

# WEIPA SHIRE COUNCIL

## LOCAL LAW NO. 6

### (KEEPING AND CONTROL OF ANIMALS)

#### TABLE OF PROVISIONS

<b>PART 1<sup>3</sup>/<sub>4</sub> PRELIMINARY .....</b>	<b>3</b>
1. Citation .....	3
2. Objects .....	3
3. Definitions .....	3
4. Relationship with other laws .....	3
<b>PART 2<sup>3</sup>/<sub>4</sub> KEEPING OF ANIMALS .....</b>	<b>4</b>
<b>Division 1<sup>3</sup>/<sub>4</sub> Animals for which permit is required.....</b>	<b>4</b>
5. Requirement to hold permit .....	4
6. Obligation to hold permit .....	4
<b>Division 2<sup>3</sup>/<sub>4</sub> Animals for which registration is required .....</b>	<b>4</b>
7. Requirement to register animal.....	4
8. Obligation to register.....	4
<b>Division 3<sup>3</sup>/<sub>4</sub> Commercial operations .....</b>	<b>5</b>
9. Pet shops, catteries and kennels .....	5
10. Obligation to comply with permit.....	5
<b>Division 4<sup>3</sup>/<sub>4</sub> Minimum standards .....</b>	<b>5</b>
11. Prescription of minimum standards by local law policy .....	5
12. Obligation to comply with minimum standards.....	5
<b>Division 5<sup>3</sup>/<sub>4</sub> Permits .....</b>	<b>5</b>
13. Criteria for granting permits .....	5
14. Term of permit .....	6
15. Conditions of permits.....	6
<b>PART 3<sup>3</sup>/<sub>4</sub> CONTROL OF ANIMALS.....</b>	<b>6</b>
<b>Division 1<sup>3</sup>/<sub>4</sub> Animals in public places .....</b>	<b>6</b>
16. Animal must be under effective control .....	6
17. Dangerous dogs to be muzzled.....	7
18. Dogs on heat to be excluded from public places .....	7
19. Person in charge of dog to clean up dog faeces .....	7
<b>Division 2<sup>3</sup>/<sub>4</sub> Duty to provide proper enclosure .....</b>	<b>7</b>
20. Duty to provide proper enclosure .....	7
<b>Division 3<sup>3</sup>/<sub>4</sub> Nuisances etc .....</b>	<b>8</b>
21. Duty to avoid nuisances .....	8
<b>Division 4<sup>3</sup>/<sub>4</sub> Aggressive dogs .....</b>	<b>8</b>
22. Attacks etc dogs .....	8
<b>Division 5<sup>3</sup>/<sub>4</sub> Dangerous dogs .....</b>	<b>8</b>

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23.	Declaration of dangerous dog.....	8
<b>PART 4<sup>3</sup>/<sub>4</sub>DESTRUCTION OF ANIMALS .....</b>		<b>9</b>
24.	Destruction orders .....	9
25.	Appeal against destruction order .....	9
26.	Powers of Court on appeal.....	9
27.	Summary destruction of animal.....	9
28.	Destruction at request of keeper.....	9
<b>PART 5<sup>3</sup>/<sub>4</sub>MISCELLANEOUS .....</b>		<b>10</b>
29.	Sale of animals .....	10
30.	Prohibition of identifying tags designed to confuse .....	10
31.	Abandonment of Animals .....	10
<b>PART 6<sup>3</sup>/<sub>4</sub>LOCAL LAW POLICIES .....</b>		<b>10</b>
32.	Local law policies.....	10

## PART 1<sup>3</sup>/<sub>4</sub> PRELIMINARY

### Citation

1. This local law may be cited as *Local Law No. 6 (Keeping and Control of Animals)*.

### Objects

2. The objects of this local law are to regulate the keeping of animals
  - (a) to protect the community against risk of injury and damage; and
  - (b) to ensure that animals do not create a nuisance, or a hazard to health or safety; and
  - (c) to prevent pollution and other environmental damage resulting from the keeping of animals and to protect the amenity of the local environment; and
  - (d) to ensure that animals are kept and used in a way that is consistent with the rights and expectations of the local community.

### Definitions

3. In this local law—

“**animal**” includes a fish, bird or reptile but does not include an animal of a species excluded by local law policy from the application of this local law;

“**authorised person**” means a person authorised by the local government to exercise the powers of an authorised person under this local law.

“**cattery**” means a place used for the keeping, boarding or breeding of cats on a commercial basis;

“**dangerous dog**” means a dog

- (a) of a species classified by local law policy as a dangerous dog; or
- (b) declared under this local law to be a dangerous dog;

“**identifying tag**” means a mark or object to identify an animal including, for example

- (a) a metal or plastic disc or plate; or
- (b) a collar; or
- (c) a tattoo or brand; or
- (d) an implant bearing an electronic code;

“**keeper**” of an animal means

- (a) the person who has the immediate custody and control of the animal; or
- (b) if the person who has the immediate custody and control of an animal is a minor, the minor's parent or guardian; or
- (c) the occupier of the land on which the animal is ordinarily kept;

“**kennel**” means a place at which dogs are kept, boarded, bred, or trained on a commercial basis;

“**pet shop**” means a shop at which animals are offered for sale.

### Relationship with other laws

4. This local law is in addition to, and does not derogate from
  - (a) laws regulating the use or development of land; and

- (b) other laws about the keeping or control of animals or animals of a particular species.

## **PART 2<sup>3</sup>/<sub>4</sub> KEEPING OF ANIMALS**

### ***Division 1<sup>3</sup>/<sub>4</sub> Animals for which permit is required***

#### **Requirement to hold permit**

**5.(1)** The local law policy may require a permit for the keeping of animals.

**(2)** The requirement for a permit may be imposed by reference to 1 or more of the following factors—

- (a) the species, breed, age or sex of the animals;
- (b) the number of animals to be kept;
- (c) the area, or part of the area, in which the animals are to be kept;
- (d) the nature of the premises in which the animals are to be kept.

#### **Obligation to hold permit**

**6.(1)** A person must not keep an animal for which a permit is required unless the person holds a current permit from the local government authorising the person to keep the animal.

Maximum penalty 20 penalty units.

**(2)** A person must not contravene a condition of a permit.

Maximum penalty 20 penalty units.

### ***Division 2<sup>3</sup>/<sub>4</sub> Animals for which registration is required***

#### **Requirement to register animal**

**7.** The local law policy may require the keeper of an animal of a particular species or breed to have the animal registered.

#### **Obligation to register**

**8.(1)** A person must not keep an animal for which registration is required unless the person holds a current certificate of registration for the animal from the local government.

Maximum penalty 20 penalty units.

**(2)** A person who keeps a registered animal must ensure that the animal carries the identifying tag required under the local law policy.

Maximum penalty 20 penalty units.

### ***Division 3¾Commercial operations***

#### **Pet shops, catteries and kennels**

**9.** A person must not use land within the area as a pet shop, cattery or kennel unless the person holds a current permit from the local government authorising the use of the land for the purpose.

Maximum penalty 20 penalty units.

#### **Obligation to comply with permit**

**10.** A person must not contravene a condition of a permit authorising the use of land for the purpose of a pet shop, cattery or kennel.

Maximum penalty 20 penalty units.

### ***Division 4¾Minimum standards***

#### **Prescription of minimum standards by local law policy**

**11.(1)** The local law policy may prescribe minimum standards for the keeping of animals or a particular species of animals.

**(2)** The local law policy 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
- (c) require the provision of adequate space for the animals; and
- (d) 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
- (e) make other provisions for the maintenance of proper standards of cleanliness and hygiene.

#### **Obligation to comply with minimum standards**

**12.(1)** A person who keeps an animal must ensure that the relevant minimum standards prescribed by the local law policy are complied with.

Maximum penalty 20 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 local law policy is in addition to obligations imposed by condition of the permit.

### ***Division 5¾Permits***

#### **Criteria for granting permits**

**13.** 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 and any possible pollution or other environmental damage; and
- (f) other factors that may be relevant in the circumstances of the particular case.

### **Term of permit**

**14.(1)** A permit is granted for a term fixed under the relevant local law policy.

(2) The local government may, from time to time, on application by the holder of the permit, renew the permit.

(3) The term for which a permit is granted or renewed must be fixed as required by a relevant local law policy, or as decided by the local government when it grants the permit or the renewal.

### **Conditions of permits**

**15.(1)** The local government may grant a permit under this local law on conditions it considers appropriate.

(2) The conditions may, for example—

- (a) require the holder of the permit to care for the animals in accordance with appropriate standards; and
- (b) require that the animals be kept in enclosures that comply with specified structural requirements; and
- (c) require the holder of the permit to comply with specified standards of hygiene; and
- (d) require the holder of the permit to ensure that the animal wears or displays an appropriate identifying tag; and
- (e) require the holder of the permit to ensure that the animals do not cause nuisance, inconvenience or annoyance to others; and
- (f) require the holder of the permit to take specified action to protect against possible harm to the local environment.

(3) The local government may, by local law policy, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

## **PART 3<sup>3</sup>/<sub>4</sub> CONTROL OF ANIMALS**

### ***Division 1<sup>3</sup>/<sub>4</sub>Animals in public places***

#### **Animal must be under effective control**

**16.(1)** A person must not bring or permit an animal to be brought into a public place unless the animal is under the person's effective control.

Maximum penalty 20 penalty units.

(2) A dog is not regarded as being under effective control unless—

- (a) a person who is physically able to control the dog is holding the dog by a leash; or
- (b) the dog is tethered to a fixed object and is under the continuous supervision of a person who is physically able to control the dog; or
- (c) the dog is participating in an obedience trial, or training for an obedience trial, under the supervision of an organisation recognised by the local government for the purposes of this section; or
- (d) 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.

(3) If an animal in a public place is not under effective control, an authorised person may seize and impound the animal.

### **Dangerous dogs to be muzzled**

**17.(1)** A person must not bring a dangerous dog into a public place unless the dog is securely muzzled to prevent it from biting.

Maximum penalty 100 penalty units.

(2) If an unmuzzled dangerous dog is in a public place, an authorised person may seize and impound the dog.

### **Dogs on heat to be excluded from public places**

**18.** A person must not bring a dog that is on heat into a public place.

Maximum penalty 20 penalty units.

### **Person in charge of dog to clean up dog faeces**

**19.** If a dog defecates in a public place, the person in charge of the dog must immediately remove, and dispose of, the faeces in a sanitary way.

Maximum penalty 20 penalty units.

## ***Division 2<sup>3/4</sup>Duty to provide proper enclosure***

### **Duty to provide proper enclosure**

**20.(1)** 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 20 penalty units.

(2) If an animal is found wandering at large, the owner of the animal is guilty of an offence.

Maximum penalty 20 penalty units.

(3) It is a defence to a charge of an offence against subsection (2) for the defendant to prove—

- (a) the defendant maintained an appropriate enclosure for the animal; and
- (b) the defendant could not, by the exercise of reasonable diligence, have prevented the escape of the animal.

***Division 3<sup>3/4</sup>Nuisances etc***

**Duty to avoid nuisances**

**21.(1)** A person must not keep an animal on land if

- (a) the animal causes a nuisance; or
- (b) the animal exposes the health or safety of others to significant risk; or
- (c) the animal creates a reasonable apprehension in the minds of others of a threat to their health or safety.

**(2)** A local government may, on receiving a complaint of a contravention of subsection (1), give a written notice to the keeper of the animal requiring the person to take specified action to prevent further contravention or to get rid of the animal.

**(3)** A person must not fail to comply with a notice under subsection (2) within the time allowed in the notice.

Maximum penalty 100 penalty units.

***Division 4<sup>3/4</sup>Aggressive dogs***

**Attacks etc dogs**

**22.(1)** A person must not cause, encourage or permit a dog to attack or worry another person or an animal.

Maximum penalty 200 penalty units.

**(2)** If a dog attacks or worries a person or an animal, an authorised person may seize and impound the dog.

**(3)** The authorised person may issue an order for the destruction of a dog seized and impounded under subsection (2).

***Division 5<sup>3/4</sup>Dangerous dogs***

**Declaration of dangerous dog**

**23.(1)** If an authorised person is of the opinion that a dog is dangerous, the authorised person may order the keeper of the dog to take specified action

- (a) to warn persons who enter land on which the dog is kept of the presence of a dangerous dog on the land; and
- (b) to ensure that the dog remains in secure custody and is unable to cause injury or damage to persons or other animals.

**(2)** A person must not fail to comply with an order under subsection (1).

Maximum penalty 100 penalty units.

**(3)** If a dangerous dog is found wandering at large, an authorised person may seize the dog and order its destruction.

## **PART 4<sup>3</sup>/<sub>4</sub> DESTRUCTION OF ANIMALS**

### **Destruction orders**

**24.(1)** An authorised person may order the destruction of an animal if—

- (a) the animal has attacked or threatened to attack a person or another animal; or
- (b) the animal has created a nuisance; or
- (c) the animal has put at risk the safety of motorists, cyclists, pedestrians or any other person.

(2) When an authorised person makes a destruction order, the authorised person must, if the keeper of the animal is known to the authorised person, or can be ascertained from the local government's records, inform the keeper of the order.

### **Appeal against destruction order**

**25.(1)** The keeper of an animal against which a destruction order has been made may appeal to a Magistrates Court against the order.

(2) The appeal must be started within 21 days after the keeper is informed of the making of the order.

### **Powers of Court on appeal**

**26.(1)** On an appeal under this Part, the Court may confirm or quash the order for destruction of the animal.

(2) The Court may only quash an order for destruction of an animal if satisfied that

- (a) the keeper will in future ensure that the animal is properly kept and controlled in accordance with this local law and the circumstances that led to the making of the order are unlikely to recur; and
- (b) if an order for destruction of the animal has previously been revoked by the Court there are exceptional circumstances justifying quashing the order.

(3) An order for the costs of an appeal may only be made against the local government if the Court is satisfied that the animal was unlawfully seized or there was no reasonable basis for making the order for destruction of the animal.

### **Summary destruction of animal**

**27.** An authorised person may seize and destroy an animal without notice to the keeper of the animal if—

- (a) the animal has been seized and detained more than 3 times in the last year; or
- (b) the animal is, in the authorised person's opinion, dangerous and not controllable by means that are reasonably available to the keeper of the animal; or
- (c) the animal is diseased or emaciated.

### **Destruction at request of keeper**

**28.** An authorised person may, at the request of the keeper of an animal, seize and destroy the animal.

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## **PART 5<sup>3</sup>/<sub>4</sub> MISCELLANEOUS**

### **Sale of animals**

**29.(1)** A local law policy may lay down conditions to be complied with by persons who offer animals, or a particular species of animals, for sale.

**(2)** A person must not offer or display animals for sale in the area unless the person complies with conditions laid down by local law policy under subsection (1).

Maximum penalty 20 penalty units.

### **Prohibition of identifying tags designed to confuse**

**30.** 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.

### **Abandonment of Animals**

**31.(1)** A person must not abandon an animal.

Maximum penalty\_ 20 penalty units.

**(2)** 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.

## **PART 6<sup>3</sup>/<sub>4</sub> LOCAL LAW POLICIES**

### **Local law policies**

**32.** The local government may make local law policies for the purposes of this local law.