

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.
- (2) Proof that the applicant currently holds any development approval relating to the prescribed activity that is required under the *Sustainable Planning Act 2009*.
- (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.

- (7) If the applicant does not reside on the premises on which the animal or animals are to be kept—the written permission of the occupier of the premises to the keeping of the animal or animals on the premises.
- (8) If the undertaking of the prescribed activity is likely to create an animal noise nuisance—an animal noise management plan which details—
 - (a) the extent of animal noise likely to be created by the undertaking of the prescribed activity; and
 - (b) the anticipated impact of the animal noise on the area surrounding the premises on which the prescribed activity is proposed to be undertaken; and
 - (c) how the applicant will minimise the anticipated impact of the animal noise on the area surrounding the premises.
- (9) A statement which details how the applicant will provide for the needs of each animal the subject of the application for the following—
 - (a) food and water; and
 - (b) accommodation and living conditions for the animal; and
 - (c) the prevention and treatment of disease and injury.

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 or some other suitable person to supervise the animal or animals will be resident on the premises on which the animal or animals are to be kept.
- (5) Whether the animal or animals will be properly supervised.
- (6) If the application relates to the keeping of dogs or cats — 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 — whether the cats have been desexed.
- (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 which are used as a residence 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.

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

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- collected daily and, if not immediately disposed of, is kept in a waste container of a kind approved by an authorised person; and
- (d) a condition requiring that the approval holder ensure that any enclosure in which the dogs are kept is maintained in—
 - (i) a clean and sanitary condition and disinfected regularly; and
 - (ii) an aesthetically acceptable condition; and
 - (e) a condition limiting the approval to the dogs identified in the approval.
- (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.
- (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.
- (4) If the approval authorises the keeping of dogs at a kennel or the keeping of cats at a cattery, the conditions of the approval may also require the approval holder to ensure that—
- (a) each building and structure used in the undertaking of the prescribed activity is constructed of materials which are designed to prevent excessive noise; and
 - (b) the approval holder provides and maintains, at the premises used for the undertaking of the prescribed activity, landscaping, including trees and shrubs, which are—

- (i) in a healthy state; and
 - (ii) capable of reducing the acoustic and visual impact of the undertaking of the prescribed activity on adjoining premises used for residential purposes; and
- (c) each building and structure used in the undertaking of the prescribed activity is constructed and maintained so as to take into account—
 - (i) the size, breed and nature of the animals to be kept in the building or structure; and
 - (ii) the health of the animals to be kept in the building or structure, and in particular, the need for adequate protection from the weather, access to fresh air and light, the provision of water, and the availability of adequate drainage; and
 - (iii) the need to provide the animals kept in the building or structure with adequate exercise facilities.
- (5) A condition requiring the approval holder to take specified measures to reduce animal noise resulting from the undertaking of the prescribed activity, for example, compliance with the requirements of an animal noise management plan the content of which has been approved by the local government.
- (6) A condition requiring the approval holder to take specified measures to provide for the needs of each animal the subject of the approval for the following—
 - (a) food and water; and
 - (b) accommodation and living conditions for the animal; and
 - (c) the prevention and treatment of disease and injury.

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

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirements stated.		

Schedule 2 Categories of approval that are non-transferable

Section 6

1. Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.
2. However, an approval for the operation of a cattery or kennel is 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 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 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*.

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*.

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