

City of Moreton Bay

Animal Management Local Law 2023

Explanatory Notes

2023 | Version 1.0



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Short title

This Local Law may be cited as the *Animal Management Local Law 2023*.

What is this Local Law trying to achieve and why?

City of Moreton Bay understands and appreciates that pets are an integral part of many households in the City. The Council encourages responsible pet ownership and wants to ensure the City is a place where members of the community can enjoy having their pets.

As responsible pet owners, you have obligations to take care of your animals and provide them with food, water and shelter. These obligations are largely regulated by State Government legislation, primarily the *Animal Care and Protection Act 2001*. However, being a responsible pet owner involves much more than just providing the bare necessities. It also includes taking responsibility for ensuring that your pet can live harmoniously with and does not adversely impact other residents in the community and visitors to the City, including those who choose not to have a pet.

It is the aim of Council for pets to contribute to our community in a way which maintains the health, safety and amenity of both the community and environment and also balances community expectations with the rights of individuals.

As a responsible pet owner, this Local Law requires you to:

- Keep the right number and type of pets for your property size;
- Register your cat with Council (noting there is a similar requirement to register dogs under the State Government's *Animal Management (Cats and Dogs) Act 2008* [the AMCD Act]);
- Continuously meet the minimum standards for keeping your pet (this includes making sure it does not escape your property, preventing it from causing a nuisance to neighbours and others, taking steps to prevent your dog attacking wildlife etc.);
- Always have proper and effective control of your pet (or pets) when you are out and about (*for example, walking on a leash*);
- Make sure your pet does not cause fear to, or attack other people or animals; and
- Clean up after your pet.

Council aims to create a Local Law that is accessible and easy to understand. The previous Local Laws on animal management were spread across two different Local Laws (i.e., the Animal Management Local Law and the Administration Local Law). This made it confusing for the community to navigate and difficult for pet owners to understand all their obligations. This Local Law brings all the laws relating to animal management (including approval processes, review process and defences, which were previously in the Administration Local Law) into one place.

How will the Local Law achieve those aims?

This Local Law repeals *Local Law No. 2 (Animal Management) 2011* and provides an updated regulatory framework for the keeping and control of animals in a way that encourages responsible pet ownership in the Moreton Bay City. The Local Law achieves its purposes by:

- Updating the limits on the number and type of animals that can be kept;
- Retaining the process and obligations for the registration of cats;
- Retaining and clarifying the approval process for the keeping of additional animals;
- Giving flexibility for Council to allow the keeping of an animal in circumstances where it would otherwise be prohibited, in exceptional circumstances;
- Clarifying the number limits and approval process for breeders of cats and dogs;
- Retaining minimum standards and adding further minimum standards for the keeping of animals;
- Retaining the offence of animal nuisance and clarifying related enforcement measures;
- Updating the regulations on the control of animals in public places; and
- Retaining compliance and enforcement options for Council officers in dealing with contraventions of this Local Law.

(1) Updating limits on the number and type of animals that can be kept

Council considers that placing caps on the number and type of animals that can be kept on a property is a reasonable and appropriate method of facilitating responsible pet ownership and protecting amenity and the surrounding community. This measure recognises that different species of animal have different needs regarding space and that certain species present a higher risk of nuisance on smaller lots than others (*for example, roosters*). The imposition of animal number caps based on lot size has been widely adopted by local governments across Queensland. Retention of these caps is also supported by the majority of the community, as represented by the public survey responses received in the consultation on the proposed Local Law.

Council has considered the number caps for all animals regulated by the Local Law and has decided to adjust some of these. Decisions have been made having regard to community expectations, health, safety and amenity impacts.

This Local Law also removes the prohibition on cats and dogs being kept in relocatable home parks. The keeping of a cat or dog in these parks will only be permitted with approval from the relevant management entity (i.e., park manager) and the minimum standards will apply.



(2) Retaining the process and obligations in respect of registration of cats

Council has retained the cat registration process and registration renewal obligations from the 2011 Local Law. These mirror the dog registration process and obligations under the AMCD Act. Cat (and dog) registration and the associated fees assist in providing key services and facilities that keep you and your pet safe. These include:

- helping your lost pet find its way home by providing a 24-hour lost and found service; and
- creating a 'proof of ownership' identification system; and

- enabling Council officers to attend to the investigation and resolution of complaints about cats being a nuisance and wandering animal collection and reunification; and
- facilitating sponsorship of key programs and events that achieve responsible pet ownership outcomes; and
- facilitating pet fair events featuring a range of activities, including discounted treatments and microchipping.

(3) *Retaining and clarifying the approval process for the keeping of additional animals*

Council recognises there may be certain limited cases where it is permissible for you to keep more animals than the limits in the Local Law allow. Under the previous Local Law, you needed an approval from Council to keep extra animals. Council believes this remains the best way to manage these cases.

This approval process allows Council officers to decide on a case-by-case basis whether it is appropriate for you to keep extra animals at your property. It also recognises that the risk of potential nuisance is higher where certain animals, or a higher number of animals are being kept, by allowing Council to impose conditions on the keeping of the animal via the approval. The conditions imposed via approval apply over and above the minimum standards set out in the Local Law.

A person can only apply for an additional animal approval for some species of animal and in the circumstances set out in the Local Law. For some species, including cats, dogs and roosters, there is a limit on how many additional animals you can seek approval for.

For example: On a lot between 600m² and 3000m², a person can keep 2 cats and 2 dogs without needing an approval. They can apply to keep 1 additional cat and 1 additional dog.

For some other species, a person must apply to keep over a certain number, but there is no maximum number limit that can be approved.

For example: On lots 10,001m² and over, an approval is required to keep more than 30 head of poultry.

Council also recognises there are circumstances where it may not be appropriate to grant an approval to keep an extra animal. As such, the new Local Law gives Council officers the ability to refuse an application; for example, if the applicant has been found guilty of an animal welfare offence under the *Animal Care and Protection Act 2001*.

Although Council has decided to retain an approval process for keeping extra animals, Council considers the application process could be improved by providing greater flexibility to Council to decide mandatory application criteria and conditions of an approval. As such, Council has introduced a purpose-driven approval process in this Local Law. It gives flexibility to Council to decide application criteria and conditions provided they are consistent with the purposes of the Local Law. Council believes that an approval process structured in this way will help Council better achieve the purposes of the Local Law.

(4) *Giving flexibility for Council to allow the keeping of an animal in exceptional circumstances, where it would otherwise be prohibited*

There was limited flexibility in the previous Local Law for the Council to allow the keeping of an animal where it was prohibited in the Local Law (*for example, where number caps and lot size restrictions did not allow it and where there was no option to apply for approval to keep an extra animal*). Having this flexibility in the Local Law allows Council officers to consider circumstances of the person and animal on a case-by-case basis, resulting in fairer outcomes which are in the best interests of the community. Unlike the additional animal approval, this flexibility is not restricted to certain species, lot sizes or number caps. However, Council will need to be satisfied that an exceptional circumstance exists that justifies the keeping of the animal. An exceptional circumstance may be one of the following:

- Where a person has lawfully kept the animal (or number of animals) in another local government area, but exceeds the number cap for that animal under City of Moreton Bay's Local Law; or

- Where a person moves from a large property to a smaller property within the Moreton Bay City; or
- Where a person takes on responsibility for a deceased relative or friend's pet; and
- Foster carers for short periods of time.

This list of potential 'exceptional circumstances' is non-exhaustive, as Council recognises new situations may arise that have not previously been considered where the exercise of this flexibility may be appropriate.

(5) *Clarifying number limits and the approval process for breeders of cats and dogs*

Under the previous Local Law, a recognised animal breeder could obtain approval to keep animals in excess of the ordinary number limits for their property size. However, the Local Law did not specify what kind of approval was required (*for example, a Local Law approval or a development approval*) and how it could be obtained. There was no approval process for breeder permits under the previous Local Law.

This Local Law clarifies the issue by providing that a registered breeder of cats or dogs may apply for approval under the Local Law to keep up to 6 cats or 6 dogs, even where the numbers exceed the maximum permitted for the person's property size.

For example: Ordinarily, on a property of 0m² to 599m², a person may keep 1 cat and 1 dog, or 2 cats, or 2 dogs. On the same property size, a breeder may seek an approval to keep up to 6 dogs or 6 cats for the purpose of breeding.

Should breeders wish to keep more than 6 cats or dogs for breeding purposes, they may be able to apply for a development approval.

Council believes this clarification to be consistent with the object of the Local Law with respect to balancing the rights of individuals against community expectations.

(6) *Retaining minimum standards and adding further minimum standards for the keeping of animals*

Council recognises there are basic standards of care that should be met by responsible pet owners that go beyond providing water, food and shelter. These basic standards were framed as minimum standards in the previous Local Law. Council has retained minimum standards in this Local Law, while including further standards for certain animals and incorporating the previous nuisance provisions, which have also been retained.

Some minimum standards apply to all animals. *These include, for example, the obligation to prevent your animal from causing a nuisance and the requirement to provide a proper enclosure and prevent an animal from wandering.* However, Council also recognises that in some cases it will be appropriate to have minimum standards for particular species of animal.

While the inclusion of minimum standards acknowledges welfare considerations, this is not an express purpose of the Local Law as the primary legislation regulating animal welfare is the *Animal Care and Protection Act 2001*, which is administered primarily by RSPCA inspectors.

(7) *Updating the regulations on the control of animals in public places*

Community health and safety is of the utmost importance when taking your pet outside of your property and into public places. This Local Law updates the regulations on the control of animals in public to better align with community expectations and ensure the safety of people and other animals. This includes, for example:

- Updating the definition of '**effective control**' to make it easier for Council officers to determine whether a person has adequate control of their animal or animals; and
- Giving Council the ability to impose conditions on the use of Dog Off-Leash Areas (**DOLAs**).

(8) *Retaining compliance and enforcement measures for Council officers in dealing with contraventions*

of this Local Law

This Local Law retains existing compliance and enforcement measures that are integral for Council to ensure responsible pet ownership and community safety both on private property and in public places. Where a person has breached an obligation or committed an offence under the Local Law, these measures may include, for example:

- Issuing a compliance notice, (to give the person an opportunity to take certain steps to remedy the breach);
- Issuing a fine (which aims to deter the person from continuing to commit breaches);
- Prosecution (which aims to both deter and punish the person for either continuing to commit breaches, or committing breaches of a more serious nature);
- Seizing and impounding an animal in certain circumstances; and
- Making a dangerous animal declaration where an animal has been aggressive or there is a high level of concern about the danger posed by the animal.

Who did Council seek feedback from informing this law?

In March 2021, Council sought feedback from the community to identify key issues with the Animal Management Local Law and invited recommendations on how those issues could be addressed. This consultation took the form of a public survey, as well as invitations to relevant peak body organisations and state departments.¹ 256 public survey responses and 5 peak body submissions were received. Council reviewed all responses and identified issues that were the most prevalent for the community.

In July 2021, targeted consultation on these specific issues occurred via a second public survey and further invitations to the relevant peak bodies and state departments. An overview of the community feedback on the issues relevant to the Animal Management Local Law is provided below.

Animal Number Caps and Lot Sizes		
Survey question	Responses received	Outcome
Should Council continue to cap the maximum number of animals on a property?	1604	Yes = 71.05% No = 27.31% Unsure = 1.62%
Should the maximum number of animals be based on lot sizes? ²	1140	Yes = 88.00% No = 11.00% Unsure = 1.00%
Do the lot sizes and number of animals permitted under current Local Laws need to be revised? ³	1134	Yes = 38.71% No = 45.06% Unsure = 16.23%

Additional animals		
Survey question	Responses received	Outcome
Should Council be able to allow additional animals in some circumstances? ⁴	1132	Yes = 66.52% No = 26.15% Unsure = 7.33%

Assistance Animals

¹ RSPCA, Small Paws Animal Rescue, Peninsula Animal Aid, Queensland Beekeepers' Association, Dogs Qld, Queensland Feline Association, Caboolture and Districts Animal Welfare, Farm Animal Rescue Dayboro, Feather Clubs Association of Qld Inc, Pine Rivers Koala Care Association, Moreton Bay Koala Rescue, Animal Welfare League Qld, Biosecurity Queensland, Department of Agriculture and Fisheries, Department of Local Government, Queensland Parks and Wildlife, Department of Environment and Science.

²The public were also asked: "If lot sizes are not an appropriate way to regulate animal numbers, what measure should be used?" Council received varied and diverse responses to this question.

³ The public were also asked: "What should the lot sizes and number of animals permitted be?" Council received varied and diverse responses to this question.

⁴ The public were also asked: "What should be the criteria for Council to allow additional animals?" Council received varied and diverse responses to this question.

Survey question		
Survey question	Responses received	Outcome
Should Council expand its concept of 'assistance animal' to allow a person to keep an animal in circumstances where they ordinarily couldn't, provided their medical practitioner certifies the animal is helping to alleviate a medical condition (even if the animal is not recognised under state laws as a guide, hearing or assistance animal)?	970	Yes = 68.10% No = 29.20% Unsure = 2.70%

Keeping Roosters		
Survey question	Responses received	Outcome
Should residents be allowed to keep roosters on rural residential lots? ⁵	1045	Yes = 68.10% No = 28.00% Unsure = 3.4% ⁶

Dogs in Koala Areas		
Survey question	Responses received	Outcome
Should residents who own dogs in koala areas be required to take extra steps to prevent their dogs attacking koalas? ⁷	1040	Yes = 72.40% No = 22.80% Unsure = 4.80%

Throughout the course of public consultation, 6058 formal submissions in total were made to the review on animals.⁸ 11 of these were peak body and state department submissions.

Key recommendations made during consultation that have been incorporated into the Local Law include:

- Retention of animal number caps based on lot size;
- Relaxation of animal number caps and lot size requirements for, roosters, cows/steer, alpacas/llamas/camels and pigs;
- Introduction of flexibility in imposing animal number caps in exceptional circumstances;
- Introduction of an aviary birds schedule; and
- Expansion of obligations on dog owners to contain their dog when a koala is on the land.

⁵ The public were also asked: "How many roosters should you be allowed to keep?" Approximately 40.9% of respondents who supported roosters on rural residential lots recommended 1, 36.6% said more than 1 and 10.2% did not provide respond to this question.

⁶ The remaining 0.5% of respondents provided general comment without responding to the survey question.

⁷ The public were also asked: "What measures should be required of dog owners to protect koalas from attacks?" Council received varied and diverse responses to this question.

⁸ Submissions made by members of the community to the public survey were counted separately for each separate issue that a response was sought for. Consultation was also undertaken via social media. While responses provided via social media were considered, they are not counted in the above totals.

Plain English explanations of each section of the Local Law

Note:

- *Local Law No. 2 (Animal Management) 2011* (which is repealed by this Local Law) will be referred to throughout this section as the '**2011 Animal Management Local Law**'.
- The relevant sections of *Local Law No. 1 (Administration) 2011* will be referred to throughout this section as the '**2011 Administration Local Law**'.

Chapter 1 - Preliminary

Part 1 - Introductory Provisions

Section 1 - Short title

This section establishes the short title of this Local Law.

Part 2 - Object and achievement of Local Law

Section 2 - Object

This section retains key objectives of the 2011 Local Law relating to community health, safety and amenity. It introduces the concept of 'responsible pet ownership', which focuses on preserving the rights of individuals in relation to the keeping of animals but promoting the keeping of those animals in a way that is responsible to both the needs of the animal and the risks to, and impacts on, the community. In line with these object, the Local Law:

- updates the number of animals permitted per residential property. This includes a relaxation on numbers for certain species to align with prevailing community expectations;
- introduces greater flexibility to allow the keeping of animals;
- retains and clarifies the requirements for effectively controlling animals in public and other places to better ensure public safety; and
- retains powers of Council officers in relation to the seizure, impounding and in certain circumstances destruction of animals.

Section 3 - How object of Local Law is to be achieved

This section sets out how the object of the Local Law will be achieved. Each of the matters listed in this section directly relate to the object of the Local Law.

For example, this Local Law provides for:

- *the imposition of registration obligations on cat owners. This supports the object of promoting responsible pet ownership by ensuring Council has information that enables the cat to be identified with its owner, should it escape its property; and*
- *how animals must be controlled in public places. This supports the object of promoting responsible pet ownership and protects the community against risks to health and safety by ensuring that the behaviour and movement of animals is controlled in public places in a way which allows other members of the public to use these places without interference.*

Part 3 - Interpretation

Division 1 - Dictionary

Section 4 - Definitions

This section states that the dictionary in the Schedule defines particular words in the Local Law.

Division 2 - Key concepts

Section 5- Who is an owner of an animal

This section defines who is an **‘owner’** of an animal. This largely retains the definition from the 2011 Animal Management Local Law. It recognises that for some species of animal, the owner is the registered owner. For other animals that do not require registration, it may be the person who keeps the animal on a permanent basis.

Section 6 - Who is a responsible person for an animal

This section defines who is a **‘responsible person’** for an animal. There are circumstances in which the person with immediate control or direct supervision of the animal is not the owner of the animal. *For example, a dog owner may hire a dog walker to take their dog for a walk, or alternatively may drop the dog off at another person’s house to be minded for a short time.* The Local Law imposes obligations on the persons who are temporarily responsible for the animal (as well as the formal owners) to ensure that the minimum standards continue to be met, and to ensure effective control of the animal in public and other places for the safety of the community.

Section 7 - Keeping of animals

This section defines what it means to **‘keep’** an animal. Previously this was keeping the animal for a period of 30 days, however this has been reduced to 14 days to:

- align with the requirement to register a dog within 14 days, under the AMCD Act; and
- assist in the regulation of animals kept for shorter periods of time.

The 14-day period does not have to be 14 days in a row. The obligations for keeping an animal under this Local Law will also apply to a person who has kept an animal for 14 days or longer in any 3-month period.

For example, a person keeps a cat on their property for 10 days. They take the cat to a family member’s house for 2 days, then bring it back to their own property. This will still trigger the obligations for ‘keeping’ an animal under this Local Law.

This is aimed at preventing people from removing their animal from the property every 14 days to avoid their responsibilities under this Local Law.

Section 8 - Control of an animal

This section defines **‘control’** of an animal to mean the management of the animal’s behaviour and movement.

Part 4 - Operation of Local Law

Section 9 - Relationship with other Acts

This section clarifies that this Local Law is intended to be consistent with, and in addition to those laws regulating the keeping and control of animals, including use or development land, the keeping, control and welfare of animals, guide, hearing and assistance dogs or assistance animals, environmental management and protection, residential tenancies and bodies corporate, criminal offences and police powers and responsibilities.

In developing the provisions of the Local Law, consideration has been given to relevant provisions of the State Government legislation listed below. Where appropriate, the Local Law provisions have been drafted to reflect similar regulations, or otherwise to avoid duplication or inconsistency with State Government legislation:

- *Animal Management (Cats and Dogs) Act 2008 (the **AMCD Act**);*
- *Animal Care and Protection Act 2001;*
- *Guide, Hearing and Assistance Dogs Act 2009;*
- *Planning Act 2016;*
- *State Penalties Enforcement Act 1999 and Statement Penalties Enforcement Regulation 2014;*
- *Biosecurity Act 2014;*
- *Environmental Protection Act 1994;*
- *Criminal Code 1899;*
- *Body Corporate and Community Management Act 1997;*
- *Residential Tenancies and Rooming Accommodation Act 2008;*
- *Police Powers and Responsibilities Act 2000; and*
- *Local Government Act 2009.*

(1) Animal Management (Cats and Dogs) Act 2008

The following matters are regulated via the AMCD Act and so are largely omitted from this Local Law (except where the Act provides for regulation by way of Local Law):

- Identification and registration requirements for dogs;
- Identification requirements for cats;
- Management and control of regulated dogs;
- Dog attack offences;
- Declaration of regulated (dangerous or menacing) dogs; and
- Enclosure requirements and conditions for the keeping of regulated dogs.

Some provisions of the Local Law will apply to animals other than dogs or regulated dogs. For example, the Local Law regulates:

- registration requirements for cats (which is based off the dog registration provisions under the AMCD Act); and
- the declaration of dangerous animals other than dogs (as the AMCD Act contains a process for declaration of dangerous dogs).

Some provisions of this Local Law will apply to regulated dogs in addition to the AMCD Act. For example, this Local Law requires all animals not to cause a nuisance.

Where possible, the provisions in this Local Law relating to keeping, control, seizure and destruction of animals have been drafted in a similar structure with terminology consistent with the AMCD Act. This is intended to make interpretation, administration and enforcement of this Local Law and the AMCD Act easier for Council officers and the public.

The Animal Management (Cats and Dogs) Regulation 2009 sets out permit requirements for declared dangerous or menacing dogs. Council officers appointed as authorised persons under the AMCD Act are able to enforce compliance with these permit requirements. The key permit requirements relate to identification and specifications for regulated dog enclosures (namely, that it must be child-proof and include signs notifying the public about the dog).

(2) Animal Care and Protection Act 2001

This Act is the main law for animal welfare in Queensland and prevails over this Local Law if this Local Law is inconsistent with it. The Act establishes a duty of care for persons in charge of animals, including a requirement to provide for the animal's needs. The *Animal Care and Protection Regulation 2001* calls up Codes of Practice in relation to keeping of certain types of animals, which inform the development of minimum standards under this Local Law.

While this Local Law includes minimum standards for keeping animals, Council considers these minimum standards to be consistent with, and in addition to, the animal welfare objectives and obligations contained in the *Animal Care and Protection Act 2001*.

Animal owners are required to comply with any mandatory states Codes of Practice (including those referred to in the *Animal Care and Protection Regulation*) relevant to the keeping of animals, as well as any voluntary Codes of Practice adopted by resolution of Council.

(3) Guide, Hearing and Assistance Dogs Act 2009

This Act establishes the rights of persons with a disability to be accompanied by a certified guide, hearing or assistance dog in public places. It also places obligations on people exercising control of public places to facilitate this. The prohibitions and restrictions on keeping animals in this Local Law do not apply to guide, hearing and assistance dogs. This ensures this Local Law is consistent with the protections afforded to persons with a disability under this Act.

(4) Planning Act 2016

In some circumstances, the keeping of animals may require development approval under the *Planning Act 2016*. For example, where there is a material change of use of a residential property to include a dog kennel or boarding facility. Nothing in this Local Law is intended to establish an alternative development process and any obligation or requirement imposed by or under this Local Law does not involve an assessment of development. To the extent that the keeping of animals constitutes development as that term is defined in the *Planning Act 2016*, that use ought to be assessed pursuant to the development process in that Act. This Local Law should not be relied on to regulate any activity dealt with, or that could have been dealt with, under a development approval, an existing land use right. However, this Local Law can regulate matters relating to the keeping of animals to the extent that it is not a matter that can be regulated under the *Planning Act 2016*.

(5) State Penalties Enforcement Act 2014; State Penalties Enforcement Regulation 2014

The State Penalties Enforcement legislation empowers Council officers who are authorised persons under the AMCD Act to serve infringement notices (and potentially commence prosecutions) for certain offences committed against the AMCD Act. Some of these include:

- Failure to have cat or dog implanted with the appropriate microchip;
- Failure to register as a dog breeder within 28 days after the day the dog is born;
- Failure to register a dog within the relevant local government area within 14 days after starting to keep the dog;

- Failure to ensure the dog bears the identification prescribed under a Local Law;
- Failure to notify the local government of changed registration information for a dog (*for example, change of address*) within 7 days;
- Failure to pay registration renewal fees for the dog;
- Failure to comply with permit conditions and/or conditions applying to declared dangerous and menacing dogs; and
- Failure to comply with a compliance notice issued under the Act.

(6) Biosecurity Act 2016 & Biosecurity Regulation 2016

This Act requires people keeping certain animals or quantities of animals to be registered with Biosecurity Queensland as a biosecurity entity. This applies to people who own 1 or more stock animal (cattle, sheep, goats, pigs, bison, buffalo, deer, alpacas, llamas, horses, ponies, donkeys, mules, zebras or other animals from the same families). It also applies to people who have 1 or more beehives, and people that have 100 or more birds raised for human consumption (*for example, poultry*) or raised for production of eggs for human consumption or have been released into free flight since being kept in captivity (*for example, pigeons*). The Act also sets out certain obligations on owners of these animals to ensure they are fitted with identification devices or marks. This requirement to be registered applies to owners of land, lessees, agistees. The Act places restrictions upon which can be fed to certain stock and birds, and also provides powers for the disposal of certain feral animals (*for example, cats*) as invasive species. The *Biosecurity Regulation 2016* sets out Codes of Practice which people must adhere to in the keeping of animals, to discharge their biosecurity obligations under the Act. Part 7 of the Regulation sets out specific obligations for the keeping of bees, relating to distances between apiaries and relevant offences. Any registration, identification, and code of practice requirements under this Local Law apply in addition to those under the *Biosecurity Act 2016* and *Biosecurity Regulation 2016*.

(7) Environmental Protection Act 1994 & Environmental Protection Regulation 2008

The *Environmental Protection Act 1994* makes it an offence for a person to cause environmental nuisance (see section 440). Ordinarily, this would include nuisance caused by animals (either by means of noise, or odour). However, Schedule 1, section 3 of the *Environmental Protection Act 1994* provides that environmental nuisance caused by an act or omission that is a contravention of a Local Law, or an act done under authority given under a Local Law, is excluded from the application of section 440. This means that, because this Local Law regulates and creates its own offence for animal nuisance separate to the environmental nuisance offence in the *Environmental Protection Act 1994*, animal nuisance does not constitute an offence of environmental nuisance under the Act. This is because Council has put in place a different regulatory mechanism to regulate it.

(8) Body Corporate and Community Management Act 1997

This Act provides that an occupier (*for example, tenant or owner in a complex*) cannot bring or keep an animal on property without written approval of the body corporate. It is important to note that the right to keep an animal on a property under this Local Law does not override the requirement to obtain written approval from the body corporate. In other words, body corporate still has discretion to refuse the keeping of the animal even where it is lawful under this Local Law.

(9) Residential Tenancies Rooming Accommodation Act 2008

Similar to (8) above, this Act requires the resident of a rental property to obtain the provider's permission prior to keeping an animal at the property, even where the animal can be lawfully kept on the property under this Local Law.

(10) Local Government Act 2009

This Act empowers Council to fix cost-recovery fees for seizing animals. It also empowers authorised persons to enter properties under certain circumstances, which may relate to Council's investigation or monitoring of animal approvals. An authorised person can enter a private property with the occupier's permission, or in accordance with a warrant. A Magistrate can issue a warrant for Council officers to enter private property to investigate contraventions of Local Laws.

The Local Government Act also empowers an authorised person to enter property to inspect the property for the purposes of an application, to determine if conditions of a permit or notice have been complied with or inspect work carried out under a permit or notice. They can enter the property without the occupier's permission at any reasonable time during the day, or at night (if the occupier requests it, the conditions of the permits allow it, or the property is at a public place and not closed to the public).

An authorised person can also enter a property without permission of the occupier at any reasonable time under an approved inspection program. An approved inspection program is a program approved by Council by resolution, under which authorised persons may enter a place to monitor compliance with the AMCD Act or this Local Law. *This includes, for example, annual regulated dog compliance inspections which can be conducted by Council officers who are authorised persons under the Act.*

Section 10 - Effect of Local Law

This section states that a person retains the rights they are entitled to under the *Guide, Hearing and Assistance Dogs Act 2009* and the *Disability Discrimination Act 1992* (Cth) and the ability to keep an animal or animals authorised to be kept on land under the *Planning Act 2016*.

For example:

- *A person who relies upon a certified guide dog has the right to access public places accompanied by the guide dog; and*
- *A person who has approval under the Planning Act 2016 to operate a kennel on their property is not required to obtain a separate approval to keep dogs for the kennel under this Local Law.*

Chapter 2 - Keeping of animals

Part 1 - What this chapter is about

Section 11 - Overview

This section provides an overview of the purpose of chapter 2, being to provide for Council's power to regulate the number and type of animals that can be kept on land, and the obligations that Council may impose on owners and responsible persons in relation to keeping animals.

Part 2 - Prohibitions and restrictions on keeping animals

Section 12 - Prohibitions and restrictions on keeping animals

This retains section 5 of the 2011 Animal Management Local Law, which gives Council the power to prohibit and restrict the keeping of animals in certain circumstances and retains the offence for contravening a prohibition.

Subsection (3) clarifies that a person does not commit an offence for contravening a prohibition if they hold an approval to keep the animal.

Subsection (4) clarifies the existing power Council has to specify in Subordinate Local Law categories of animal or circumstances in which the keeping of animals are exempt from the prohibitions or restrictions. *This may include for example, guide, hearing and assistance dogs.*

Part 3 - Keeping of animals for which approval is required

Division 1 - What this part is about

Section 13 - Overview

This section sets out the matters dealt with in part 3.

Division 2 - Approvals

Subdivision 1 - Application process

Section 14 - Need for approval

This section retains section 7 of the 2011 Administration Local Law, being Council's power to require an approval for the keeping of animals in certain circumstances. Under this section, where this Law specifies an approval is required, it is an offence to keep the animal without an approval. Council requires approval to be obtained to keep animals in certain circumstances, so that Council is aware of the animals, and so that the keeping of the animals is carried out in a manner which ensures animals are kept and controlled in a way that promotes responsible pet ownership, balances individual and community expectations, protects against risks to health and safety, prevents environmental damage and preserves amenity.

Under this section, Council can prescribe by Subordinate Local Law, animals, or categories of animal to which the requirement for approval does not apply. *For example, an approval will not be required to keep a guide, hearing or assistance dog, as Council acknowledges that individuals who rely on guide, hearing or assistance dogs already have the right to be accompanied by the dog, which necessarily includes at their own home.*

Section 15 - Making an application

This section partly retains section 8 of the 2011 Administration Local Law with respect to keeping animals. It sets out the way in which an application for approval needs to be made to Council and what it must be accompanied by. Under the 2011 Administration Subordinate Local Law, Council imposed several application requirements, including mandating extensive documents and materials which a person was required to provide with an application. In this Local Law, Council has aimed to achieve more flexibility, removing excessive application requirements so that only essential documents are required. The intention of this amendment is to ensure the community has a simple, straightforward application process to navigate.

Previously, Council had no ability to consider an application for the keeping of an animal if a prohibition or restriction prevented it. However, Council recognises there may be circumstances where it is appropriate and in the best interests of the individual (or community) to allow the keeping of an animal even where it would otherwise be prohibited or restricted. On this basis, subsection (2)(c) gives Council the flexibility to consider an application for the keeping of an animal which would otherwise be prohibited or restricted under this Local Law. *For example, a person may be on a property where the number caps do not permit a bird to be kept, however they may need to take care of that bird after a relative falls ill or passes away.*

Subdivision 2 - Timeframes for deciding applications

Section 16 - Timeframe for deciding applications when no further information is needed

This section sets out the timeframe within which Council must decide a properly made application for the keeping of animals, where no further information is required from the applicant. This timeframe may be extended where both parties agree. Previously, Council did not have a set time within which it had to decide an application to keep an animal. However, Council recognises that timeframes provide accountability and keep the decision-making process progressing for both parties.

Section 17 - Timeframe for deciding applications when further information is needed

This section sets out the timeframe within which Council must decide a properly made application to keep an animal, where Council requires further information from the applicant to make a decision. Under this section, Council can make an information request to the applicant and the applicant must respond within the timeframe stated in the section.

Council then has further time to consider this information and make a decision. If the further information is not provided by the applicant within the timeframe, Council can still decide the application. The purpose of this section is to allow the parties to request and provide further information necessary for Council to properly assess and decide the application.

For example:

- *Breed of the animal, type and age;*
- *Evidence of desexing;*
- *The location on the premises where the animal is being kept and details of the enclosure.*

Section 18 - Timeframe for dealing with applications that are not properly made

This section applies where Council receives an application to keep an animal that is not properly made. It requires Council to advise the applicant in writing that the application is not properly made. Following this, Council is not required to take any further action. The consequence of this section is that the applicant will need to make a fresh application under section 15.

This provision is intended to ensure applications are being properly made and that Council is not required to assess and decide an application if there is insufficient information to do so.

Subdivision 3 - Deciding an application

Section 19 - Deciding an application

This section requires Council to decide an application by either approving it, approving it subject to conditions or refusing the application. Where an application is properly made, and the animal can be kept in a manner consistent with the object of this Local Law, Council can approve the application.

If there are risks that need to be mitigated, Council can approve the application but impose conditions, to ensure the animal is kept in a manner consistent with the object of this Local Law. See section 22 regarding the conditions that may be imposed on an approval.

If it is not possible to condition the keeping of the animal in a way which sufficiently mitigates risks or ensures the object of this Local Law, Council can refuse the application.

Section 20 - Effect of failure to decide application on time

This section provides that if an application is not decided by Council in the timeframe specified in sections 16 and 17 of this Local Law, or such further period as agreed to by the applicant, the application is taken to be refused. This means that an applicant cannot keep the animal in the absence of Council's approval, even if the time in which the decision should have been made has passed. This ensures that, in relevant circumstances, animals cannot be kept unless Council has properly assessed an application. If a decision is taken to be refused because Council did not make a decision in time, the applicant will need to re-apply. Where an applicant reapplies, the timeframes for deciding an application will recommence.

Section 21 - Third-party certification

This section retains section 12 of the 2011 Administration Local Law, which gives Council the power to accept evidence from a qualified third-party that a particular application requirement is met. It also enables Council to specify (by Subordinate Local Law):

- individuals or organisations that are considered to be third-party certifiers; or
- particular qualifications that individuals or organisations must have to be considered third-party certifiers under this Local Law.

The purpose of this section is to enable Council to rely on external expertise in assessing certain application requirements. This may assist Council's consideration of the application.

Section 22 - Permitted conditions

Under section 19, Council may approve an application subject to conditions. Council may condition an approval to mitigate risks and to ensure the keeping of animals is undertaken in a manner consistent with the object of the Local Law. Section 22(1) provides that any condition imposed on an approval to keep an animal (or animals) must relate to the object of this Local Law. This differs from the approach in the 2011 Administration Subordinate Local Law, which imposed onerous mandatory conditions on approvals to keep animals. That process was in-flexible, which sometimes made it difficult to achieve the best outcomes for both the community and Council. This new section gives Council greater flexibility to impose tailored, purpose-based conditions.

For example:

- *An animal waste disposal management plan;*
- *Location of the housing of animals being distanced from the boundary with neighbouring animal premises;*
- *For recognised breeder dogs, compliance with the state's Guidelines for Registered Dog Breeders.*

It is also noted that where an act is done, or omission made under a condition of an approval granted by Council, a person does not contravene a noise standard (under section 44Q of the *Environmental Protection Act 1994*) or cause an environmental nuisance (under section 440(3) of the *Environmental Protection Act 1994*).

Section 23 - Failure to comply with conditions of an approval

This section makes it an offence if a person keeping an animal in accordance with an approval fails to comply with the approval, including the conditions of an approval. The power to impose conditions (see section 19 and section 22) enables Council to ensure the keeping of animals is undertaken in a manner that protects public health and safety and minimises impacts on amenity and the environment. This section aims to ensure that any risks posed by the keeping of animals are minimised and deter those undertaking the keeping of animals from ignoring the conditions imposed on their approvals by imposing penalties for non-compliance.

Section 24 - Term of approval

This section specifies that an approval to keep an animal (or animals) is valid for the term specified in the approval. Previously, an approval could only be issued for a term of 12 months. This section gives Council more flexibility to determine an appropriate length for an approval, having regard to the object of this Local Law and the nature of the approval being issued. *For example, a person may only be fostering an animal temporarily, so may only require an approval for 3 months.*

Subdivision 4 - Administering approvals

Section 25 - Definitions for this subdivision

This section defines a *‘show cause notice’*.

Section 26 - Renewal of approval

This section provides that an approval to keep an animal (or animals) is not renewable.

Section 27 - Transfer of approval

This section provides that an approval to keep an animal (or animals) is not transferable.

Section 28 - Approval holder may apply to amend conditions

This section retains section 16 of the 2011 Administration Local Law. It allows an approval holder to apply to Council to amend the conditions of an approval. This section recognises that circumstances may change and allows Council the flexibility to amend approval conditions to respond to those changes and enable the approval holder to continue keeping the animal.

Council must decide an amendment application by either granting or refusing the application, having regard to the object of this Local Law and the approval holder's history of compliance with approval conditions.

When Council makes a decision under this section, it must provide a notice of the decision to the applicant. This means the applicant may apply to review the decision under section 94. The requirements for a decision notice are set out in the definition of *‘decision notice’* in the dictionary Schedule of this Local Law. Where an amendment is made at the request of the approval holder, Council can amend the approval without having to follow the process in section 29.

Section 29 - Local government may amend, suspend or cancel approval

This section allows Council to amend, suspend or cancel an approval in certain limited circumstances. This includes, for example, for the protection of public health and safety, or where the approval holder has failed to comply with the approval.

Before making a decision, Council must provide the approval holder with a show cause notice. This gives the approval holder an opportunity to explain in writing why Council should not amend, suspend or cancel the approval, as proposed. For example, the approval holder may have a reasonable excuse for not complying with a condition of an approval. An approval holder does not have to make a submission in response to the show cause notice and may waive their right to do so (see subsection (4)). An approval holder may choose to do this in circumstances where they consent or agree to the proposed action. In that case, Council does not need to wait for the time stated in the show cause notice to pass before it makes a decision under subsection (6).

Where a submission is made by the approval holder, Council must consider the submission and then decide whether a reason to amend, suspend or cancel the approval still exists. If a reason no longer exists, Council will not take further action, meaning the existing approval remains in effect. If a reason still exists, Council can take the action proposed in the show cause notice. However, if Council proposed to cancel the approval, it is open to Council to either amend, suspend or cancel the approval. This allows Council to consider the submissions made and determine whether amendment or temporary suspension of the approval would be more appropriate than a cancellation.

When Council makes a decision under this section, it must provide a notice of the decision to the approval holder. This means the approval holder may apply to review the decision under section 94. The requirements for a decision notice are set out in the definition of **'decision notice'** in the dictionary Schedule of this Local Law.

This section is not intended to restrict Council's power to amend, suspend or cancel an approval under other sections of this Local Law, such as through an immediate suspension under section 30 or a stop order under section 89.

Section 30 - Procedure for immediate suspension of approval

This section retains section 19 of the 2011 Administration Local Law, which gives Council the power to immediately suspend an approval for the keeping of an animal. Council recognises there are certain urgent circumstances that make it necessary to immediately stop a person from keeping an animal. *For example, where the continued keeping of the animal by the particular person poses an urgent and serious threat to public health or safety.*

While this may impact the approval holder, it is intended to be only used where there is an urgent and/or serious need. The suspension can only operate for a limited period of time, until the risk is minimised, or Council decides to either amend, suspend or cancel the approval. As such, this provision is intended as a temporary measure while Council decides how to proceed with an approval. Under this section, Council is required to give the approval holder both a suspension notice and a show cause notice. The show cause notice invites the approval holder to make written submissions to Council, as to why Council should not proceed to permanently amend, suspend or cancel the approval. This gives the approval holder an opportunity to demonstrate why permanently amending, suspending or cancelling the approval would be unjust. Council may then decide to either amend, suspend or cancel the approval, or alternatively lift the suspension. If Council lifts the suspension, the existing approval (to keep the animal) continues.

Part 4 - Registration of cats

Part 3 of this Local Law retains the cat registration obligations and process from the 2011 Animal Management Local Law. These sections largely mirror the registration requirements for dogs under the AMCD Act. Cat registration was previously compulsory under the Act, however these requirements were removed from the Act by the State government in 2013. Local governments were given the option to introduce cat registration provisions into this Local Law, which Council did in 2013. The requirement to register (and renew registration for) cats is included in this Local Law, as it promotes responsible pet ownership by:

- (a) helping to ensure that in the event of a cat escaping its property, the owner can be easily identified and reunited with it; and
- (b) in conjunction with the offence for an animal wandering, it allows for penalties to be imposed on cat owners who do not keep their cats contained within the property boundary, as this can have adverse impacts on the amenity and environment, cause a nuisance to neighbours, and potentially endanger the welfare of the cat.

Division 1 - What this part is about

Section 31 - Overview

This section provides an overview of the purpose of part 4, being to outline the obligations of cat owners to register their cats with Council, and the process for registering, and amending and renewing cat registration.

Division 2 - How a cat is registered

Section 32 - Registration obligation

This section retains sections 7A and 7B of the 2011 Animal Management Local Law, which requires an owner or a person who becomes an owner of a cat to register it with Council within 14 days. This timeframe is consistent with the registration period for dogs under the AMCD Act. A desexing certificate must be provided to Council if the cat has been desexed. MBRC recognises the same registration concessions for cats as with dogs, which aims to encourage responsible pet ownership and to help prevent unwanted litters within the community.

Section 33 - Local government may ask for further information

Section 33 retains section 7D of the 2011 Animal Management Local Law, which allows Council to issue a request for information to the cat owner requiring further information to be provided, if that information is needed to register the cat.

Section 34 - Local government must give registration notice

Section 34 retains section 7E of the 2011 Animal Management Local Law, which requires Council to issue a registration notice to the cat owners when the cat has been successfully registered.

Section 35 - Duration of registration

Section 35 retains section 7F of the 2011 Animal Management Local Law, which states that Council can pass a resolution specifying how long a cat registration is valid for.

Division 3 - Amendment of registration

Section 36 - Amendment of registration

Section 36 retains section 7G of the 2011 Animal management Local Law, which imposes an obligation on cat owners to notify Council of any changes to the animal's registration information within 5 business days to ensure Council's records are up to date. *This may, for example, be a change of address.*

Division 4 - Renewal of registration

Section 37 - Local government must give renewal notice

Section 37 retains section 7H of the 2011 Animal Management Local Law, which requires Council to issue cat owners with a registration renewal notice.

Section 38 - Owner of a cat must renew registration

Section 38 retains section 7I of the 2011 Animal Management Local Law, which requires cat owners to pay a registration renewal fee for the cat and update any changed information. A cat owner must fulfil these obligations for each period of registration, even if they did not receive a registration renewal notice.

Section 39 - Local government may ask for further information upon renewal of registration

Section 41 retains section 7J of the 2011 Animal Management Local Law, which sets out Council's responsibilities in relation to cat registration renewal. This section gives Council to ability to request further information and sets out timeframes for this process to occur.

Part 5 - Minimum standards

Section 40 - Purpose

This section outlines the purpose of this part, which is to ensure appropriate standards of responsible care (i.e., minimum standards) are met by pet owners in the City. These standards are necessary to promote responsible pet ownership, preserve public health, safety and amenity of the surrounding community and environment.

Section 41 - Animal nuisance

This section retains section 14 of the 2011 Animal Management Local Law, which provides it is an offence to allow an animal to cause a nuisance. The section provides that Council officers can issue a compliance notice requiring a responsible person for the animal to stop a nuisance. These measures are necessary to balance rights of individuals to keep animals on their property, and the rights of other individual (*for example, neighbours and the surrounding community*) to peaceful enjoyment of their properties.

Roosters are generally only allowed to be kept in more rural and rural-residential areas, where it is an expectation of the community that animals of this type will be kept and will make some level of noise. The minimum standards in relation to roosters (imposed by Subordinate Local Law) are designed to mitigate the interference to surrounding properties caused by roosters crowing. On this basis, it is a defence for an offence of nuisance under this section, if a person keeps a rooster (or roosters) which make noise by crowing, but they are complying with the minimum standards under this Local Law.

Section 42 - Minimum standards for keeping animals

This section retains section 7 of the 2011 Animal Management Local Law, which allows Council to specify (by Subordinate Local Law) minimum standards that must be complied with in the keeping of animals. Minimum standards can be imposed for animals generally, or particular species of animal.

For example:

- *A minimum standard based on responsible pet ownership may require animals to be kept in accordance with any Code of Practice adopted by Council. The State government introduces Codes of Practice which set standards for how certain animals must be kept. Some of these Codes of Practice are mandatory (which means they apply to everyone in the state keeping those animals) and some of those Codes are voluntary. If Council chooses to adopt a voluntary Code of Practice, Council can impose a minimum standard under the Subordinate Local Law that a person who owns any animals to which the Code of Practice relates, must comply with the requirements of the Code of Practice.*
- *A minimum standard based on the species of the animal and conservation of wildlife may require all dog owners to take certain measures to prevent their dogs from attacking koalas.*

Any minimum standards operate in addition to:

- any animal welfare requirements under the *Animal Care and Protection Act 2001* and *Animal Care and Protection Regulation 2002*, and
- any conditions of approval under this Local Law, if an approval has been granted by Council for the keeping of the animal or animals.

Subsection (3) retains the offence of failing to comply with minimum standards.

Section 43 - Koala area requirements

This section retains section 15 of the 2011 Animal Management Local Law, which gives Council power to introduce measures in Subordinate Local Law that must be complied with, by people who keep dogs in areas identified as 'koala areas'. Council recognises that domestic dogs are one of the leading threats to koalas in the City. For the purpose of this section, Council recognises the following as 'koala areas':

- koala habitat areas - this includes areas designated as koala habitat by state planning instruments and areas designated as koala habitat by conservation plans made under the *Nature Conservation Act 1992*. This includes areas determined to be koala habitat areas under the *Nature Conservation (Koala Conservation) Plan 2017*;
- areas designated by Subordinate Local Law as koala areas.

State government mapping as part of the South-East Queensland Koala Conservation Strategy 2020-25 has identified koala habitat areas, which represent the best koala habitat areas, taking into account factors such as koala sighting records, food, shelter and vegetation. Council recognises that additional measures may need to be implemented in these areas, as well as other significant areas designated by Subordinate Local Law, to ensure the protection of koalas from domestic dogs (to the extent possible).

Chapter 3 - Control of animals

Part 1 - What this chapter is about

Section 44 - Overview

This section outlines the purpose of this chapter, which is to set out the local government's powers to regulate how animals are controlled and managed in public and other places.

Part 2 - Identification for cats and dogs

Section 45 - Definitions for part 2

This section defines '*sufficient contact information*' for the purpose of sections 46 and 47 below, to include a current telephone number of owner of the animal.

Section 46 - Identification for dogs at places other than registered address

Section 45 of the AMCD Act requires a person who keeps a dog (other than a regulated dog) to ensure it wears the identification Council determines is appropriate, when the dog is not at its registered address. Council has used this Local Law to determine the appropriate identification.

This section 46 of the Local Law specifies that a dog must wear an identification tag with the owner's telephone number on it. If the dog does not wear the tag when it is outside of its registered address, the person who keeps the dog commits an offence against section 45 of the AMCD Act (there is no offence committed against section 46 of this Local Law).

The requirement in this Local Law to wear a tag does not apply to regulated dogs.

Section 47 - Identification for cats at places other than registered address

This section mirrors the identification obligations for dogs in section 46 above. It requires an owner or responsible person for a cat to ensure it wears a tag with the owner's current telephone number on it when the cat is at a place other than its registered address. This is to ensure the cat can be reunited with its owner if necessary. A person who fails to ensure the cat bears this identification commits an offence under this section.

Part 3 - Animals found wandering at large

Section 48 - Duty to provide proper enclosure and prevent animal from wandering

This section retains the duty to provide a proper enclosure and prevent an animal from wandering (under section 13 of the 2011 Animal Management Local Law). This duty is imposed to ensure that animals are kept securely within their properties and are not left free to roam other properties, streets, or public areas, which could potentially put the animal, the public, or other animals at risk. It is an offence to fail to maintain a proper

enclosure for an animal. It is a separate offence if an animal is found wandering. In both cases, Council can take compliance action or issue a penalty infringement notice. The penalty aims to deter and penalise irresponsible pet owners who do not keep their animal securely within their property. This section provides that Council can (by Subordinate Local Law) prescribe requirements for proper enclosures for animals generally, or for particular species or breeds.

Council recognises that there are certain circumstances in which a person may maintain a proper enclosure and their animal may nevertheless escape the property. As such, it is a defence under subsection (4), if the person maintained a proper enclosure and could not, by reasonable diligence, have prevented the animal from escaping. *For example, if a dog owner has secured their dog in a fully fenced and secure backyard, but a large storm with high winds blows over part of the fence allowing the dog to escape, the owner may be able to rely on this defence.*

Part 4 - Animals in public places

Division 1 - Exclusion of animals

Section 49 - Exclusion of animals from public places

Section 49 retains section 9 of the 2011 Animal Management Local Law, which gives Council the power to, by resolution, prohibit or restrict animals (or a certain species or breed of animal) from specified public places. This provision allows Council to introduce areas where animals are not permitted or are only permitted under restricted circumstances. This may be for public safety reasons or environmental reasons (*for example, preventing dogs from being in migratory bird areas where they are likely to disturb the birds*). Given these important reasons, it is an offence not to comply with a prohibition or restriction.

Division 2 - Dog off-leash areas

Section 50 - Dog off-leash areas

This section retains section 10 of the 2011 Animal Management Local Law, which gives Council power to designate (by resolution) areas in public places that are dog off-leash areas. Council recognises that dog off-leash areas are important public facilities which enable responsible pet owners to safely exercise their dogs, particularly in built-up areas where property sizes may not be big enough to allow this. Subsection (5) adds a requirement for the register of dog off-leash areas to contain a map or diagram identifying the location and boundaries of the dog off-leash areas. As many off-leash areas may not be fenced, this information is important to make available to the public to set out the boundaries of the area within which their dog is permitted to be off-leash. Subsection (5) also requires the register of dog off-leash areas to include any conditions that are adopted by Council resolution (under section 51 below) for each dog off-leash area.

Section 51 - Conditions for use of dog off-leash areas

This section inserts a power for Council to impose conditions on the use of a particular dog off-leash area, of dog off-leash areas generally.

For example: conditions may relate to restricting the times within which the dog off-leash areas can be used to ensure noise does not cause a nuisance to surrounding residents late at night or early in the morning.

To ensure that community expectations are being met, it is an offence for an owner not to comply with conditions of a dog off-leash area. Proper exercise of dogs is an important component of responsible pet ownership. However, the ability to impose conditions on dog off-leash areas allows Council to balance the rights of individuals who own dogs, with members of the community who do not.

Division 3 - Control of animals in public places

Section 52 - Control of animals in public places

This section retains section 11(1) of the 2011 Animal Management Local Law, which imposes a duty on owners or responsible persons for animals to ensure they are under effective control in a public place. The purpose of this section is to ensure public safety and responsible control and management of animals in public areas. This encompasses an additional obligation for declared dangerous animals (see section 57 below) to ensure they are securely restrained for the safety of the public.

The term '**public place**' is defined in the Dictionary of this Local Law, with reference to the *Local Government Act 2009* (section 125(5)). The concept of "effective control" is explained within section 52 of this Local Law.

This definition clarifies section 11(2) of the 2011 Animal Management Local Law, by providing separate effective control requirements for:

- (a) dogs in dog off-leash areas; and
- (b) other animals in public places (including dogs in public places other than dog off-leash areas).

(a) Effective control of dogs in dog off-leash areas

The definition of effective control in the 2011 Animal Management Local Law allowed for dogs to be off leash in a designated off leash area if under supervision of a person who could control the animal by voice command. However, relying upon the voice command requirement alone was found to be problematic. *For example, a dog may be trained to respond to a voice command from its owner but may not respond to commands from another family member who takes the dog to the park.* Alternatively, a dog may be trained to respond to a command from its owner when there are no distractions, but when it is at a dog park, it may be so distracted by other dogs that it does not respond to the voice command. To address these concerns, section 52 requires that a person in a dog off leash area must not have more than two dogs total under their direct supervision. Direct supervision means the responsible person must be able to immediately respond to the dog's behaviour. This obligation is important for ensuring the safety of both dogs and people within dog off leash areas.

It is now also a requirement that the dog must not engage in any antisocial behaviour such as harassing, intimidating, stalking or attacking other dogs or people. This is particularly important for ensuring that:

- owners and responsible persons for dogs in dog off leash areas are maintaining control and taking responsibility for their dog's behaviour; and
- members of the public feel comfortable and safe in using dog off leash areas, which are designated public places used for the safe exercise and socialisation of dogs.

In unfenced dog off-leash areas (such as dog beaches), in addition to the above requirements, a person must also be able to control the dog by voice command. This is to ensure that a person can effectively intervene to prevent their dog causing unreasonable interference with the use and enjoyment of the beach by the general public.

(b) Effective control of animals (other than dogs in dog off-leash areas)

The requirements effective control with respect to animals other than dogs in dog off leash areas largely reflects the 2011 Animal Management Local Law. Subsection (2)(b)(i)(A)-(C) deals with the requirement for animals in public places to be restrained. This is a two-part requirement:

- (1) First, the person must be able to physically control the animal; and
- (2) Second, the animal must be restrained (*for example, on a leash, tethered or in an enclosure*).

Notwithstanding s52(2)(b)(i)(A), in determining whether a person can physically control the animal, authorised persons can consider the number of animals under the person supervision.

For example, if a 10-year old child has one small puppy on a leash, there may be no issue. However, if the child has three puppies, it is unlikely he can reasonably control them all.

This does not limit an authorised person's ability to consider other factors that may be relevant.

Changes to the wording have been made to make the effective control requirements clearer.

For example, in section 52(2)(b)(i)(A) and (B) the word 'appropriate' and 'appropriately' have been replaced with the word 'effective' and 'effectively'. 'Effective' or 'effectively' encompasses 'appropriate' but also requires the leash, halter, rein, or manner of tethering the animal to actually work in restraining the animal.

Under the 2011 Animal Management Local Law, there was no number limit on how many dogs could be under a person's effective control. However, it is known that some people walk a significant number of dogs on a leash at the same time (*for example, as many as 15 dogs*). This not only presents a public health and safety hazard to members of the community, but it undermines the principle of effective control. If one of those dogs pulled off the leash, it is not considered reasonably possible that the owner or responsible person could maintain effective control of the other dogs while attempting to regain control of the one that escaped. On this basis, a person is now deemed to not have effective control of a dog or dogs if they are supervising more than four dogs in total. This is the case, regardless of the size or breed of the dogs. A limit of four dogs is considered reasonable and appropriate, having regard to an average person's ability to control and manage the behaviour of multiple dogs at once and the number of animals permitted to be kept on properties under Subordinate Local Law.

Section 53 - Person in control of prescribed animals to clean up faeces

This section retains section 12 of the 2011 Animal Management Local Law, which imposes a duty on persons in control of animals prescribed in Subordinate Local Law to clean up the animals' faeces in public places. This is necessary to preserve amenity and the environment, and to avoid nuisance to members of the public. The 2011 Animal Management Local Law required persons to clean up after horses when in a public place. It was identified that in certain circumstances this can be dangerous to the person riding the horse, as they have to dismount and try to retain control of the horse by rein whilst cleaning the faeces up. For safety reasons, this section allows Council to specify certain categories of public place in which the duty applies. *For example, the duty to clean up faeces may be prescribed for horses but maybe limited to townships and unformed footpaths where it is most likely to cause a nuisance or affect the surrounding amenity.*

Part 5 - Aggressive behaviour by animals

Section 54 - Limited application of division to dogs

This section retains section 16 of the 2011 Animal Management Local Law, which clarifies that this part (including section 55 below) does not apply to aggressive behaviour by a dog. This is because the AMCD Act already contains provisions which define and regulate aggressive dog behaviour. The definition of '**aggressive behaviour**' under this Local Law is consistent with the definition in the AMCD Act, to help ensure consistency in administration and enforcement.

Section 55 - Animals not to attack or cause fear to persons or animals

This section retains section 17 of the 2011 Animal Management Local Law, which creates separate offences for:

- (1) a responsible person failing to take reasonable steps to ensure the animal does not attack, or cause fear to a person or other animal; and
- (2) a person (any person) allowing or encouraging an animal to attack, or act in a way that causes fear to a person or other animal.

The purpose of these offences is to ensure that a responsible person for an animal (other than a dog) is held accountable for their animal attacking, injuring and/or killing a person or other animal. The penalties for these offences are tiered, based on the severity of the attack and the extent of the injury caused. Due to their level of seriousness, the penalties where grievous bodily harm or death result from the attack are substantial and

these offences can only proceed by way of prosecution (rather than a fine). **‘Bodily harm’** and **‘grievous bodily harm’** are defined as per the definitions in the Criminal Code. This is consistent with the approach taken in the AMCD Act in relation to the dog attack offence provisions.

Subsection 3 of this section retains section 18 of the 2011 Animal Management Local Law. This provides that it is a defence to an animal attack (under this section), if the person can prove that their attacking animal was itself being attacked, mistreated, or provoked, or it attacked as a means of protecting the person or their property.

Section 56 - Duty to assist if animal causes injury

This section imposes an obligation on the responsible person for an animal (including a dog) that has caused an injury to a person or another animal to:

- render reasonable assistance to the injured person or animal; and
- provide their contact information and the contact information of the owner of the animal (if the responsible person is not the owner) to the injured person or to the responsible person for the injured animal.

This is considered an important aspect of responsible pet ownership. It is an offence if a person fails to comply with this section. However, a pet owner may be able to rely on the defence of reasonable excuse under section 92, if:

- (a) the responsible person for the attacking animal did not know the injury occurred; or
- (b) if the injury occurred on private property where the animal is ordinarily kept, and the animal was coming to the reasonable defence of a person on the property or the property itself; or
- (c) the responsible person is required due to the animal’s behaviour to immediately remove the animal from the location where the person or other animal was injured.

The defence in (c) above may apply where the animal is continuing to demonstrate aggressive or menacing behaviour toward the person or other animal that was injured.

Part 6 - Dangerous animals other than dogs

Section 57 - Declaration of dangerous animals other than dogs

This section empowers Council to specify (by Subordinate Local Law) criteria for determining whether an animal should be declared dangerous and to then make the declaration. This section does not apply to dogs, as there are already criteria and a declaration process for dangerous and menacing dogs under the AMCD Act. The purpose of this section is to allow Council to impose additional obligations on owners (via section 58) where an animal has demonstrated aggression or presents a higher risk to public safety, to ensure the animal is kept and secured safely.

Section 58 - Power to require responsible person for declared dangerous animal to take specified action

This section enables Council to issue a compliance notice to the responsible person for a declared dangerous animal (other than a dog) to take certain steps to warn the public about the declared dangerous animal being on the property, and to ensure secure custody of the animal.

Chapter 4 - Seizure, impounding, destruction and disposal of animals

Part 1 - What this chapter is about

Section 59 - Overview

This section outlines that the chapter deals with when and how authorised persons can seize, impound, destroy, or dispose of an animal.

Part 2 - Seizure of animals

Section 60 - Seizure of animals

This section retains section 21 of the 2011 Animal Management Local Law, which gives authorised persons the power to seize animals (other than a dog) in certain circumstances, including:

- where the animal is found wandering at large; or
- where the responsible person has not complied with the compliance notice in relation to the animal; or
- where the animal has attacked or caused fear to another person or animal; or
- where the animal has been abandoned or left unattended on a road where its presence is hazardous, and the 'driver' of the animal cannot be readily located or failed to remove the animal from the road.

This section applies to dogs in certain circumstances but does not duplicate the provisions under section 125 of the AMCD Act dealing with the seizure of dogs. *For example, where a dog has attacked or caused fear to a person or other animal*, the relevant seizure power is set out in section 125 of the AMCD Act.

Subsection (5) allows an authorised person to use reasonable force if needed, to capture or control an animal that needs to be seized. The purpose of the seizure powers is to allow Council to take temporary custody of an animal, to:

- protect the public from the animal;
- protect the animal (*for example, seizing it so that it does not get hit by a car*);
- identify and reunite the animal with its owner (*for example, via scanning a dog or cat's microchip or checking registration*); and
- require the owner or responsible person to comply with this Local Law or compliance notice in order to reclaim their seized animal.

Part 3 - Destruction of animal without notice

Section 61 - Power to immediately destroy seized animal

This section retains section 22 of the 2011 Animal Management Local Law, which outlines the circumstances under which an authorised person can immediately destroy (i.e., euthanise) an animal that has been seized. The purpose of this section is to give authorised persons the ability in limited circumstances to immediately euthanise an animal if it is dangerous and uncontrollable, if it would suffer significant pain or injury from being kept alive, or the owner has requested that the animal be destroyed. This section does not apply to regulated dogs seized under section 125 of the AMCD Act or a warrant as the power to destroy seized regulated dogs in those circumstances is set out in section 127 of that Act (see also section 126 of that Act). While this section does apply to dogs that are not regulated dogs, it should only be relied on to immediately destroy a seized dog where, for example, the dog has been seized for wandering at large under this Local Law, but then becomes

dangerous and unable to be controlled. However, in most cases the preferred approach is to follow the process under section 71 to issue a destruction order.

Part 4 - Immediate return of animals

Section 62 - Immediate return of animal seized wandering at large

This section retains section 23 of the 2011 Animal Management Local Law, which provides that an authorised person may return an animal (including a dog) that has been seized for wandering at large, if they know or can readily find out the details of the owner. This provides Council officers with discretion in deciding whether to impound the animal, or whether it is more appropriate in the circumstances to immediately return the animal to its owner. If Council is unable to identify the owner of the animal, it may impound the animal in accordance with section 64.

Part 5 - Impounding of animals

Section 63 - Definitions for part 5

This section defines a *'notice of impounding'* for the purposes of part 5 of this Local Law. A notice of impounding can be issued by council officers in certain circumstances to the owner of an animal that has been seized. The notice of impounding must list the requirements for reclaiming an impounded animal (which the owner is required to comply with) set out in section 65 below.

Section 64 - Impounding of seized animal

This section amends section 24 of the 2011 Animal Management Local Law, which allows an authorised person who has seized an animal under this law or another law (namely the AMCD Act) to impound the animal at a place of care (i.e., pound) for animals operated by Council or another entity prescribed by resolution of Council.

Section 65 - Requirements for reclaiming an impounded animal

This section sets out what an owner of an animal must do to reclaim an animal that has been impounded. An animal may be reclaimed within the prescribed period under this Local Law. For animals registered with Council, this is 5 business days. For animals not registered with Council, it is 3 business days. All of the requirements set out in this section must be complied with (if applicable) before an animal can be reclaimed. *This includes, for example, paying a cost recovery fee for the costs associated with Council impounding the animal (as set out in Council's fees and charges schedule), paying outstanding registration fees, or complying with a compliance notice that has previously been issued by Council in relation to the animal under section 87 or section 88 of this Local Law.*

Section 66 - Dealing with animal seized and impounded for wandering at large

This section retains section 26 of the 2011 Animal Management Local Law, setting out the avenues open to authorised persons for dealing with animals impounded for wandering at large. If the animal is not a declared dangerous animal and the details of the owner are known, a notice of impounding must be issued to the owner or responsible person to inform them where the animal is and how it can be reclaimed. This is important to ensure transparency and to give the owner or responsible person an opportunity to reclaim their animal. If the animal is a declared dangerous animal at the time of impounding, or if the animal has been seized more than three times during the preceding 12 months, the authorised person has discretion to either issue a notice of impounding or make a destruction order for the animal. This reflects the higher risk that a declared dangerous animal or animal that has been frequently seized presents to the community. Where an authorised person has impounded a regulated dog that has been seized more than 3 times during a 12-month period for wandering at large, the authorised person can only give a notice of impounding and cannot make a destruction order for the dog under this Local Law. Destruction orders for regulated dogs can only be made under the AMCD Act.

Section 67 - Dealing with animal seized and impounded for non-compliance with Local Law

This section retains section 27 of the 2011 Animal Management Local Law, setting out how Council can deal with animals impounded for non-compliance with this Local Law.

For example, where an animal has caused excessive nuisance, which would be an offence under section 41.

Authorised persons have discretion to either:

- issue a notice of impounding to the owner responsible person; or
- if the animal was kept in contravention of a prohibition under this Local Law, or kept without an approval where one was required, dispose of the animal (noting it would not be appropriate to allow a person to reclaim an animal they are prohibited from keeping).

Section 68 - Dealing with animal (other than a dog) seized and impounded for attacking a person or another animal

This section retains section 28 of the 2011 Animal Management Local Law. Where an animal has been impounded for attacking or causing fear to a person or other animal, an authorised person may give the owner or responsible person a notice of impounding or make a destruction order for the animal. The ability to make a destruction order recognises that in limited cases, an animal may present too high of a danger to the community to be released back to their owner. It is noted that nothing in this section prevents an authorised person from declaring the animal to be a dangerous animal. This section does not apply to dogs, as the AMCD Act regulates how dogs can be dealt with where they are seized for attacking, threatening or causing fear.

Section 69 - Reclaiming an impounded animal

This section retains section 29 of the 2011 Animal Management Local Law. The section sets out what is required of the owner or responsible person of an impounded animal to reclaim the animal.

This section also outlines the circumstances in which an impounded animal cannot be reclaimed. This includes:

- (1) Where the animal is required to be retained by Council as evidence for a proceeding for an offence involving the animal (i.e., the animal is evidence of an offence Council is intending to prosecute) - Unless the animal's continued retention as evidence is no longer required and the owner satisfies the reclaiming requirements under subsection (2).
- (2) A destruction order has been made for the animal (in which case, it would not be appropriate to release the animal back to its owner) - Unless the order is no longer in force due to the outcome of a review or appeal and they are in all satisfies the reclaiming requirements under subsection (2).

Part 6 - Destruction of animal following notice

Section 70 - Definitions for part 6

This section defines:

- **'Review'** as a review conducted under chapter 5 of this Local Law
- **'Appeal'** as an appeal under chapter 6 of this Local Law.

Section 71 - Destruction orders

This section retains section 30 of the 2011 Animal Management Local Law. It sets out the circumstances in which a destruction order can be made for an animal (other than a regulated dog), and how the destruction order must be served on the owner or responsible person for the animal. Council is required to give the owner or responsible person a decision notice with the destruction order, which gives them the right to appeal the destruction order in court.

This section does not apply to regulated dogs, as the process for destroying regulated dogs is already set out in the AMCD Act. The destruction powers under the AMCD Act should also be relied upon (rather than this Local Law) where a declared dangerous dog is found wandering at large.

Section 72 - Dealing with animals where destruction order subject to review

This section provides that an animal cannot be destroyed while there is a review against the decision to make the destruction order in progress. This is to protect the integrity of the review process, and to ensure that an animal is not prematurely destroyed before the owner or responsible person is given the opportunity to challenge Council's decision.

An animal can be reclaimed if the destruction order is no longer in force as a result of the outcome of the review, and the owner or responsible person has satisfied the reclaiming requirements under section 65.

Section 73 - Dealing with animals where destruction order subject to appeal

This section provides that an animal cannot be destroyed while there is an appeal against the decision to make the destruction order in progress. This is to protect the integrity of the appeal process, and to ensure that an animal is not prematurely destroyed before the owner or responsible person is given the opportunity to challenge Council's decision.

An animal can be reclaimed if the destruction order is no longer in force as a result of the outcome of the appeal, and the owner or responsible person has satisfied the reclaiming requirements under section 65.

Part 7 - Disposal of impounded animals

Section 74 - Application of this part

This section retains section 31 of the 2011 Animal Management Local Law, which sets out the circumstances to which this part of the Local Law applies. *This includes, for example, where an impounded animal has not been reclaimed within the prescribed period, or where an authorised person has seized an animal being kept in contravention of a prohibition, or where the owner has surrendered the animal to Council.*

Section 75 - Sale, disposal or destruction of animals

This section retains section 32 of the 2011 Animal Management Local Law. Where one of the circumstances in section 74 apply, section 75 gives Council discretion to offer the animal for sale by public auction or tender. It also gives Council the ability to specify (under Subordinate Local Law) the types of animals that can be sold by private agreement, disposed of other than via destruction (*for example, surrendered to a shelter for adoption*) or destroyed. This section also sets out rules for how an animal is to be offered for sale, including how costs must be applied. The purpose of this section is to give Council a range of options for what can be done with an animal where the owner has failed to reclaim the animal or has forfeited their rights to the animal. This helps to ensure that Council is not responsible for the cost of keeping animals impounded on a long-term basis.

Part 8 - Other impounding matters

Section 76 - Register of impounded animals

This section retains section 33 of the 2011 Animal Management Local Law and requires Council to maintain a register of impounded animals. It also sets out the information that must be kept in the register, including the species, sex, colour of the animal and any details about how and why the animal was impounded. The purpose of this section is to ensure accurate records are kept by Council of the animals that have been impounded.

Section 77 - Access to impounded animal

This section retains section 34 of the 2011 Animal Management Local Law, which provides that Council must allow the owner of an impounded animal to inspect it at any reasonable time (at no cost), unless doing so would be impracticable or unreasonable. The purpose of this section is to ensure Council is being transparent and fair to people whose animals have been impounded. It also helps to keep Council accountable for maintaining appropriate standards of care for the animals at the pound.

Section 78 - Unlawful removal of seized or impounded animal

This section retains section 35 of the 2011 Animal Management Local Law, which makes it an offence for a person to remove, or attempt to remove a seized or impounded animal, either from the custody of an authorised person, or the facility used for housing the impounded animals. It also provides that Council can recover the cost of any damage caused by attempts to remove an animal. The purpose of this section is to prevent animal owners or other persons from interfering with the enforcement process, and to help ensure that proper and lawful avenues to challenge Council decisions are followed. It also aims to ensure that the health and safety of authorised persons and impounded animals are not put at risk.

Chapter 5 - Further offences and enforcement

Part 1 - What this chapter is about

Section 79 - Overview

This part outlines:

- further offences relating to this Local Law;
- the enforcement mechanisms that can be utilised by the local government;
- offence proceedings in the Magistrates Court; and
- defences for offences against this Local Law.

Part 2 - Offences

Section 80 - Providing false or misleading information

This section makes it an offence for a person to give information that they reasonably know or ought to have known is false or misleading in relation to this Local Law. This aims to ensure the community is aware of their obligations to provide correct and truthful information to Council, and to deter the community from providing false or misleading information, through penalties. False or misleading information could result in Council making a decision that is not consistent with community expectations or the object of this Local Law.

Section 81 - Threatening an authorised person

This section retains the offence in section 21 of the 2011 Administration Local Law, which makes it an offence to threaten, insult or use abusive language to an authorised person. The intention of this provision is to protect the safety of authorised persons and enable them to perform their roles and responsibilities under this Local Law in a safe and effective manner. If a person commits an offence under this section, an authorised person can issue them with a penalty infringement notice. Given the seriousness of this offence, the maximum penalty has been increased from 20 penalty units to 50 penalty units

Section 82 - Attempts to commit offences

This section provides that a person who attempts to commit an offence under this Local Law commits an offence. This means that even if a person unsuccessfully attempts to commit an offence, the person has still committed the offence of 'attempt'. The 'attempt' offence is not intended to operate, or be capable of operating, in respect of all offences. The offence of 'attempt' will only apply to those offences where it is possible to attempt the offence. In other words, an '*attempt*' cannot reasonably and sensibly apply to that which is not capable of being attempted. To illustrate, to avoid doing something is not attempting not to do the thing; it simply is not doing the thing.

An attempt to commit an offence will most likely be capable of occurring, and being identified, where the offence involves:

- the doing of a positive act;

- the person taking steps with the intention to perform or otherwise carry out the positive act (and whether or not they are all the steps necessary to carry out the offending act); or
- an intervening event (not being an act necessary to perform the positive act) such that the person does not do the offending positive act.

The maximum penalties which apply to the offence of attempt under this section depend on, and will be half the penalty that applies to the offence attempted.

Section 83 - Liability of third parties

This section provides that a person involved in a contravention of this Local Law (*for example, by aiding a contravention*) also commits an offence.

Part 3 - Powers of the local government

Section 84 - Appointment of authorised persons

This section establishes an additional requirement for how certain qualified persons are to be appointed as authorised persons under this Local Law. Under section 202 of the *Local Government Act 2009*, Council's CEO may appoint certain qualified persons to be authorised persons for specific Local Laws. *For example, a Council employee who is a qualified person may be appointed as an authorised person for this Local Law.*

Section 84 of this Local Law provides that the document that appointed an authorised person must state this Local Law, or the provisions of this Local Law, for which the person is appointed as an authorised person. This ensures that appropriately qualified persons are authorised to take certain actions under this Local Law and that the extent and limitations of an authorised person's powers are documented, transparent and well defined.

Section 85 - Directions generally

This section provides that an authorised person may give an oral compliance direction to a person contravening this Local Law. The direction may require a person to cease any conduct or activity which contravenes this Local Law or take other such action so the person does not contravene this Local Law. It is an offence for a person to not comply with such a direction.

Section 86 - Production of records

This section retains section 25 of the 2011 Administration Local Law. Where an authorised person has entered a property under section 132 of the *Local Government Act 2009* to determine if conditions of an approval to keep an animal are being complied with, they may ask the occupier of the property or the approval holder to produce records for inspection that are required to be kept under an approval. The purpose of this section is to assist authorised persons with their enquiries, to ensure approval holders are complying with their obligations under this Local Law. Because this power is linked to the power of entry under section 132 of the *Local Government Act 2009*, the definitions of '*occupier*' and '*property*' in this section are consistent with that Act.

Section 87 - Compliance notice for contravention of Local Law

This section retains in part section 26 of the 2011 Administration Local Law and applies if a person contravenes this Local Law. An authorised person may give the person who contravenes this Local Law, or who is involved in the contravention, a compliance notice. A contravention of this Local Law includes a contravention of any approval condition. A compliance notice must contain those matters stated in subsection (4), including the timeframe to remedy the breach and the consequences of failing to do so. It is an offence not to comply with a compliance notice.

Under this Local Law, Council has specific power to issue a compliance notice requiring the responsible person for a dog to prepare, submit and comply with a barking management plan to address barking nuisance. Failure to do so is an offence of 'failing to comply with a compliance notice'. If your dog has been seized and Council has previously issued a compliance notice for a barking management plan, you will need to submit that plan to Council before you can reclaim your dog.

An authorised person may 'give' a compliance notice by delivering it to the person personally, or by leaving it at, or sending it to the person's place of residence or business. See *Acts Interpretation Act 1954*, section 39.

The purpose of this section is to enable an authorised person to give a person responsible for keeping the animal an opportunity to stop or remedy a breach of this Local Law (including an approval condition), if appropriate to do so.

For example, Council may issue a compliance notice to the owner of a dog requiring the owner to address nuisance barking.

Compliance notices allows Council to work with the person to ensure activities within our community are being undertaken in a lawful manner. This aligns with Council's general enforcement approach, emphasising educating the community first, and escalating to stronger methods of enforcement as required. Non-compliance with a notice may result in Council amending, suspending, or cancelling an approval, or issuing fines or commencing legal proceedings.

Where a compliance notice is given to the owner of a property and requires specific action to be taken in relation to that property, then it will constitute a remedial notice under the *Local Government Act 2009*, chapter 5, part 2, division 2. This means that if the person fails to take the action specified in the notice, Council can, in certain circumstances, enter the property and take the specified action. If the amount Council properly and reasonably incurs in taking the action required under the notice is not paid by the person who failed to take the action, Council may, if the debt is not paid within 30 days of Council having given a person a notice of the amount of such a debt, recover the amount, as a debt, as if the debt were overdue rates under the *Local Government Act 2009*, section 142.

When an authorised person issues a compliance notice under this section, they must provide a notice of the decision to the person. This means the person given the compliance notice may apply to review the giving of the notice under section 95. The requirements for a decision notice are set out in the definition of '**decision notice**' in the dictionary Schedule of this Local Law.

Section 88 - Compliance notice authorised by Local Law

This section retains section 27 of the 2011 Administration Local Law. Unlike the compliance notice issued under section 87, this section applies where this Local Law provides that an authorised person may give a compliance notice to a person. This section is relevant for section 58, which enables a compliance notice to be issued requiring the responsible person for a declared dangerous animal to take specified action to warn persons that the animal is being kept on the land and to ensure it remains in secure custody.

It should be noted that failure to warn persons of the declared dangerous animal itself is not an offence, which is why a compliance notice could not be issued under section 87 for a person who has failed to do this. Rather, section 58 empowers the authorised person to issue a compliance notice to the responsible person for the animal compelling them to take certain measures.

The compliance notice gives the responsible person for the animal an opportunity to rectify the issue. The offence is committed if the responsible person fails to comply with the compliance notice.

This section sets out the information that must be contained within a compliance notice, including the timeframe within which the specified action must be taken and the consequences of failing to do so. Council may 'give' a compliance notice by delivering it to the person personally, or by leaving it at, or sending it to the person's place of residence or business. See *Acts Interpretation Act 1954*, section 39.

Where a compliance notice is given to the owner of a property and requires specific action to be taken in relation to that property, then it will constitute a remedial notice under the *Local Government Act 2009*, chapter 5, part 2, division 2. This means that if the person fails to take the action specified in the notice, Council can, in certain circumstances, enter the property and take the specified action. If the amount Council properly and reasonably incurs in taking the action required under the notice is not paid by the person who failed to take the action, Council may, if the debt is not paid within 30 days of Council having given a person a notice of the amount of the debt, recover the amount, as a debt, as if it were overdue rates under the *Local Government Act 2009*, section 142.

When Council makes a decision to issue a compliance notice under this section, it must provide a notice of the decision to the applicant. This means the person given the compliance notice may apply to review the giving of the notice under Section 94. The requirements for a decision notice are set out in the definition of 'decision notice' in the dictionary Schedule of this Local Law.

Section 89 - Stop orders

This section retains, in part, section 29 of the 2011 Administration Local Law, which allows Council to issue a stop order to a person requiring them to immediately stop keeping an animal, where the activity either:

- (a) causes,
 - (b) exacerbates, or
 - (c) inhibits Council's ability to respond to,
- those urgent and/or serious threats specified in subsection (2)(a)-(e).

This section applies to the keeping of animals, whether or not an approval is required for the keeping of the animal. Council can stop a person from keeping an animal for a period of no more than 5 business days.

The intention of this provision is to act as an interim measure to immediately stop a person from keeping an animal, giving Council the opportunity to:

- attend to the urgent and/or serious matters giving rise to the stop order; or
- where an approval has been issued, commence the process for suspending the approval under section 30 and possibly cancelling it under section 29 (if required).

If an authorised person wishes to put an immediate stop to a person's activity that is a breach of this Local Law, it may be more appropriate for them to give the person an oral direction under section 85 or to issue a compliance notice requiring the person to cease the offending activity immediately.

It is an offence not to comply with a stop order issued under this section, which may trigger other enforcement measures.

This section will usually be relied on where a person has an approval to carry out an activity or is carrying out a compliant self-assessable activity. If an authorised person wishes to put an immediate stop to a person's activity that is a breach of this Local Law, then the authorised person could issue a compliance notice or a general direction requiring the person to cease the offending activity immediately.

Part 4 - Offence proceedings in Magistrates Court

Section 90 - Enforcement orders

This section gives the Magistrates Court discretion to make an enforcement order requiring a person to take certain action within a specified period. The purpose of this section is to give the presiding Magistrate power to order a person to comply with a direction to secure compliance with this Local Law. This is particularly useful where a person has previously been given opportunities to comply by Council officers but has refused to do so. This section also provides for further potential consequences that can be imposed by the court on the person if they fail to comply with the enforcement order.

Section 91 - Joint and several liability

This section retains section 32 of the 2011 Administration Local Law. This section provides that where this Local Law imposes responsibility on multiple people that are either engaged in the activity or joint owners/occupiers of a place or an animal, each person can be held liable with, or separate from, the other. The aim of this section is to ensure any and all responsible parties can be held accountable via compliance and enforcement mechanisms under this Local Law.

Part 5 - Defences

Section 92 - Defence of reasonable excuse

This section retains section 30 of the 2011 Administration Local Law. It provides a defence for a person charged with an offence against this Local Law, where they can prove they had a reasonable excuse for the contravention. This defence is typically used where extenuating circumstances or circumstances outside a person's control have caused the contravention of this Local Law.

For example, it is an offence under section 48 if a person fails to maintain a proper enclosure and prevent their animal from wandering. However, it is a defence for the owner of that animal to prove that a proper enclosure was maintained and the owner could not have reasonably prevented the escape.

Section 93 - Owners and occupiers must ensure compliance with this Local Law

This section provides that owners and occupiers of places must ensure that an offence under this Local Law is not committed in or on a place. Failure to do so means the owner or occupier also commits an offence. The intent of this provision is to ensure persons take responsibility for activities occurring in places they own or occupy. This section retains the defence in section 31 of the 2011 Administration Local Law by providing a defence for an owner or occupier of a place where the offence occurred to prove that they did not have knowledge of the act/omission which led to an offence, and they could not have reasonably prevented it. Council recognises that there are some circumstances where it may not be reasonable or fair to hold the owner or occupier of a place responsible for an offence.

The words '*place*', '*owner*' and '*occupier*' are defined in the dictionary Schedule of this Local Law.

Chapter 6 - Reviewing decisions

Section 94 - Application for review

This section retains section 22 of the 2011 Administration Local Law, which provides that a person who is given, or is entitled to be given a decision notice may apply to Council for a review of a decision. This gives the person a right to have the following types of decisions reviewed internally by Council:

- decisions in relation to approvals to keep animals (conditions imposed, refusals, etc.);
- decisions in relation to changing approvals (refusal to renew, refusal to amend conditions upon request, Council decisions to amend, suspend or cancel an approval);
- decisions to issue compliance notices; and
- decisions to make destruction orders (for animals other than dogs).

A review application must be made within the period stated in subsection (2) and be accompanied by a statement of grounds on which the applicant seeks the review of the decision. It is important to state the grounds so that Council can properly assess the application and review the relevant decision.

This section allows Council to take a fresh look at its original decision to determine whether it was correct. Internal reviews also help Council ensure consistency in decision-making. If a person wishes to complain about any other issues that do not attract a formal review right under this Local Law, they may be able to do so through the administrative actions complaints process, which Council must administer under the Local Government Act 2009.

Section 95 - Review decision

This section retains section 23 of the 2011 Administration Local Law, which sets out requirements for Council's review of a decision. Council is required to either confirm or amend the original decision or substitute another decision. It is a requirement that the review application cannot be handled by the same person who made the

original decision or a less senior person, unless the original decision was made by the CEO. This is to ensure the objectivity, impartiality, and fairness of the review decision.

Section 96 - Stay of operation of original decision

This section retains in part, section 24 of the 2011 Administration Local Law, providing that a review application does not stay the original decision. This means a person remains bound by the original decision unless and until the original decision is amended or substituted by another decision.

For example: if Council refuses an application for a person to keep an animal and the applicant applies for a review of that decision, Council's refusal is still valid while the review process is underway, and the person is not allowed to keep the animal.

Chapter 7 - Appeals against destruction orders

Section 97- Who may appeal

This section retains section 36 of the 2011 Animal Management Local Law. The section provides that the owner or responsible person for an animal for which a destruction order has been made by Council, can appeal the decision in the Magistrates Court. The purpose of having an appeal process for destruction orders is to ensure that any decisions made by Council to destroy an animal are fair and correct in accordance with the law. The consequences of a destruction order (being destruction of an animal) are irreversible, so it is important that animal owners and responsible persons have a fair opportunity to challenge these kinds of decisions where there are grounds for doing so. It is noted that the AMCD Act also sets out an internal and external review process via the Queensland Civil and Administrative Tribunal to review a dog destruction order decision made under the Act.

Section 98 - Starting appeal

This section retains section 37 of the 2011 Animal Management Local Law. It provides that an appeal against the decision to make a destruction order cannot be commenced until a review of the decision has been undertaken or finally decided under chapter 6 of this Local Law. This section sets out how an appeal is commenced, what information the notice of appeal must include (grounds of the appeal and the facts to be relied upon) and the timeframes for filing the appeal with the court.

Section 99 - Stay of destruction order

This section retains section 38 of the 2011 Animal Management Local Law. It provides that if a person files a notice of appeal against a destruction order, the destruction order is put on hold (i.e., the dog cannot be destroyed) until the appeal is decided. The purpose of this section is to protect the integrity of the appeal process by preventing Council from destroying the animal until the Court decides whether the destruction order should, in fact, be made in the circumstances. It prevents the animal from being prematurely destroyed.

Section 100 - Hearing procedures

This section retains section 39 of the 2011 Local Law. It provides that in deciding an appeal, the Magistrates Court has the same powers as the local government and is not bound by rules of evidence but must comply with natural justice. The rules of evidence govern what information can be raised or used in court to determine a matter. *For example, the rules of evidence ordinarily exclude prior convictions for offences from being raised during hearings, so that each charge can be judged on its merits. However, because under this section the Magistrates Court is not bound by those rules, relevant prior convictions could potentially be raised in certain circumstances.* However, the Magistrate still has to comply with the principle of natural justice, so must ensure that the defendant gets a fair hearing. This section also provides that the appeal is by way of rehearing. This means the Magistrate is required to step into the shoes of the original decision maker (Council officer) and effectively make the decision afresh by determining whether a destruction order should be made in the circumstances.

Section 101 - Magistrate Court's powers on appeal

This section retains section 40 of the 2011 Animal Management Local Law. It sets out what decisions the Magistrates Court can make with respect to an appeal against a destruction order. It can either confirm the original decision of Council, set aside the decision, and make a different decision, or set aside the decision and direct Council to review the matter. Under this section, Council is only required to pay the appellant's legal costs where Council:

- (1) unlawfully seized the animal; or
- (2) had no reasonable basis for making the destruction order.

Section 102 - Appeal to District Court

This section retains section 41 of the 2011 Animal Management Local Law, which provides that an appeal against a decision of the Magistrates Court in relation to a destruction order must be heard by the District Court. An appeal to the District Court can only be made if the Magistrate made an error in interpreting and applying the law.

Chapter 8 - Administrative provisions

Section 103 - Liability of local government

This section provides that Council will only be liable under this Local law if it has been negligent or otherwise has not acted in good faith. This section aims to strike a balance in the law between:

- Council's need to manage the keeping and control of animals within the City by taking effective and reasonable action (by seizing, impounding, and in certain circumstances destroying or otherwise disposing of animals);
- Council's desire to be transparent so that the community knows what action Council can lawfully take to ensure enforcement of this Local Law;
- Ensuring owners of animals are not unreasonably deprived of those animals and are given reasonable opportunities to secure compliance with this law, or to reclaim an animal where it has been seized and impounded.

Section 104 - Fees

This section retains section 35 of the 2011 Administration Local Law. Chapter 4, part 2 of the *Local Government Act 2009* allows Council to set cost-recovery fees under a Local Law or by resolution of Council. A cost recovery fee can be, for example, a fee for an application to keep an animal, or a fee for seizing/impounding an animal. Where this Local Law provides for payment of a fee but does not specify the amount payable, this amount will need to be decided by resolution of Council.

The purpose of this section and the provisions of the *Local Government Act 2009* are to ensure that Council is transparent and accountable to the community in charging fees under this Local Law. Cost recovery fees cannot be more than the cost to Council of taking the action for which the fee is charged.

Subsection (2) gives Council the flexibility to determine, by resolution, appropriate circumstances for the reimbursement of a fee. For example, where an approval is surrendered before the end of its duration, Council can resolve to give a partial reimbursement of the approval fee if considered appropriate. Under subsection (3) the local government may, where appropriate, waive or partially remit a fee, unless specific provision to the contrary is made in a Local Law or resolution.

Section 105 - Rewards

This section retains section 33 of the 2011 Administration Local Law and allows Council to offer a reward for information leading to conviction of a person for offences against this Local Law. This enables Council to, in appropriate circumstances, provide an incentive to the public, to provide information which can assist Council's enforcement of this Local Law.

Section 106 - Conditions on sale of animals

This section retains section 42 of the 2011 Animal Management Local Law. It enables Council to specify conditions in Subordinate Local Law that must be complied with when a person offers an animal for sale. Any conditions specified under this section are in addition to the obligations imposed on suppliers of cats and dogs under the AMCD Act. The purpose of this section is to enable Council to impose conditions (in addition to those in the AMCD Act) on sale of animals to ensure the animal's welfare and that this Local Law requirements for identification are satisfied prior to the animal being sold. This helps Council to keep track of who has ownership and responsibility for animals in the City.

Section 107 - Subordinate Local Laws

This section retains section 39 of the 2011 Administration Local Law. It allows Council to make Subordinate Local Laws in relation to keeping animals. This includes, for example, the ability of Council to impose minimum standards on the keeping of animals, or a certain breed or species of animal. The purpose of this section is to define the scope of what Council can regulate by Subordinate Local Law.

Section 108 - Extrinsic material

This section enables Council to make an explanatory note (which includes this document), which can be used to assist in the interpretation of this Local Law. The explanatory note must be passed by a resolution of Council and published on Council's website. The effect of this provision is that, where the meaning of a section of this Local Law is unclear or is debated, Council can refer to the explanation of that section in this Explanatory Note (or another Explanatory Note passed by Council resolution) to try and determine the meaning of the section. The information provided in the Explanatory Note should not be treated as an exhaustive statement on the subject, but rather a tool to inform of the operation and intent behind each provision.

Chapter 9 - Repeal and transitional provisions

Section 109 - Transitional arrangements for Moreton Bay Regional Council Local Law No. 1 (Administration) 2011

This section provides that the provisions of the repealed *Moreton Bay Regional Council Local Law No. 1 (Administration) 2011* relevant to the keeping and control of animals, are set out in the *Commercial Use of Public Land and Roads Local Law 2023*, part 7.

This includes, for example:

- approvals to keep animals granted under the 2011 Administration Local Law;
- compliance notices issued in relation to the keeping or control of animals under the 2011 Administration Local Law; and
- other enforcement measures taken in relation to the keeping or control of animals under the 2011 Administration Local Law that are in progress at the time of this Local Law coming into force.

Section 110 - Local Law repeal

This section provides that the provisions of the *Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011* and its subordinate Local Law are repealed. This Local Law has the effect of replacing those laws.

Section 111 - Transitional provisions for the repealed Local Law

This section is intended to preserve all decisions that were made under the 2011 Animal Management Local Law (repealed) so that they remain in force. If Council does not preserve these decisions, then they will cease to have any effect under the new Local Law. Circumstances in which this is particularly relevant include, for example, where Council has made a destruction order for an animal under the repealed Local Law.

Is this law consistent with fundamental legislative principles?

The Local Law is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below. These principles include requiring that legislation has sufficient regard to rights and liberties of individuals (*Legislative Standards Act 1992, s 4(2)(a)*).

(1) Rights, liberties and obligations dependent on administrative power only if power is sufficiently defined and subject to appropriate review (*Legislative Standards Act 1992, s 4(3)(a)*)

Chapter 2 and the Schedules to Subordinate Local Law operate to restrict the keeping of animals on private property by reference to number limits for each species based on lot size. These number limits and lot size restrictions potentially affect the right of people to do what they wish on their own property in terms of keeping animals. A person may be able to keep animals in excess of the number limits without interfering with the rights of others to peaceful enjoyment, and without contravening community expectations or adversely impacting health and safety. However, these restrictions are necessary to ensure consistency with the object of this Local Law, in particular responsible pet ownership, and community expectations, which generally support the need for restrictions on the number of animals that can be kept on private properties.

The Local Law also imposes significant obligations on the keepers of animals via offence provisions (for example, causing nuisance), minimum standards, enclosure requirements and conditions of approval (where an approval is required). However, these obligations are necessary to ensure the object of this Local Law, primarily responsible pet ownership, and are considered appropriate, taking into account the need to balance individual rights and liberties with the expectations and interests of the community.

Provisions permitting the destruction of an animal may offend fundamental legislative principles. However, chapter 4, part 6 provides for a notification procedure and chapter 7 permits an appeal against the destruction order. The power to immediately destroy a seized animal in section 61 is only intended to be used in circumstances where the risks public health and safety, or to the health and wellbeing of the animal are so high that destruction is rendered necessary.

The law provides for the establishment of registers to be kept by the local government. For example, a register of cats. These registers have restricted access. The persons able to access the registers are persons with a particular role in maintaining the integrity of the register or who have a role in fulfilling the requirements of the law.

The law provides for acquisition of property (i.e., animals) without compensation. Under section 103, Council is not liable for loss or expense caused by the lawful seizure, impounding or destruction of animals under this Local Law. The 'acquisition of property' via the powers to seize, dispose of, or destroy an animal are necessary for the enforcement of the regulatory framework and in the interest of public health and safety, and responsible pet ownership. It is intended that irrevocable measures (i.e., destruction of an animal) are utilised as a measure of last resort, unless the animal poses too significant of a risk to health and safety of persons or other animals.

(2) Inconsistency with principles of natural justice (*Legislative Standards Act 1992, s 4(3)(e)*)

Section 29 of this Local Law gives Council power, in certain limited circumstances, to immediately suspend a person's approval to keep an animal. Immediate suspension of an approval may not be consistent with principles of natural justice. Natural justice refers to a person's right to be made aware of, and respond to information relied on in making a decision which will adversely impact the person. Although this section allows Council to immediately suspend an approval to keep an animal, Council can only do so if there is an urgent and serious threat or risk to:

- the object of this Local Law; or
- public health or safety; or
- environmental harm; or
- property damage or loss of amenity.

If Council does immediately suspend an approval to keep an animal under this section, Council must give the approval holder a notice ('show cause notice') which gives them an opportunity to make written submissions to Council as to why the approval should not be suspended. Council is required to consider any written representations made before deciding upon a final course of action (*for example, whether to permanently cancel or amend the approval*).

Section 61 of this Local Law also gives Council the power, in certain limited circumstances, to immediately destroy an animal. This may not be considered to be consistent with natural justice. However, the only circumstances in which this power can be used, are:

- where an authorised person reasonably believes the animal is dangerous and cannot be controlled; or
- where the animal is significantly suffering pain or injury, or
- where the owner has requested that the animal be destroyed.

The power to immediately destroy a dangerous and uncontrollable animal is necessary in the interest of public health and safety. The power to immediately destroy an animal significantly suffering as a result of illness or injury may be necessary in the interests of the animal's welfare. The power to immediately destroy an animal where the owner requests its destruction is considered appropriate, having regard to the owner having forfeited their rights to the animal.

(3) Confers powers to enter premises, and search for or seize other property, only with warrant (*Legislative Standards Act 1992, s 4(3)(e)*)

The Local Law has sufficient regard to the principle that the power to enter premises should generally be permitted only with the occupier's consent or under a warrant issued by a judge or magistrate. The law relies upon powers of entry already available to authorised officers under the *Local Government Act 2009* and *AMCD Act*. *For example, an authorised person may rely upon the power of entry under section 132 of the Local Government Act 2009 to inspect the property to process an application for the keeping of an animal, or to find out whether the compliance notice has been complied with in relation to the keeping of an animal.*

The powers to enter property and to then seize an animal under this Local Law similarly rely upon the powers of entry already available under the *Local Government Act 2009* and *AMCD Act*. Generally, this will be where the responsible person for the animal has not complied with a compliance notice issued under this Local Law in relation to the keeping of the animal. An authorised person can also seize an animal (other than a dog) where it has attacked a person or other animal. Where an authorised person seeks to seize an animal in this circumstance from private property, they would rely on the powers under the *Local Government Act 2009*. Although a warrant is not required by the law to seize animals in these circumstances, these powers are necessary for enforcement of the regulatory framework and in the interests of public health and safety.

Is this law consistent with Human Rights?

The Local Law is generally compatible with the *Human Rights Act 2019*. Consideration has been given to whether this Local Law engages certain human rights under the *Human Rights Act 2019 (HR Act)*, and which rights might be relevant to this Local Law. Potentially relevant rights include:

- protection of the vulnerable; and
- property rights;
- right not to be punished more than once; and
- right to privacy.

(1) Protection of the vulnerable

The Local Law recognises that some individuals have disability and healthcare needs that may require the keeping of a guide, hearing or assistance dog, or a support animal more generally. The Local Law provides for people who genuinely require this kind of support to access and keep an animal appropriate to meet these needs without any unreasonable or discriminatory restrictions.

(2) Property Rights

All persons have the right to own property and a person must not be arbitrarily deprived of their property. Animals are recognised as the subject of absolute property at common law. The Local Law imposes a limit on the number and type of animals that can be kept by a person, and obligations on owners in regard to how these animals must be kept. It also imposes restrictions on the taking of animals into public places (with the exception of guide, hearing and assistance dogs certified under the *Guide, Hearing and Assistance Dogs Act 2009*).

The limits placed on the keeping of animals under this Local Law are reasonable and demonstrably justifiable, having regard to:

- the need to ensure responsible pet ownership; and
- the need to balance the rights of individuals to keep animals with the rights of other individuals and the broader community (for example, those residing in the surrounding area) to peaceful enjoyment of their own property (via the regulation of animal numbers and nuisance).

The introduction of flexibility into this Local Law to allow the keeping of animals in exceptional circumstances (where it would otherwise be prohibited) facilitates the keeping of animals where there is a genuine need to do so.

The obligations imposed on owners and responsible persons for animals with respect to how they keep animals on their property and how they need to control them in public, are necessary to ensure responsible pet ownership and the health and safety of other animals and persons within the community.

It is considered, in light of the above, that the limits on property rights imposed by this Local Law are reasonable and demonstrably justifiable.

(3) Right not to be punished more than once

There are two offences under this Local Law which could potentially lead to a person being punished more than once for the same act or omission:

- (1) offence for animal wandering at large (section 48); and
- (2) offence of failing to ensure the animal is under effective control in a public place (section 52)

It is possible for an owner to be charged with both offences if the animal has escaped a property and is wandering on a road, park, or other public place. However, both offences are justifiable and necessary to include in this Local Law as they punish different acts/omissions which are inconsistent with responsible pet ownership.

The offence for an animal wandering at large is ordinarily relied upon when a person has failed to maintain an enclosure appropriate to keep the animal contained within the property and that animal has subsequently escaped and been found wandering. *For example, where a person only has a small property fence and a large dog that can easily jump over it.*

The offence for not maintaining effective control of an animal in a public place is ordinarily relied upon when the person is in a public place with their animal but does not keep effective control of it. *For example, a person takes their dog for a walk but does not have it on a lead.*

Given that the purpose and intended use of these offences is to capture different acts/omissions, both offences are necessary to ensure responsible pet ownership, and are reasonable demonstrably justifiable limits on the right not to be punished more than once.

(4) Right to privacy

There are three sections of this Local Law which may be inconsistent with the right to privacy. Sections 46 and 47 require dog and cat owners to include their contact phone number on a tag to be worn by their dog or cat when it is at any place other than its registered address. It is considered that this is a reasonable requirement to give effect to the object of this Local Law, namely promoting responsible pet ownership by ensuring that the owner of an animal can be identified and contacted in the event their pet is found wandering by Council or another member of the community. This is not considered to be an arbitrary interference with a person's right to privacy.

Similarly, section 56 imposes an obligation on the owner or responsible person for an animal that has caused a person or other animal injury, to render assistance to the injured person or animal. This includes providing required particulars (i.e., contact information) to the injured person (or person responsible for the injured animal). The purpose of this requirement is to ensure that:

- the injured party can contact the person responsible for the animal that caused the injury in case this is necessary for medical, financial, or legal purposes; and
- the injured party can notify Council of the details of the person responsible for the animal so that Council can investigate and take appropriate action.

This is considered to be a reasonable requirement to give effect to the object of this Local Law, namely promoting responsible pet ownership, balancing community expectations with individual rights, and protecting the community against risks to health and safety. As such, it is not considered to be an arbitrary interference with a person's right to privacy.