Authorising local law, s13

For section 13 of the authorising local law, the following animals are prescribed as animals whose faeces must be removed from a public place and disposed of in a sanitary way—

*Intentionally left blank.*

### 13 Requirements for proper enclosures for keeping animals—Authorising local law, s 14(2)

For section 14(2) of the authorising local law, column 2 of schedule 8 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of schedule 8.

### 14 Criteria for declared dangerous animals—Authorising local law, s 19(1)

For section 19(1) of the authorising local law, the criteria for declaring an animal as a declared dangerous animal are set out in schedule 9.

## Part 4 Seizure, impounding or destruction of animals

### 15 Place of care for impounded animals—Authorising local law, s 24

For section 24 of the authorising local law, the place of care for animals impounded by the local government will be operated by the local government or be a contractor of the local government, or be nominated by a resolution of the local government.

### 16 Animals that may be disposed of without auction or tender—Authorising local law, s 32(1)(b)

For section 32(1)(b) of the authorising local law, the following animals may be sold by private agreement, destroyed or disposed of in some other way without being destroyed—

(a) dogs;

(b) cats;

(c) birds and noisy birds;

(d) pigs, sheep, goats and other small animals.

### 17 Register of impounded animals—Authorising local law, s 33(3)

For section 33(3) of the authorising local law, the register of impounded animals will be kept at the local government's public office.

# Part 5 Miscellaneous

## 18 Conditions regarding sale of animals—Authorising local law, s 42(1)

For the purposes of section 42(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 10 must comply with the conditions set out in column 2 of schedule 10.

## 19 Animals excluded from application of the local law—Authorising local law, schedule

For the purposes of the definition of ***animal*** in the schedule to the authorising local law, the following species of animal are excluded from the application of the local law—

(a) fish;

(b) insects; and

(c) amphibians.

## 20 Species that are declared dangerous animals—Authorising local law, schedule

For the purposes of the definition of ***declared dangerous animal*** in the schedule to the authorising local law, no species of animal is a declared dangerous animal.

## 21 Prescribed period for reclaiming animals—Authorising local law, schedule

For the purposes of the definition of ***prescribed period*** in the schedule to the authorising local law, the prescribed period is—

(a) if the animal is registered with the local government—5 days; or

(b) if the animal is not registered with the local government—3 days.

# Schedule 1 Prohibition on keeping animals

section 5

| | **Column 1**<br>**Animal** | **Column 2**<br>**Circumstances in which keeping of animal or animals is prohibited** |
|---|---|---|
| 1 | Dog | (a) Keeping more than 1 dog is prohibited on a property that is less than 450m$^2$ or within a residential complex in an urban area. |
| 2 | Cat | (a) Keeping more than 2 cats is prohibited on a property that is less than 450m$^2$ or within a residential complex in an urban area. |
| 3 | Poultry | (a) Keeping poultry is prohibited on a property that is less than 450m$^2$ or within a residential complex in an urban area.<br>(b) Keeping more than 10 poultry is prohibited on a property greater than 450m$^2$ but less than 20,000m$^2$ in an urban area.<br>(c) Keeping more than 50 poultry is prohibited on a property greater than 20,000m$^2$ in an urban area. |
| 4 | Rooster | (a) Keeping a rooster is prohibited on a property that is less than 20,000m$^2$ or within a residential complex in an urban area.<br>(b) Keeping more than 1 rooster is prohibited on a property that is greater than 20,000m$^2$ in an urban area. |
| 5 | Noisy bird | (a) Keeping a noisy bird is prohibited on a property that is less than 450m$^2$ or within a residential complex in an urban area.<br>(b) Keeping more than 2 noisy birds is prohibited on a property in an urban area. |
| 6 | Caged bird | (a) Keeping more than 10 caged birds is prohibited on a property that is less than 450m$^2$ or within a residential complex, in an urban area.<br>(b) Keeping more than 60 caged birds is prohibited on a property in an urban area in an urban area. |
| 8 | Stock (excluding horses) | (a) Keeping stock (excluding horses) is prohibited on a property that is less than 10,000m$^2$ within a residential complex in an urban area. |

| | | |
|---|---|---|
| 9 | Pigs | (a) Keeping a pig is prohibited on a property that is less than 20,000$m^2$ in an urban area |
| 10 | Horses | (a) Keeping horses is prohibited on a property that is less than 450$m^2$ or within a residential complex in an urban area. |

# Schedule 2 Requirement for approval to keep animals

section 6

| | **Column 1**<br>**Animal** | **Column 2**<br>**Circumstances in which keeping of animal or animals requires approval[1]** |
|---|---|---|
| 1 | Dog | (a) An approval is required to keep more than 2 dogs over the age of 12 weeks on a property greater than 450m$^2$ in an urban area. |
| 2 | Cat | (a) An approval is required to keep more than 2 cats over the age of 12 weeks on a property that is greater than 450m$^2$ in an urban area. |
| 3 | Stock | (a) An approval is required to keep more than 2 head of stock on a property greater than 10,000m$^2$ in an urban area. |
| 4 | Pigs | (a) An approval is required to keep a pig on a property greater than 20,000m$^2$ in an urban area. |
| 5 | Horses | (a) An approval is required to keep a horse on a property that is greater than 450m$^2$ but less than 10,000m$^2$ in an urban area.<br>(b) An approval is required to keep more than 2 horses on a property greater than 10,000m$^2$ in an urban area. |

[1] See *Local Law No.1 (Administration) 2018* and *Subordinate Local Law No.1 (Administration) 2018* in relation to the requirements and processes for approvals (e.g. form of application for approval, documents and materials that must accompany applications, criteria for granting approval, conditions that must be imposed on approvals, conditions that will ordinarily be imposed on approvals, term of approval, third party certification of applications).

# Schedule 3 Requirement to desex animal

Section 7

| | **Column 1**<br>**Species or breed of animal** | **Column 2**<br>**Age at which animal must be desexed** | **Column 3**<br>**Exemptions to the requirement for desexing** |
|---|---|---|---|
| 1 | *This table has been intentionally left blank.* | | |

# Schedule 4 Minimum standards for keeping animals generally

section 7(1)

1. The person keeping the animal must ensure that—

   (a) the animal does not—

      (i) cause a nuisance; or

      (ii) expose the health and safety of other persons and animals to significant risk; or

      (iii) create a reasonable apprehension in the minds of other persons of a significant risk to health and safety of persons, other animals or that animal; and

   (b) waste waters from enclosures are drained in a nuisance free manner and that run-off is kept off adjoining land; and

   (c) excreta, food scraps, and other material that is, or is likely to become, offensive is collected at least once in each day and, if not immediately disposed of, is kept in a fly proof container; and

   (d) any enclosure in which an animal is kept is kept in a clean and sanitary condition, free from dust and odour and properly maintained in an aesthetically acceptable condition; and

   (e) the area available to the animal kept on the premises is appropriately sized so that the animal can be effectively and comfortably kept; and

   (f) any animal food is stored in an impervious fly proof and vermin proof receptacle or in an impervious fly proof and vermin proof storeroom facility; and

   (g) all animals kept on the premises are provided with and have access to adequate shelter, drinking water and appropriate food; and

   (h) any enclosure used for the purpose of keeping an animal is thoroughly cleaned each week and effectively treated with an insecticide at least twice a year; and

   (i) upon discovering the existence of a dead animal, immediately dispose of the remains of the dead animal so as not to cause a nuisance. The remains must not be disposed of on or in a public place.

2. For subsection 1(a)(i), a nuisance occurs if an authorised officer considers there is sufficient evidence that people in nearby properties are being affected by the activity of the offending animal.

   *Examples—*
   *Animal noise is a nuisance if it disrupts a person—*
   *(a) holding a conversation; or*
   *(b) watching television; or*
   *(c) listening to a radio or recorded material; or*
   *(d) sleeping.*

   *An odour is a nuisance if caused by—*
   *(a) an animal enclosure not being cleaned regularly; or*
   *(b) the waste from an animal enclosure not being disposed in an acceptable manner.*

# Schedule 5 Minimum standards for keeping particular animals

section 7(2)

| | **Column 1**<br>**Species or breed of animal** | **Column 2**<br>**Minimum standards for keeping animals** |
|---|---|---|
| 1 | | *This table has been intentionally left blank.* |

# Schedule 6 Prohibition of animals in public places

section 9

| | **Column 1**<br>**Public place** | **Column 2**<br>**Species or breed of animals prohibited** |
|---|---|---|
| 1 | | *This table has been intentionally left blank.* |

# Schedule 7 Dog off-leash areas

section 10

*This schedule has been intentionally left blank.*

# Schedule 8 Requirements for proper enclosures for animals

section 12

| | **Column 1**<br>**Species or breed of animal** | **Column 2**<br>**Requirements for proper enclosures** |
|---|---|---|
| 1 | All Animals | (a) The size of area to be suitably fenced is to be appropriate to the species and breed of the animal to be enclosed, so as to effectively enclose the animal within the property at all times.<br>(b) ***Suitably fenced*** means a fence which is constructed of strong and firm materials and designed in such a way as to prevent the animal from attacking a person or escaping over, under or through the fence.<br>(c) In any case, a part of a building or structure that does not have openings through which an animal can escape may form part of the enclosure in lieu of fencing.<br>(d) The enclosed area must contain adequate shelter.<br>(e) Where gates form part of the enclosure, they must be kept closed and latched except when in actual immediate use. |

# Schedule 9 Criteria for declared dangerous animals

section 13

1. A dangerous animal declaration may be made for an animal only if the animal—
   (a) has attacked, or acted in a way that caused fear to, a person or another animal; or
   (b) may, in the opinion of an authorised person, having regard to the way the animal behaved towards a person or another animal, attack, or act in a way that causes fear to another person.
2. To avoid any doubt, an animal may be declared a dangerous animal if the animal attacked and caused no bodily harm to the person or animal attacked.

# Schedule 10 Conditions for sale of animals

section 17

| | Column 1<br>Species or breed of animal | Column 2<br>Conditions that must be complied with when offering animal for sale |
|---|---|---|
| 1 | All animals | (a) The animal must be in good health and free from disease; and<br>(b) The animal must have been vaccinated and have received worm treatment; and<br>(c) The area where the animal is held for sale must be clean and sanitary and free of vermin harbourage. |

# Schedule 11 Dictionary

***birds*** means all birds other than noisy birds, poultry and roosters.

***lot*** has the meaning given in the *Planning Act 2016*, schedule 2.

***noisy birds*** means a cacophonous bird of the galah, cockatoo, magpie, peacock or currawong variety but does not include a rooster.

***planning scheme*** means the planning scheme of the local government.

***property*** means—

(a) a lot; or
(b) if a person owns and occupies 2 or more adjoining lots – the parcel of land comprising all of the lots owned by the person.

***residential complex*** means a complex comprising more than 2 joined residential units.

***stock*** means an animal that is a member of any of the following groups of animals—

(a) buffalo;
(b) cattle;
(c) deer;
(d) goats;
(e) sheep;
(f) the family Camillidae;

*Examples of members of the Camillidae family – alpacas, Arabian camels, llamas*

(g) the family Equidae.

*Examples of members of the family Equidae – horses, ponies, donkeys, mules, zebras.*

***urban area*** means—

(a) an area identified as an area intended for an urban purpose, or for an urban purpose in the future, on a map in a planning scheme that—

(i) identifies the area using cadastral boundaries; and
(ii) is used exclusively or mainly to assess development applications; and

*Example of a map for paragraph (a)*— a zoning map

(b) any area within the local government area which is designated as one of the following zones in the planning scheme—

(i) Low Density Residential Zone;
(ii) Medium Density Residential Zone;
(iii) Rural Residential Zone;
(iv) Emerging Community Zone.