

# Subordinate Local Law No. 1.5 (Keeping of Animals) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.5 (Keeping of Animals) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.
- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity

named in section 1 of schedule 1 is a category 1 activity.

- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Schedule 1      Keeping of animals

### Section 5

#### 1.      Prescribed activity

Keeping of animals.

#### 2.      Activities that do not require an approval under the authorising local law

The keeping of animals at an animal entertainment park or an animal sanctuary.

#### 3.      Documents and materials that must accompany an application for an approval

- (1)      An application detailing—
  - (a)      the species, breed, age and gender of each animal for which the approval is sought; and
  - (b)      the number of animals to be kept; and
  - (c)      the nature of the premises at which the animal or animals are to be kept; and
  - (d)      the area, or the part of the area, in which the animal or animals are to be kept; and
  - (e)      the materials out of which any enclosure in which the animal or animals to be kept is (or is to be) constructed and any other details of the enclosure; and
  - (f)      the location of the enclosure on the premises; and
  - (g)      the name of each person who is to occupy any residence located on the premises on which the animal or animals are to be kept.
- (2)      Proof that the applicant currently holds any development approval relating to the prescribed activity that is required under the Planning Act.
- (3)      If the applicant is not the owner of the premises on which the animal or animals are to be kept — the written permission of the owner of the premises to the keeping of the animal or animals on the premises.
- (4)      Where the animal or animals are to be kept on multi-residential premises and the keeper of the animal or animals is entitled to make use of an area used in common with others (a *common area*) for the purpose of keeping the animal or animals — the written permission of the person or body which manages or controls the common area to use the common area for the purpose of keeping the animal or animals.
- (5)      If an animal the subject of the application is required to be registered under the Animal Management Act — evidence that the animal is currently registered with the local government.

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

**4. Additional criteria for the granting of an approval**

- (1) Whether the premises on which the animal or animals are to be kept is appropriately sized so that the animal or animals can be effectively and comfortably kept on the premises.
- (2) Whether a residence exists on the premises.
- (3) Whether a proper enclosure is maintained on the premises in accordance with the requirements of *Local Law No. 2 (Animal Management) 2011*.
- (4) Whether the applicant for the approval of some other suitable person to supervise the animal or animals will be resident on the premises on which the animal or animals are to be kept.
- (5) Whether the animal or animals will be properly supervised.
- (6) If the application relates to the keeping of dogs— whether the animals identified in the application are registered with the local government.
- (7) If section 14 of the Animal Management Act applies to the applicant for the approval — whether the applicant has complied with the requirements of the section.
- (8) Whether the applicant is a suitable person to hold the approval.
- (9) Whether the grant of the approval for the prescribed activity on the premises is likely to —
  - (a) cause nuisance, inconvenience or annoyance to occupiers of adjoining land; or
  - (b) affect the amenity of the surrounding area; or
  - (c) have a deleterious effect on the local environment or cause pollution or other environmental damage.
- (10) If the application relates to the keeping of cats —
  - (a) whether the cats have been desexed; and
  - (b) whether the cats have been fitted with an approved microchip.
- (11) If the application relates to the keeping of an animal or animals on multi-residential premises —
  - (a) whether the applicant is entitled to make use of a common area; and
  - (b) whether the applicant has exclusive possession and control of the whole or a part of the common area for the purpose of keeping the animal or animals; and

- (c) whether the applicant has the written permission of the person or body which manages or controls the common area to use the common area, or a part of the common area, for the purpose of keeping the animal or animals.
- (12) Where the animal or animals are to be kept on premises other than multi-residential premises and the applicant is not the owner of the premises — whether the applicant has the written permission of the owner of the premises to keep the animal or animals on the premises.
- (13) Whether the applicant has been refused a similar type of approval by the local government or another local government.
- (14) If the application relates to a multiple cat approval or a multiple dog approval— whether compassionate grounds exist for granting the approval.

*Example—*

Compassionate grounds for the grant of an approval exist if—

- (a) 2 dogs are registered with the local government as kept by a person (the *first person*) on the premises; and
- (b) another person (the *second person*) is the keeper of another dog (the *third dog*); and
- (c) the second person is, due to the occurrence of an event (the *intervening event*) which is beyond the reasonable control of the second person, for example, a serious injury, sickness or the death of the second person, unable to keep the third dog; and
- (d) the first person, as a result of, or after the occurrence of, the intervening event, wishes to keep the third dog on the premises.

## **5. Conditions that must be imposed on an approval**

No conditions prescribed.

## **6. Conditions that will ordinarily be imposed on an approval**

- (1) The conditions that will ordinarily be imposed on an approval to keep dogs on premises are—
  - (a) a condition requiring that the approval holder take all reasonable steps to prevent the dogs from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of other premises; and
  - (b) a condition requiring that the approval holder ensure that any enclosure in which the dogs are kept is properly drained and that run-off is kept off adjoining premises; and
  - (c) a condition requiring that the approval holder ensure that excreta, food scraps and other material that is, or is likely to become, offensive is collected daily and, if not immediately disposed of, is kept in a waste container of a kind approved by an authorised person; and
  - (d) a condition requiring that the approval holder ensure that any enclosure in which the dogs are kept is maintained in—
    - (i) a clean and sanitary condition and disinfected regularly; and

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- (ii) an aesthetically acceptable condition; and
  - (e) a condition limiting the approval to the dogs identified in the approval; and
  - (f) a condition limiting the approval to the premises identified in the approval; and
  - (g) subject to compliance with the requirements of the Animal Management Act, section 14, a condition requiring that each dog be implanted with an approved microchip.
- (2) The conditions that will ordinarily be imposed on an approval to keep cats on premises are—
- (a) a condition limiting the approval to the cats identified in the approval; and
  - (b) a condition requiring the approval holder to—
    - (i) desex each cat within 3 months of the issue of the approval if the cat is aged 6 months or over; and
    - (ii) otherwise, desex each cat within 3 months after the cat reaches 6 months of age; and
    - (iii) produce to the local government evidence, by way of, for example, a statutory declaration, that the cat has been desexed; and
  - (c) a condition requiring that each cat be implanted with an approved microchip.
- (3) The conditions that will ordinarily be imposed on an approval to keep an animal (other than a dog or a cat) are—
- (a) if minimum standards for the keeping of the species or breed of the animal are prescribed in schedule 5 of *Subordinate Local Law No. 2 (Animal Management) 2011*—the animal must be kept in accordance with the minimum standards for the species or breed of animal prescribed in schedule 5 of *Subordinate Local Law No. 2 (Animal Management) 2011*; and
  - (b) if the approval relates to the keeping of 1 or more animals and the animal or animals are identified in the approval—a condition limiting the approval to the animal or animals identified in the approval; and
  - (c) a condition limiting the approval to the premises identified in the approval.
- (4) The conditions that will ordinarily be imposed on each of a cattery approval and a kennel approval are—
- (a) the operation of the prescribed activity must not detrimentally affect the

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- amenity of neighbouring premises; and
- (b) the cattery or kennel must be suitably and continuously ventilated to ensure that all areas on which animals are kept are free of dampness, nuisance odours and dust emissions; and
  - (c) only rain from uncontaminated areas may drain directly into the storm water system; and
  - (d) all spillages of waste, contaminants and other materials must be cleaned up immediately and must not be cleaned up by hosing, sweeping or otherwise releasing such waste, contaminants or material to any storm water system or waters; and
  - (e) the operation of a prescribed activity must not attract fly breeding or vermin infestation; and
  - (f) all fixtures, fittings, equipment and facilities used in the operation of the prescribed activity must be maintained in a clean, tidy, sanitary and hygienic condition; and
  - (g) waste containers sufficient to accommodate the collection and storage of all waste generated as part of the operation of the prescribed activity must be provided in the manner, and at locations, approved by an authorised person; and
  - (h) all waste containers must be regularly cleaned and maintained in a clean, tidy, sanitary and hygienic condition; and
  - (i) animal feed must be stored in insect and vermin proof containers; and
  - (j) all enclosures which form part of the operation of the prescribed activity must be provided and maintained in a manner so as to—
    - (i) be clean and in a sanitary condition; and
    - (ii) prevent the escape of any animal kept in the enclosure; and
    - (iii) be in a state of good order and repair; and
    - (iv) avoid injury to any animal kept in the enclosure; and
    - (v) be impervious and able to be effectively cleaned and sanitised.
- (5) The conditions that will ordinarily be imposed on a pet shop approval are—
- (a) the holder of the approval must ensure that each animal kept at the premises receives all necessary vaccinations, inoculations and treatments which are appropriate according to the age of the animal; and
  - (b) no animal may be sold from the premises unless all necessary vaccinations, inoculations and treatments which are appropriate according to the age of the animal have been implemented; and



- (c) the premises must be maintained in a clean and sanitary condition at all times; and
- (d) all excreta, offensive material and food scraps must be collected at least once each day and placed in a fly proof approved waste container for disposal; and
- (e) all animal food must be stored in a sealed vermin proof container; and
- (f) waste waters from the premises must be drained in a nuisance free manner or as directed by an authorised person; and
- (g) if a code of practice for the operation of a pet shop has been approved by the local government—the holder of the approval must operate the pet shop in accordance with the requirements of the code of practice.

### **7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

### **8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

| <b>Column 1<br/>Application requirement</b> | <b>Column 2<br/>Individuals or<br/>organisations that are<br/>third party certifiers</b> | <b>Column 3<br/>Qualifications necessary to<br/>be a third party certifier</b> |
|---|--|--|
| No application requirements stated.         |  |  |

## **Schedule 2      Categories of approval that are non-transferable**

### **Section 6**

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3      Dictionary

### Section 4

**animal entertainment park** means a public place which includes, as part of its entertainment, the exhibiting of animals for the amusement or entertainment of the public.

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

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

**approved microchip** (for an animal)—

- (a) means a microchip which—
  - (i) is capable of being read by the local government’s microchip reader; and
  - (ii) bears an electronic code which permanently identifies the animal for identification purposes; and
- (b) includes a permanent identification device.

**cattery approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**common area** has the meaning given in schedule 1, section 3(4).

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

**kennel approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**multiple cat approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**multiple dog approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**multi-residential premises** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**owner** (of an animal) has the meaning given in *Local Law No. 2 (Animal Management) 2011*.

**owner** (of land) includes—

- (a) the registered proprietor of freehold land; and
- (b) the purchaser of land to be held as freehold land that is being purchased from the State under an Act; and
- (c) the holder of a leasehold interest from the State; and
- (d) the holder of a mining claim or a mining lease to which the *Mineral Resources Act 1989* applies; and
- (e) another person who is entitled to receive the rent for the land.

**owner** (of premises) means the person for time being entitled to receive the rent for the premises or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

**permanent identification device** has the meaning given in the Animal Management Act.

**pet shop approval** has the meaning given in *Subordinate Local Law No. 2 (Animal*

*Management) 2011.*

**PPID** has the meaning given in the *Animal Management (Cats and Dogs) Act 2008*.

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

**proper enclosure** has the meaning given in *Local Law No. 2 (Animal Management) 2011*.

**public place** has the meaning given in *Local Law No. 1 (Administration) 2011*.

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

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

**suitable person**, to hold an approval, means a person who, in the local government's opinion, is acceptable as a keeper of an animal having regard to the following—

- (a) the nature of any offence committed by the person under the authorising local law or another law about the keeping of animals; and
- (b) whether the person has been the keeper of an animal and an approval of the person about the keeping of the animal has been cancelled under the authorising local law or another law; and
- (c) whether the person has committed an offence involving cruelty to an animal; and
- (d) any unsatisfactory past conduct of the person in relation to the keeping of an animal; and
- (e) whether the person has complied with the criteria prescribed for the keeping of an animal.

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