



**Cassowary Coast Regional Council
Local Law No. 2 (Animal Management) 2022**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 2 (Animal Management) 2022*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to prohibit, 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 prohibition of **keeping of animals** in prescribed circumstances
 - (b) the regulation of the **keeping of animals** in terms of how many, what type, how, and where **animals** can be kept;
 - (c) the prescription of standards for keeping **animals**;
 - (d) the proper control of animals in **public places** and in an conservation planning area Identified in Schedule 10 of *Subordinate Local Law No. 2 (Animal Management) 2022*.
 - (e) the management of dangerous or aggressive **animals** other than dogs;
 - (f) the seizure and destruction of **animals** in certain circumstances;
 - (g) the recognition of associations relating to particular **animals**; and
 - (h) the establishment and administration of **animal** pounds.

3 Relationship with other laws

This local law is:

- (a) in addition to, and does not derogate from:
 - (i) laws regulating the use or development of **premises**; and
 - (ii) other laws about the keeping or control or welfare of **animals**;
- (b) to be read with *Local Law No. 1 (Administration) 2022* 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) 2022* is prohibited in the circumstances prescribed 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** identified in Column 1 of Schedule 2 to *Subordinate Local Law No. 2 (Animal Management) 2022*, in circumstances expressed in Column 2 of Schedule 2 is a **category 1 activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(What I want\)](#); and
 - (b) [Approved Form 2.5: Keeping of Animals](#).

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) 2022*, 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 **premises** where authorised by a development approval under the **Planning Act** or which is an exempt or self assessable use under the **Planning Act**.
- (3) 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 **premises**;
 - (c) whether the applicant for the **permit** or some other suitable person to supervise the **animal** will be resident on the **premises** 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 **premises**;
 - (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 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 **premises**;
- (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;
- (m) the **owner** and a **responsible person** must notify the **Council** of the current property address at which the animal is to be kept; and
- (n) 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** identified in Schedule 3 of *Subordinate Local Law No. 2 (Animal Management) 2022* 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 **responsible person** who keeps an **animal** on **premises**.
- (2) The **responsible person** 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 **premises** 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 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 by flies and vermin and does not allow the emission of nuisance odours; and
 - (iii) such stored **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, lice, flees, ticks 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 **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) Where an **authorised person** forms an opinion that:
- (a) a contravention of subsection (2) has occurred; and
 - (b) the **responsible person** should be given a **compliance notice**;
- then the **authorised person** must give a **compliance notice**.

12 Noise

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 3 complaints of a contravention of subsection 11(2)(i)(i) in circumstances where the **premises** the subject of the complaints is not located in an area occupied predominantly by residential **premises**;
- (c) whether **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) whether **animal** noise is made for more than a total of 6 minutes in any hour from 7 am to 10pm on any day.

13 Specific standards for keeping 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) 2022*, in circumstances described in Column 2 of Schedule 4.

14 Other permits

If a **responsible 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**.

15 Determination of relevant standards where inconsistency

- (1) The conditions of a **development 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.

16 Offence

A person who keeps an **animal** must ensure that the relevant minimum and specific standards contained in sections 11 and 13 of this local law are complied with.

Maximum penalty for this Division —20 penalty units.

Division 5 Breeding of animals

17 Prescribed activity

- (1) **Breeding of animals** is a **category 1 activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(What I want\)](#); and
 - (b) [Approved Form 2.17: Breeding of Animals](#).
- (3) A **permit** under this Division is declared to be non-transferable.

18 Breeding permit

- (1) A **responsible person** must not allow the **breeding of animals** without a current **permit**.
- (2) Despite subsection (1) **breeding of animals** not requiring a **permit** are identified in column 1 of Schedule 5 to *Subordinate Local Law No. 2 (Animal Management) 2022*, in circumstances expressed in Column 2 of Schedule 5.

19 Additional criteria for granting a permit

- (1) **Council** must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) the **premises** 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 **premises**;
- (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 **responsible person** for the **animal** or 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.

20 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** 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

21 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 **effective control** and being used in connection with the business or an organisation approved by the local government to carry out security services.
- (2) Section 24 does 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) not a regulated **dog**;
 - (iii) not a **dog** that is on heat; and
 - (iv) wearing a jacket and tag identifying it as an **assistance dog**.

22 Exclusion of animals

- (1) **Council**, by *Subordinate Local Law No.2 (Animal Management) 2022* 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 **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) **Council** must take reasonable steps, to provide notice to members of the public, which include the display of a notice at a prominent place within the **public place**, stating the **animals** that are prohibited in the **public place**.

23 Dog off-leash areas

- (1) **Council**, by *Subordinate Local Law No. 2 (Animal Management) 2022* Schedule 7, identifies 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) **Council** must take reasonable steps, to provide notice to members of the public, including as a minimum the display of a notice at a prominent place within the **dog off-leash area** indicating the extent of the area.

24 Control of animals in public places

- (1) The **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**; 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.

Maximum penalty for subsection (1)—50 penalty units.

- (2) The **responsible person** for a **dog** must ensure that it is not in a conservation planning area as identified in Schedule 10 to *Subordinate Local Law No. 2 (Animal Management) 2022* unless the **dog** is under **effective control**.

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

- (3) The **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.

25 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 a **responsible person** to remove.

Maximum penalty—20 penalty units.

Division 2 Restraint of animals

26 Duty to provide proper enclosure

- (1) A **responsible person** who keeps an **animal** must maintain a proper enclosure to keep the **animal** on the **premises** at which the **animal** is kept and prevent the **animal** from **wandering at large** or escaping from the **premises**.

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

- (2) A **responsible person** who keeps an **animal** on **premises** in a conservation planning area outlined in Schedule 10 to *Subordinate Local*

Law No. 2 (Animal Management) 2022 must maintain a proper enclosure to ensure:

- (a) the **animal** is kept in the enclosure to prevent the **animal** from **wandering at large** or escaping from the enclosure; and
- (b) the enclosure reasonably inhibits other animals from entering the enclosure.

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

- (3) The requirements for a proper enclosure for an **animal** is a structure of suitable height and construction method and materials to prevent the **animal** housed on the **premises** from escaping over, through or under the fence.
- (4) The **responsible person** of the **animal** must ensure that it is not **wandering at large**.

Maximum penalty for subsection (4) where a **dog** is found **wandering at large** in a conservation planning area outlined in Schedule 10 to *Subordinate Local Law No. 2 (Animal Management) 2022* - 50 penalty units.

Otherwise - 20 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 a **permit** 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

27 Limited application of division to dogs

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

28 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** not including vermin that are not the property of anyone —100 penalty units;
 - (c) if the attack causes bodily harm to a person or another **animal**, not including vermin that are not the property of anyone —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** not including vermin that are not the property of anyone —100 penalty units;
- (c) if the attack causes bodily harm to a person or another **animal** not including vermin that are not the property of anyone —50 penalty units; or
- (d) otherwise—20 penalty units.

29 Defences for offence against section 28

It is a defence to a prosecution for an offence against section 28 for the defendant to prove that the **animal** displayed **aggressive behavior** to the person or **animal**:

- (a) as a result of the **animal** being attacked, mistreated, teased, or provoked by the person or **animal**; or
- (b) to protect:
 - (i) the **responsible person**;
 - (ii) a person accompanying the **responsible person**; or
 - (iii) 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

30 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 **Approved Form 2.30: Declaration of dangerous animal**.
 - (3) **Council** must give the person an **Information notice**.
- 31 Power to direct responsible person for declared dangerous animal to take specified action**
- (1) Where an **authorised person** forms an opinion that either:
 - (a) persons entering the premises on which a **declared dangerous animal** is kept should be warned; or
 - (b) an enclosure needs to be constructed or improved to secure the **declared dangerous animal** on part of the **premises** to prevent causing fear or attack to another person, property or **animal**.
 a direction, must be given requiring the **responsible person** for a **declared dangerous animal** to take specified action.
 - (2) A **responsible person** must comply with the direction.

Maximum penalty for subsection (1) —20 penalty units
 - (3) **Council** must give the person an **Information notice**.

Part 4 Seizure, impounding or destruction of animals

Division 1 Seizure of animals

32 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 place** and delivered it to the **authorised person**;
 - (c) an **occupier** of private **premises** has found the **animal wandering at large** on the **premises**, taken it under effective control and requested the **authorised person** to enter the **premises** 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 **authorised 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) The **authorised person** may seize an **animal** under subsection (1)(b) or (c).
- (4) 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

33 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, impounding or destruction of animals

34 Immediate return of animal seized wandering at large

- (1) This section applies where:
 - (a) an **animal** has been seized under section 32(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 **responsible person** for the **animal**.

(2) The **authorised person** may return the **animal** to the **responsible person**.

35 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 **Council**; or
- (b) another organisation or another local government prescribed by Schedule 8 in *Subordinate Local Law No. 2 (Animal Management) 2022*; or
- (c) another organization approved by **Council** in writing.

Example for paragraph (a): An animal pound.

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

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 32(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 **responsible person** for the **animal**.

(2) The **authorised person** must give the **responsible person** an **Approved Form 2.36 Notice of Impounding an Animal**.

(3) Subsection (4) applies where:

- (a) an **authorised person** has impounded a **declared dangerous animal** (other than a **dog**); 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 32(1)(d) and 32(1)(f).

(2) The **authorised person** may:

- (a) give the **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 32(2);
- (2) The **authorised person** may:
 - (a) make a **destruction order** for the **animal** under section 41; or
 - (b) give the **responsible person** a **notice of impounding**.

39 Reclaiming an impounded animal

- (1) This section applies where:
 - (a) the **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 a **responsible person** for the **animal**.
- (2) The **animal** may be reclaimed by a **responsible person** if the **responsible person**:
 - (a) makes Application on [Approved Form 2.39: Request to reclaim an impounded animal](#) under *Local Law No. 1 (Administration) 2022* and this local law;
 - (b) pays the **prescribed fee**;
 - (c) reclaims the **animal** within the prescribed period;
 - (d) if a **permit** or registration is required for the keeping of the **animal** and the **responsible person** does not have the **permit** or registration— obtains the **permit** or registration;
 - (e) 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**;
 - (f) if a condition of a **permit** had not been complied with and the **responsible person** now complies with the condition;
 - (g) if the **animal** is required by law to be desexed then once the **animal** has been desexed; and
 - (h) if the **animal** is required by law to have a **PPID** then once the **animal** has the **PPID**.
- (3) However, the **animal** may not be reclaimed by a **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 a **responsible person** for the **animal** if an event as follows happens:
 - (a) if subsection (3)(a) applies:
 - (i) an **authorised person** advises the **responsible person** that the **animal's** continued retention as evidence is no longer required; and
 - (ii) the **responsible person** has satisfied subsection (2);
 - (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 **responsible person** has satisfied subsection (2).
- (5) The prescribed period in subsection 2(c) 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) **stock**, 5 days.

commencing on the day a **notice of impounding** is given to a **responsible person** or, if no notice is given, on the day of the seizure.
- (6) The prescribed period may be extended at the sole discretion of the **Council** upon the **responsible person** providing evidence that it will take longer than the prescribed period to comply with subsection (2).

40 Surrendering an animal

- (1) An **owner** may make application to surrender ownership of an **animal** to the **Council**.
- (2) To surrender ownership the **owner** must complete [Approved Form 2.40: Request to Surrender Ownership of an Animal](#).
- (3) **Council** 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 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**;
 - (c) the **animal** has been seized three or more times during a 12 month period; or
 - (d) it would be humane to the **animal**.
- (3) The **destruction order** must:
 - (a) Must be on **Approved Form 2.41: Destruction Order**;
 - (b) be served on the **owner**, or where the **owner** cannot be reasonably served, another **responsible person** for the **animal**; and
 - (c) include or be accompanied by an **information notice**.
- (4) If a **destruction order** is made for the **animal**, it may be destroyed 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 **destruction order**, the **animal** may be **destroyed** if:
 - (a) the time allowed for filing a notice of appeal has expired and no notice of appeal has been filed; or
 - (b) a notice of appeal has been filed and the review is finally decided or is otherwise ended; and
 - (c) the destruction order has been confirmed.
- (6) If the **animal** has been impounded, the **responsible person** for an **animal** may reclaim the **animal** if:
 - (a) the **destruction order** is no longer in force; and
 - (b) a **responsible person** has satisfied section 39(2).
- (7) If the **animal** has been impounded, a **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).

(8) In this section:

review means a review conducted under the process mentioned in Part 4 of *Local Law No.1 (Administration) 2022*.

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 32; or
- (e) the **owner** of an **animal** has surrendered the **animal** to the **Council**.

43 Sale, disposal or destruction of animals

(1) **Council** 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 **Council** 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 **Council'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 **prescribed 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 **Council**.
- (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 **Council**.
- (6) If an **animal** that is offered for sale by public auction or tender is not sold through the auction or tender process, the **Council** may dispose of the **animal** as it considers appropriate.

Examples:

- *The Council may give the animal away.*
- *The Council may have the animal destroyed.*

Division 6 Miscellaneous

44 Register of impounded animals

- (1) The **Council** must ensure that a 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 **owner** and **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 **Council's** public offices.

45 Access to impounded animal

- (1) This section applies to an **animal** impounded.
- (2) The **Council** must allow the **owner** and **responsible person** 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 **Council'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 **Council** 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 **Council**; 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 **Council** 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 **Council**, 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 **Council**;
 - (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 **Council** 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 **Council**.
- (3) An order for the costs of an appeal may only be made against **Council** 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) 2022* 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

Council 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 conservation planning area Identified in Schedule 10 of *Subordinate Local Law No. 2 (Animal Management) 2022*.

Part 7 Repeals

55 Repeal

This local law repeals –

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

CERTIFICATION

This and the preceding 23 pages bearing my initials is a certified copy of Cassowary Coast Regional Council *Local Law No. 2 (Animal Management) 2022* 18 made in accordance with the provisions of the *Local Government Act 2009*, by Cassowary Coast Regional Council by resolution dated 28 July 2022.

A handwritten signature in black ink, appearing to read 'Andrew Graffen', is positioned above the printed name.

Andrew Graffen
Chief Executive Officer
Cassowary Coast Regional Council