



**Tablelands Regional Council
Local Law No. 2 (Animal Management) 2018**

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Part 1 Preliminary

1 Short title

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

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to regulate and manage the keeping and control of animals in the local government's area in a way that:
 - (a) ensures a proper place for the inclusion of pets in the community;
 - (b) balances community expectations with the rights of individuals;
 - (c) protects the community against risks to health and safety;
 - (d) prevents pollution and other environmental damage; and
 - (e) protects the amenity of the local community and environment.
- (2) The purpose is to be achieved by providing for:
 - (a) the regulation of the keeping of animals in terms of how many, what type, how, and where animals can be kept;
 - (b) the prescription of standards for keeping animals;
 - (c) the proper control of animals in public places and in wildlife habitat areas;
 - (d) the management of dangerous or aggressive animals other than dogs;
 - (e) the seizure and destruction of animals in certain circumstances;
 - (f) the recognition of associations relating to particular animals; and
 - (g) the establishment and administration of animal pounds.

3 Relationship with other laws

This local law is:

- (a) in addition to any, and does not derogate from:
 - (i) laws regulating the use or development of land; and
 - (ii) other laws about the keeping or control or welfare of animals;
- (b) to be read with *Local Law No. 1 (Administration) 2018* which contains provisions and definitions that apply to all local laws;
- (c) made under Chapter 3 of the LGA.

Part 2 Keeping of animals

Division 1 Prohibition on keeping animals

4 Prohibition on keeping animals in prescribed circumstances

- (1) The keeping of animals prescribed in Column 1 of Schedule 1 to *Subordinate Local Law No. 2 (Animal Management) 2018* is prohibited in the circumstances defined in Column 2 of Schedule 1.
- (2) A person must not keep an animal in contravention of a prohibition under this section.

Maximum penalty for subsection (2)—50 penalty units.

Division 2 Animals for which permit is required

5 Prescribed activity

- (1) Keeping of animals is a category 1 prescribed activity.
- (2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2018* and this local law.

6 Keeping of animals requires a permit

- (1) An owner of an animal identified in Column 1 of Schedule 2 to *Subordinate Local Law No. 2 (Animal Management) 2018*, in circumstances expressed in Column 2 of Schedule 2, requires a permit to keep the animal.
- (2) Despite subsection (1) a permit is not required in the following circumstances:
 - (a) for an animal less than 12 weeks old;
 - (b) for any native non-domestic animal for which a permit is required under other Queensland or Commonwealth legislation;
 - (c) any period up to 14 days after starting to keep an animal in the local government area; and
 - (d) the keeping of animals on land where authorised by a development approval under the Planning Act or which is an exempt or self assessable use under the Planning Act.
- (3) Keeping of other animals does not require a permit under this local law.
- (4) Under this Division, the local government may not require a permit for keeping a restricted dog.

7 Additional criteria for the granting of permit

- (1) The local government must assess the application against the additional criteria.

(2) The additional criteria are:

- (a) whether the premises is physically suitable for the keeping of the animal, including fencing and the size of the premises;
- (b) whether a residence exists on the land;
- (c) whether the applicant for the permit or some other suitable person to supervise the animal will be resident on the land on which the animal is to be kept and will supervise the animal;
- (d) where required by law the animal is registered;
- (e) whether the animal has been implanted with a PPID;
- (f) whether the enclosure in which the animal is to be kept is of a suitable standard;
- (g) whether there is a likelihood of the animal causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
- (h) whether the presence of the animal will affect the amenity of the surrounding area;
- (i) Whether the applicant, applicant's animal or address where the animals are to be kept have been the subject of complaint to the local government about a Local Laws matter where the complaint has been investigated by Council and has been found to be valid;
- (j) whether there is a likelihood that there will be an effect on the local environment and a potential for pollution;
- (k) whether there is a likelihood that there will be any other environmental damage;
- (l) whether the animal is kept on premises primarily to protect or preserve the health or welfare of the animal by an animal carer;
- (m) the number of animals permitted;
- (n) whether the animal will be properly supervised; and
- (o) in relation to a third dog on a residential premises, other than in a Rural Area, only where there are exceptional compassionate grounds.

8 Conditions that must be imposed on permits

The following types of conditions must be imposed on permits, where applicable:

- (a) identify each specific animal to which the permit relates, other than for an animal carer;
- (b) advise the local government in the event that there is a death or departure of a specific animal to which the permit relates, other than for an animal kept by an animal carer;

- (c) care for the animal in accordance with appropriate and reasonable standards;
- (d) keep the animal in enclosures that comply with minimum standards;
- (e) ensure that any enclosure in which the animal is kept is maintained in:
 - (i) a clean and sanitary condition and disinfected regularly; and
 - (ii) an aesthetically acceptable condition;
- (f) ensure that any enclosure in which the animal is kept is properly drained and run-off from the enclosure is kept off of adjoining land;
- (g) comply with reasonable standards of hygiene;
- (h) 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;
- (i) ensure that each dog is registered and implanted with an approved PPID;
- (j) ensure that each cat is implanted with an approved PPID;
- (k) take all reasonable steps to ensure that the animal does not cause nuisance, inconvenience or annoyance to others;
- (l) specify the total number and types of animals that can be kept; and
- (m) take specified action to protect against possible harm to the local environment.

9 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on permits, where applicable:

- (a) permits are for the life of the animal.

Division 3 Animals for which desexing is required

10 Requirement to desex an animal

- (1) The local government may, by subordinate local law, require an animal of a particular species or breed to be desexed.
- (2) The subordinate local law may:
 - (a) specify that the requirement for desexing only applies once an animal reaches a certain age; and
 - (b) exempt animals under particular circumstances.

Example for paragraph (b):

Exemption might be provided for an animal that is owned by a member of a recognised breeders' association for the purposes of breeding or showing.

- (3) An owner or responsible person must not keep an animal that is required to be desexed unless the animal has been desexed.

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

Division 4 Minimum standards

11 Minimum standards for keeping animals

- (1) This Section specifies the minimum standards to be complied with by a person who keeps an animal on premises.
- (2) The keeper of the animal must:-
- (a) ensure that any land adjoining a road on which an animal is kept is adequately fenced so as to prevent animals escaping from the land onto the road;
 - (b) ensure that waste waters from enclosures are drained in a nuisance free manner and that run-off is kept off adjoining premises or as otherwise directed by an authorised person;
 - (c) ensure that:
 - (i) excreta, food scraps and other material that is, or is likely to become, offensive (“waste”) is collected at least daily;
 - (ii) such waste, if not immediately removed from the premises, is kept in a water proof receptacle that prevents access to flies and vermin and does not allow the emission of nuisance odours; and
 - (iii) such waste is removed at least weekly and disposed of in such a manner so as not to be a nuisance or injurious to health;
 - (d) ensure that any enclosure in which the animal is kept is properly maintained in:
 - (i) a clean and sanitary condition;
 - (ii) in good repair and appearance; and
 - (iii) free from flies, rats, or other vermin and nuisance odours;
 - (e) ensure that any enclosure in which the animal is kept is not located within 10m of a place used for the preparation of food other than a place used for the preparation of food by the owner of, or the responsible person for, the animal;
 - (f) ensure that an enclosure provides adequate space for the type of animal being kept therein;
 - (g) provide the animal with and ensure the animal has access to adequate shelter from sun, wind and rain;
 - (h) provide the animal with an appropriate quantity and quality of food and an appropriate quantity of clean drinking water to maintain an animal in good health; and

- (i) ensure that an animal is kept so that it does not:
 - (i) cause an unreasonable nuisance; or
 - (ii) become injurious or prejudicial to health.
- (3) The following criteria must be considered to determine whether noise is a nuisance for the purpose of paragraph 11(2)(i)(i):
 - (a) has the local government received 3 complaints of a contravention of subsection 11(2)(i)(i) 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 11(2)(i)(i) in circumstances where the land the subject of the complaints is not located in an area occupied predominantly by residential premises;
 - (c) animal noise is made for more than a total of 3 minutes in any 30 minute period on any day after 10pm and before 7am; or
 - (d) animal noise is made for more than a total of 6 minutes in any hour from 7 am to 10pm on any day.
- (4) An authorised person may, on receiving a complaint of a contravention of subsection (2) by an animal, give the owner or responsible person a compliance notice.

12 Particular animals

The specific standards for keeping particular animals are in addition to the minimum standards in section 11 and are prescribed for animals identified in Column 1 of Schedule 4, of *Subordinate Local Law No. 2 (Animal Management) 2018*, in circumstances described in Column 2 of Schedule 4.

13 Other permits

If a person is required to hold a permit to keep an animal, the obligation to comply with the minimum standards prescribed by this local law or subordinate local law is in addition to an obligation imposed by a condition of the permit.

14 Determination of relevant standards where inconsistency

- (1) The conditions of a Planning Act approval prevail to the extent of any inconsistency with the conditions of a permit, specific standards and minimum standards.
- (2) The conditions of a permit prevail to the extent of any inconsistency with specific standards and minimum standards.
- (3) Specific standards prevail to the extent of any inconsistency with minimum standards.

15 Offence

A person who keeps an animal must ensure that the relevant minimum and specific standards contained in sections 11 and 12 of this local law are complied with.

Maximum penalty for this Division —20 penalty units.

Division 5 Breeding of animals

16 Prescribed activity

- (1) Breeding of animals is a category 1 prescribed activity.
- (2) A permit under this Division is declared to be non-transferable.

17 Breeding permit

- (1) An owner or responsible person must not allow the breeding of animals without a current permit.
- (2) Despite subsection (1) breeding of animals that do not require a permit are identified in column 1 of Schedule 5 to *Subordinate Local Law No. 2 (Animal Management) 2018*, in circumstances expressed in Column 2 of Schedule 5.

18 Additional criteria for granting a permit

- (1) The local government must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) the land suitability for the breeding of animals;
 - (b) the standard of the enclosure in which the animal is kept;
 - (c) the likelihood of the breeding of animals causing nuisance, inconvenience or annoyance to occupiers of adjoining land;
 - (d) the likelihood that there will be a negative effect on the local environment or a potential for pollution;
 - (e) any potential environmental damage;
 - (f) whether the owner of the animal or the occupier of the premises have been convicted of a breach of an animal management law in the last 3 years;
 - (g) when the animal last bred;
 - (h) the likely outcome for the wellbeing, health and ownership of the offspring; and
 - (i) the wellbeing and health of the parent animal if it were to breed.

19 Conditions that must be imposed on a permit

The following type of conditions must be imposed on permits –

- (a) care for the parent animal and offspring in accordance with appropriate and reasonable standards;
- (b) keep the animals in enclosures that comply with the minimum standards;
- (c) comply with reasonable standards of hygiene;
- (d) ensure the parent and offspring do not cause unreasonable nuisance, inconvenience or annoyance to others;
- (e) ensure the offspring are appropriately vaccinated, wormed or otherwise treated to reasonable standards of protection;
- (f) take specified action to protect against possible harm to the local environment;
- (g) in the event of offspring not surviving or being stillborn or the parent animal not surviving, the manner of disposing of the bodies;
- (h) in the event of offspring being permanently removed from the premises forthwith provide the local government with details of the new owner or responsible person and the address at which the animal is to be kept; and
- (i) the date by which the number of animals at the premises must be reduced to the number required by these local laws.

Part 3 Control of animals

Division 1 Animals in public places

20 Application of this part

- (1) This part does not apply to:
 - (a) dogs owned by the Queensland Police Service or an employee, contractor or agent of the Queensland Police Service; and
 - (b) a security dog provided the dog is under the control of a competent handler and being used in connection with the business or an organisation approved by the local government to carry out security services.
- (2) Sections 23 and 24 do not apply to:
 - (a) a guide dog; and
 - (b) an assistance dog (other than a guide dog) provided the dog is:
 - (i) under effective control;
 - (ii) is not a regulated dog;
 - (iii) is not a dog that is on heat; and
 - (iv) is wearing a jacket and tag identifying it as an assistance dog.

21 Exclusion of animals

- (1) The local government, by *Subordinate Local Law No.2 (Animal Management) 2018* Schedule 6, specifies in column 2 the animals, or animals of a particular species or breed, that are prohibited in the public places specified in column 1.
- (2) The owner or responsible person for an animal must ensure that the animal is not in a public place in contravention of a prohibition specified under subsection (1).
Maximum penalty for subsection (2)—20 penalty units.
- (3) The local government must take reasonable steps to provide notice to members of the public regarding the animals that are prohibited in a particular public place.
- (4) In this section:
 - (a) **reasonable steps** include, the display of a notice at a prominent place within the particular *public place*, stating the animals that are prohibited in the place.

22 Dog off-leash areas

- (1) The local government, by *Subordinate Local Law No. 2 (Animal Management) 2018* Schedule 7, designates specific areas within a public place as an area where a dog is not required to be on a leash (a dog off-leash area).
- (2) The local government must take reasonable steps to provide notice to members of the public regarding the designation of an area as a dog off-leash area.
- (3) In this section:
reasonable steps include, as a minimum, the display of a notice at a prominent place within the dog off-leash area indicating the extent of the area.

23 Control of animals in public places

- (1) The owner or responsible person for an animal must ensure that the animal is not in a public place:
 - (a) unless the animal is under the effective control of someone; and
 - (b) if the animal is a declared dangerous animal—unless the animal is securely restrained to prevent it from:
 - (i) attacking a person or animal;
 - (ii) acting in a way that causes fear to a person or animal; or
 - (iii) causing damage to property.

- (2) Maximum penalty for subsection (1)—20 penalty units. The owner or responsible person for a dog must ensure that it is not in a wildlife habitat area as identified in Schedule 10 to *Subordinate Local Law No. 2 (Animal Management) 2018* unless the dog is under the effective control of an owner or responsible person.

Maximum penalty for subsection (2) – 50 penalty units.

- (3) The owner or responsible person for a dog that is on heat must ensure that the animal is not in a public place.

Maximum penalty for subsection (2)—20 penalty units.

- (4) An animal is under the effective control of someone only if:
- (a) a person who is physically able to control the animal;
 - (i) is holding it by an appropriate leash, halter or rein;
 - (ii) has appropriately tethered it to an object fixed to a place from which the object cannot be moved by the animal and is continuously supervising the animal; or
 - (iii) has corralled it in a temporary enclosure adequate to contain the animal and is continuously supervising the animal;
 - (b) the animal is tethered in or on a vehicle and unable to reach beyond the vehicle extremities;
 - (c) the animal is a dog in a dog off-leash area and under the supervision of a person who is able to control the animal by voice command;
 - (d) the animal is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for this section by the local government; or
 - (e) the animal is a working dog actually engaged in moving livestock and under the supervision of a person who is able to control the animal by voice command.

24 Person in control of dog or prescribed animal to clean up faeces

If any animal listed below defecates in a public place, the person who has control of the dog or animal must immediately remove and dispose of the faeces in a sanitary way:

- (a) Dogs;
- (b) Cats;
- (c) Horses;
- (d) Cattle;
- (e) Goats;
- (f) Donkeys;

- (g) Camels;
- (h) Sheep; and
- (i) any other animal faeces that an authorised person directs to have removed.

Maximum penalty—20 penalty units.

Division 2 Restraint of animals

25 Duty to provide proper enclosure and prevent animal from wandering

- (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 person's land.

Maximum penalty for subsection (1)—20 penalty units.

- (2) A person who keeps an animal in a wildlife habitat area outlined in Schedule 10 to *Subordinate Local Law No. 2 (Animal Management) 2018* must maintain a proper enclosure to ensure:

- (a) the animal is kept on the person's land to prevent the animal from wandering or escaping from the person's land; and
- (b) the animal is unable to attack wildlife that enters the land.

Maximum penalty for subsection (2) – 50 penalty units.

- (3) The requirements for a proper enclosure for an animal is a fence of a suitable height and construction method and materials to prevent the animal housed on the land from escaping over, through or under the fence.

- (4) The owner and responsible person of the animal must ensure that it is not wandering at large.

Maximum penalty for subsection (4)—20 penalty units.

Maximum penalty for subsection (4) where a dog is found wandering at large in a wildlife habitat area outlined in Schedule 10 to *Subordinate Local Law No. 2 (Animal Management) 2018* – 50 penalty units.

- (5) It is a defence to a prosecution for an offence against subsection (4) for the defendant to prove that:

- (a) the defendant maintained a proper enclosure for the animal and could not, by the exercise of reasonable diligence, have prevented the escape of the animal; or
- (b) the animal was wandering at large in circumstances authorised by the conditions of an approval granted under a local law.

Example for paragraph (b):

The conditions of an approval to keep racing pigeons might authorise the approval holder to release the pigeons from their enclosure for a certain amount of time each day and during official pigeon racing events.

Division 3 Aggressive behaviour by animals other than dogs

26 Limited application of division to dogs

(1) Unless otherwise indicated, this division does not apply in relation to aggressive behaviour by a dog.

(2) In this section:

aggressive behaviour means attacking, or acting in a way that causes fear to, someone else or another animal.

27 Animals not to attack or cause fear to persons or animals

(1) A responsible person for an animal must take reasonable steps to ensure the animal does not display aggressive behavior:

Maximum penalty for subsection (1):

- (a) if the attack causes the death of or grievous bodily harm to a person—500 penalty units; or
- (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units;
- (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
- (d) otherwise—20 penalty units.

(2) A person must not allow or encourage an animal to display aggressive behaviour.

Maximum penalty for subsection (2):

- (a) if the attack causes the death of or grievous bodily harm to a person—500 penalty units;
- (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units;
- (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
- (d) otherwise—20 penalty units.

(3) In this section:

allow or encourage, without limiting the *Criminal Code*, sections 7 and 8, includes cause to allow or encourage.

another animal does not include vermin that are not the property of anyone.

Examples of vermin that are someone's property—

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

28 Defences for offence against section 27

It is a defence to a prosecution for an offence against section 27 for the defendant to prove that the animal displayed aggressive behavior:

- (a) as a result of the animal being attacked, mistreated, teased, or provoked by the person or other animal; or
- (b) to protect the responsible person, or a person accompanying the responsible person (the accompanying person), or the responsible person's or accompanying person's property.

Examples of protecting property may include an attack occurring as a consequence of trespass.

Division 4 Dangerous animals other than dogs

29 Declaration of dangerous animal other than a dog

- (1) An animal, other than a dog, may be declared a dangerous animal having regard to the following criteria:
 - (a) whether the animal has attacked a person or an animal;
 - (b) whether the animal is likely to attack or worry a person or an animal;
 - (c) whether the animal has been trained or is used to attack for the purpose of guarding either persons or property; and
 - (d) whether the animal has been declared as a declared dangerous animal by another local government.
- (2) A declaration under subsection (1) takes effect at the time the local government gives the responsible person for the animal an information notice about the declaration.

30 Power to require responsible person for declared dangerous animal to take specified action

An authorised person may, by giving a compliance notice, require the responsible person for 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 cause fear to persons or other animals or cause damage to another person's property.

Part 4 Seizure, impounding or destruction of animals

Division 1 Seizure of animals

31 Seizure of animals

- (1) An authorised person may seize any animal, (including a dog), in the following circumstances:
 - (a) the animal is found wandering at large;
 - (b) a person has found the animal wandering at large on public land and delivered it to the authorised person;
 - (c) an occupier of private land has found the animal wandering at large on the land, taken it under effective control and requested the authorised person to enter the land to seize it;
 - (d) a person, the owner or a responsible person for the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law, relating to that animal;
 - (e) 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 TORUM Act; or
 - (f) the animal is being kept contrary to the conditions of a permit.
- (2) An authorized person may seize an animal, other than a dog, if the person reasonably believes the animal
 - (a) has attacked, threatened to attack or acted in a way that causes fear to, a person or another animal; or
 - (b) is, or may be, a risk to community health or safety
- (3) An authorised person may seize a dog where the responsible person for the dog has not complied with a compliance notice that has been issued in relation to compliance with this local law.
- (4) The authorised person may seize an animal under subsection (1)(a) or a dog under subsection (3)(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 private land has found the animal or dog wandering at large on the land, taken it under effective control and requested the authorised person to enter the land to seize it.
- (5) However, an authorised person is not obliged to accept the custody of an animal under this section.
- (6) For the purposes of seizing an animal, an authorised person may take any action, including the use of force, which is reasonable in the circumstances to capture or control the animal.

Division 2 Destruction of animal without notice

32 Power to immediately destroy seized animal

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

Division 3 Return or impounding of animals

33 Immediate return of animal seized wandering at large

- (1) This section applies where:
 - (a) an animal has been seized under section 31(1)(a)(b) or (c); and
 - (b) the authorised person who seizes the animal knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person may return the animal to the owner or responsible person.

34 Impounding of seized animal

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 operated by:

- (a) the local government; or
- (b) another organisation or local government prescribed by Schedule 8 in *Subordinate Local Law 2 (Animal Management) 2018*.

*Example for paragraph (a):
An animal pound.*

*Example for paragraph (b):
A veterinary surgery or an animal refuge.*

35 What is a notice of impounding

- (1) A notice of impounding means a written notice, given to the owner or responsible person for an animal, stating that:
 - (a) the animal has been impounded; and
 - (b) the animal may be reclaimed within the prescribed period provided that:
 - (i) the cost-recovery fee is paid;

- (ii) if a permit or registration is required for the keeping of the animal and the owner or responsible person does not have the permit or registration— the permit or registration is obtained;
 - (iii) if the animal has been seized under section 31(1)(d)— the owner or responsible person has complied with the relevant compliance notice;
 - (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 31(1)(d).

36 Dealing with animal seized and impounded for wandering at large

- (1) Subsection (2) applies where:
- (a) an authorised person has impounded an animal seized under section 31(1)(a), (b) or (c);
 - (b) the animal was not a declared dangerous animal or a regulated dog at the time of being seized; and
 - (c) the authorised person knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person must give the owner or responsible person a notice of impounding.
- (3) Subsection (4) applies where:
- (a) an authorised person has impounded a declared dangerous animal (other than a dog) seized under section 31(1)(d) or
 - (b) an authorised person has impounded an animal (including a dog) that has been seized more than 3 times during a 12 month period.
- (4) The authorised person may:
- (a) give the owner or responsible person for the animal a notice of impounding; or
 - (b) make a destruction order for the animal under section 41.

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

- (1) This section applies where an authorised person has impounded an animal seized under section 31(1)(d).
- (2) The authorised person may:

- (a) give the owner or responsible person for the animal a notice of impounding; or
- (b) if the animal was being kept in contravention of Part 2, Divisions 1 – 5 of this local law, or is an animal for which a permit cannot be granted under this local law or is an animal for which an application for a permit under this local law has been rejected— dispose of the animal under Part 4, Division 5

38 Dealing with animal seized and impounded for displaying aggressive behaviour

- (1) This section applies where an authorised person has impounded an animal seized under section 31(2);
- (2) The authorised person may:
 - (a) make a destruction order for the animal under section 41; or
 - (b) give the owner or responsible person a notice of impounding.

39 Reclaiming an impounded animal

- (1) This section applies where:
 - (a) the owner or responsible person for an animal has been given a notice of impounding; or
 - (b) an authorised person does not know, and cannot readily find out, the name and address of an owner or responsible person for the animal.
- (2) The animal may be reclaimed by an owner or responsible person if the owner or responsible person:
 - (a) reclaims the animal within the prescribed period;
 - (b) pays the cost-recovery fee;
 - (c) if a permit or registration is required for the keeping of the animal and the owner or responsible person does not have the permit or registration—obtains the permit or registration;
 - (d) if the responsible person 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;
 - (e) if the animal is required by law to be desexed then once the animal has been desexed; and
 - (f) if the animal is required by law to have a prescribed personal identification device then once the animal has the prescribed personal identification device.
- (3) However, the animal may not be reclaimed by an owner or responsible person 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 an owner or responsible person for the animal if an event as follows happens:
- (a) if subsection (3)(a) applies:
 - (i) an authorised person advises the owner or responsible person that the animal's continued retention as evidence is no longer required; and
 - (ii) the owner or responsible person has satisfied subsection (2)(b), (c), (e) and (f);
 - (b) if subsection (3)(b) applies:
 - (i) an application of 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 owner or responsible person has satisfied subsection (2)(b), (c), (e) and (f).
- (5) The prescribed period is:
- (a) if the dog is registered with the local government, 5 days; or
 - (b) if the dog is not registered with the local government, 3 days;
 - (c) other animals not including stock, 3 days; or
 - (d) cattle and other stock, 5 days.
- 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.
- (6) The prescribed period may be extended at the sole discretion of the local government upon the owner or responsible person providing evidence that it will take longer than the prescribed period to comply with subsection (2)(b), (c), (e) and (f).

40 Surrendering an animal

- (1) An owner or responsible person may apply to surrender ownership of an animal to the local government. To surrender ownership the owner or responsible person must complete the approved forms required under *Local Law No. 1 (Administration) 2018* and this local law.
- (2) The local government need not accept a surrender of ownership to it of an animal that is not an impounded animal.

Division 4 Destruction of animal following notice

41 Destruction orders

- (1) An authorised person may make an order (a destruction order) stating the person proposes to destroy an animal 14 days after the order is served.
- (2) A destruction order may only be made in one or more of the following circumstances:
 - (a) the animal has displayed aggressive behaviour;
 - (b) the animal is a declared dangerous animal and was found wandering at large; or
 - (c) the animal has been seized three or more times during a 12 month period.
- (3) The destruction order must:
 - (a) be served on the owner or responsible person for the animal; and
 - (b) include or be accompanied by an information notice.
- (4) If a destruction order is made for the animal, the person may destroy the animal 14 days after the order is served if no review application has been made relating to the decision to make the order.
- (5) If an application for review has been made relating to the decision to make the order, the person may destroy the animal if:
 - (a) the review is finally decided or is otherwise ended;
 - (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 relating to the decision to make the order, the 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 owner or responsible person for an animal may reclaim the animal if:
 - (a) a review relating to the decision to make the order is finally decided or is otherwise ended;
 - (b) no application for an appeal has been made against the order;
 - (c) the order is no longer in force; and
 - (d) the owner or responsible person has satisfied section 39(2)(b)-(d).
- (8) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if:

- (a) an appeal relating to the decision to make the order is finally decided or is otherwise ended;
 - (b) the order is no longer in force; and
 - (c) the owner or responsible person has satisfied section 39(2)(b), (c), (e) and (f).
- (9) In this section:

review means a review conducted under the process mentioned in Part 4 of *Local Law No.1 (Administration) 2018*.

appeal means an appeal under Part 5 of this local law.

Division 5 Disposal of impounded animals

42 Application of this division

This division applies where:

- (a) an impounded animal has not been reclaimed within the prescribed period under section 39(5);
- (b) if section 39(4)(a) applies— the impounded animal has not been reclaimed within 3 days of an authorised person’s advice to the owner or responsible person that the animal’s continued retention as evidence is no longer required;
- (c) if section 39(4)(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;
- (d) an authorised person has seized an animal mentioned in section 41(1); or
- (e) the owner of an animal has surrendered the animal to the local government.

43 Sale, disposal or destruction of animals

- (1) The local government may:
- (a) offer the animal for sale by public auction or by tender;
 - (b) sell the animal by private agreement;
 - (c) dispose of the animal in some other way without destroying it; or
 - (d) destroy the animal.
- (2) An animal may only be sold or disposed of under subsection (1) if the local government is satisfied that this will not result in the animal being kept in contravention of the requirements 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 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.*
- (3) If an animal is to be offered for sale at a public auction under this section, notice of the time and place of the auction must be exhibited at the local government's public office for at least 2 days before the date of the auction.
 - (4) An amount realised on sale of an impounded animal must be applied:
 - (a) first, towards the costs of the sale;
 - (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 had surrendered the animal to the local government.
 - (5) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (4)(c) by the date the animal is sold or otherwise disposed of under subsection (1), the amount becomes the property of the local government.
 - (6) If an animal that is offered for sale by public auction or tender is not sold through the auction or tender process, the local government may dispose of the animal as it considers appropriate.

Examples:

- *The local government may give the animal away.*
- *The local government may have the animal destroyed.*

Division 6 Miscellaneous

44 Register of impounded animals

- (1) The local government must ensure that a proper record of impounded animals (the register of impounded animals) is kept.
- (2) The register of impounded animals must contain the following information about each impounded animal:
 - (a) the species, breed and sex of the animal;
 - (b) the brand, colour, distinguishing markings and features of the animal;
 - (c) if applicable—the registration number of the animal;
 - (d) if known—the name and address of the responsible person;
 - (e) the date and time of seizure and impounding;
 - (f) the name of the authorised person who impounded the animal;
 - (g) the reason for the impounding;

- (h) a note of any order made by an authorised person relating to the animal; and
 - (i) the date and details of whether the animal was sold, released, destroyed or disposed of in some other way.
- (3) The register of impounded animals must be kept available for public inspection at the local government's public offices.

45 Access to impounded animal

- (1) This section applies to an animal impounded under section 37.
- (2) The local government must allow the owner of the animal to inspect it at a reasonable time, from time to time, following the making of an appointment with the pound officer.
- (3) Subsection (2) does not apply if it is impracticable or would be unreasonable to allow the inspection.
- (4) The inspection must be provided free of charge.

46 Unlawful removal of seized or impounded animal

- (1) A person must not, without the authority of an authorised person, remove or attempt to remove:
- (a) a seized animal from the custody or control of an authorised person; or
 - (b) an impounded animal from the local government's facility for keeping impounded animals.

Maximum penalty for subsection (1)—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.

Part 5 Appeals against destruction orders

47 Who may appeal

An owner or responsible person for an animal the subject of a destruction order may appeal to the Magistrates Court against the decision to make the destruction order.

48 Starting appeal

- (1) An appeal must not be started unless a review of the decision to make the destruction order has been finally decided or otherwise ended.
- (2) An appeal is started by:
- (a) filing a notice of appeal with the Magistrates Court;
 - (b) serving a copy of the notice of appeal on the local government; and
 - (c) complying with rules of court applicable to the appeal.

- (3) The notice of appeal must be filed within 14 days after the appellant is given notice by the local government about the finalisation of the review of the decision to make a destruction order.
- (4) However, the court may, at any time, extend the time for filing the notice of appeal.
- (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

49 Stay of destruction order

Within 1 hour of serving of the notice of appeal on the local government, the destruction order is stayed until the court decides the appeal.

50 Hearing procedures

- (1) In deciding an appeal, the Magistrates Court:
 - (a) has the same powers as the local government;
 - (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.

51 Court's powers on appeal

- (1) In deciding an appeal, the Magistrates Court may:
 - (a) confirm the decision appealed against;
 - (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) 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 decision subject to the appeal.

52 Appeal to District Court

- (1) An appeal lies to a District Court from a decision of the Magistrates Court, but only on a question of law.
- (2) An appeal must be commenced within 14 days of the date to the Magistrates Court decision.

Part 6 Miscellaneous

53 Sale of animals

- (1) Persons who offer for sale an animal of a species or breed mentioned in Column 1 of Schedule 9 of *Subordinate Local Law No. 2 (Animal Management) 2018* in circumstances described in column 2 of Schedule 9, must comply with the conditions set out in column 3 of Schedule 9.
- (2) Conditions specified under subsection (1) are in addition to requirements of the *Animal Management (Cats and Dogs) Act 2008* in relation to the supply of cats and dogs.
- (3) A person described in Column 2 of Schedule 9 must not offer or display animals for sale unless the person complies with conditions specified under subsection (1).

Maximum penalty for subsection (3)—50 penalty units.

- (4) A person other than a person described in Column 2 of Schedule 9 must not offer or display animals for sale.

Maximum penalty for subsection (4)—50 penalty units.

54 Subordinate local laws

The local government may make subordinate local laws about:

- (a) the circumstances in which the keeping of animals is prohibited;
- (b) the circumstances in which keeping of animals requires a permit;
- (c) the circumstances in which desexing of an animal is required;
- (d) specific standards for keeping animals of a particular species or breed;
- (e) breeding of animals that does not require a permit;
- (f) the exclusion of animals, or animals of a specified species, from public places;
- (g) designated dog off-leash areas;
- (h) other local governments or organisations able to accept impounded animals;
- (i) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale; and
- (j) the designation of wildlife habitat areas.

Part 7 Repeals

55 Repeal

This local law repeals –

- (a) Local Law No.2 (Animal Management) 2011.

CERTIFICATION

This and the preceding 24 pages bearing my initials is a certified copy of Tablelands Regional Council *Local Law No. 2 (Animal Management) 2018* made in accordance with the provisions of the *Local Government Act 2009*, by Tablelands Regional Council by resolution dated 2018.

Justin Commons
Chief Executive Officer
Tablelands Regional Council