

FINANCE AND ADMINISTRATION COMMITTEE 15 FEBRUARY 2012	2
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DELEGATION FROM COUNCIL TO THE CHIEF EXECUTIVE OFFICER –
ANIMAL MANAGEMENT (CATS AND DOGS) ACT 2008

Darryl Crees : 18/25/1-08: #3480518v2

RECOMMENDATION:

That Council confirms its resolution of 8 September 2010 that under section 257 of the *Local Government Act 2009*, Council resolves to delegate the exercise of power contained in Schedule 2 of the Instrument of Delegation, attached as Appendix 1 to the Chief Executive Officer and Appendix 2 to specified Council Officers. These powers must be exercised subject to any limitations contained in Schedule 3 of the Instrument of Delegation.

BACKGROUND:

A report was presented to Council at the Planning & Environment Committee meeting on 8 September 2010 regarding the implementation of the *Animal Management (Cats and Dogs) Act 2008*.

It was resolved by Council to delegate the exercise of power to the Chief Executive Officer and sub-delegation to Council Officers to ensure the smooth operation of animal management in the Cairns Regional Council area.

COMMENT:

It has been noted that both the resolution of 8 September 2010 and the subsequent Instrument of Delegation misquoted section 259 of the *Local Government Act 2009* when it should have recorded section 257 of the *Local Government Act 2009*.

Section 257 enables the local government through a resolution to delegate its powers to the Chief Executive Officer whereas section 259 enables the Chief Executive Officer to sub-delegate.

The sole purpose of this report is to rectify this administrative inaccuracy recorded in the resolution of 8 September 2010.

CONSIDERATIONS:

Statutory:

This report complies with the *Local Government Act 2009*.

Financial and Risk:

There is not any financial or risk implications in addressing this matter.

CONSULTATION:

This report has been prepared following consultation with Council's Local Laws Unit.

CONCLUSION:

It is recommended that Council adopts the resolution presented to confirm the delegation to the Chief Executive Officer to ensure the smooth operation of animal management in the Cairns Regional Council area.

ATTACHMENTS:

Appendix 1 – Instrument of Delegation.

Appendix 2 – Indication of powers to be sub-delegated by the Chief Executive Officer.

Darryl Crees

Co-ordinator Corporate Services

Linda Kirchner

General Manager – Corporate Services

APPENDIX 1**INSTRUMENT OF DELEGATION****Animal Management (Cats and Dogs) Act 2008**

Under section 257 of the *Local Government Act 2009* **CAIRNS REGIONAL COUNCIL RESOLVES** to delegate the exercise of powers contained in Schedule 2 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 3.

Schedule 1	
Powers Conferred	
Position	Position Code

Schedule 2	
Powers Conferred	
Section of Animal Management (Cats and Dogs) Act 2008	Description
CHAPTER 3 – REGISTRATION	
Part 2 (How cat or dog is registered)	
49	<p>Relevant local government must give registration notice</p> <p>(2) The relevant local government for the cat or dog must give its owner notice (the registration notice) that the cat or dog has been registered by the local government.</p>
51	<p>Local government must keep registration form and information</p> <p>A local government giving a registration notice to the owner of a cat or dog must –</p> <p>(a) keep the registration form and other information about the cat or dog given to it by the owner; and</p> <p>(b) if the information must be recorded in a register kept by the chief executive officer of the local government – within 7 days, record the information in the appropriate register.</p>

CHAPTER 4 – REGULATED DOGS	
Part 3 (Restricted dog permits)	
Division 1 (Obtaining permit for restricted dog)	
Subdivision 1 (Permit applications)	
74	<p>Inquiries into application for permit</p> <p>(1) The relevant local government may, after a permit application has been made, by notice, require the applicant to give it a stated document or information that is relevant to the application.</p>
75	<p>Deciding application</p> <p>(1) The relevant local government must either grant or refuse a permit application within 21 days after the later of the following to happen –</p> <ul style="list-style-type: none"> (a) the making of the application; (b) it receives all necessary information to decide the application. <p>(2) The local government must refuse the application if –</p> <ul style="list-style-type: none"> (a) the applicant – <ul style="list-style-type: none"> (i) is a minor; or (ii) has been convicted of an offence against this chapter and the conviction is not a spent conviction; or (b) it is not satisfied the place for which the application is made has a detached house on it in which someone usually lives; or (c) it is satisfied the restricted dog the subject of the application is 9 months or older and has not been desexed. <p>(3) However, subsection (2)(c) does not apply if the local government is satisfied desexing is likely to be a serious risk to the health of the dog.</p> <p>(5) If the local government decides to grant the application, it may impose a condition provided for under a regulation made under section 80(2).</p>

76	<p>Criteria for decision</p> <p>In deciding a permit application, the matters the relevant local government must consider include –</p> <ul style="list-style-type: none"> (a) whether the place for which the application is made is suitable, having regard to community health and safety; and (b) whether, if the application were to be granted, the permit conditions would be complied with for each restricted dog the subject of the application; and (c) another matter prescribed under a regulation.
Subdivision 2 (Action after decision on application)	
77	<p>Grant of application</p> <p>(1) As soon as practicable after deciding to grant a permit application, the relevant local government must issue the applicant with a restricted dog permit for the restricted dog the subject of the application.</p>
79	<p>Notice of refusal of permit application</p> <p>As soon as practicable after deciding to refuse a permit application, the relevant local government must give the applicant an information notice about the decision.</p>

Division 3 (Renewal of permit)	
84	<p>Deciding renewal application</p> <p>(1) The relevant local government must either grant or refuse a renewal application within 21 days after the later of the following to happen –</p> <ul style="list-style-type: none"> (a) the making of the application; (b) it receives all necessary information to decide the application. <p>(2) The local government must refuse the application if the applicant has been convicted of an offence against this chapter and the conviction is not a spent conviction.</p> <p>(3) A regulation may provide that the application must be refused in another stated circumstance.</p> <p>(4) The local government –</p> <ul style="list-style-type: none"> (a) must, in deciding the application, consider the criteria mentioned in section 76; and (b) may seek further documents or information in the way mentioned in section 74. <p>(5) The local government must, as soon as practicable after deciding the application –</p>

	<p>(a) if the decision is to grant–issue the applicant with a restricted dog permit that has been renewed (a renewed permit) in the approved form; or</p> <p>(b) if the decision is to refuse-give the applicant an information notice about the decision.</p>
Division 4 (Amendment of permits)	
87	<p>Amendment by relevant local government</p> <p>(1) The relevant local government may amend a restricted dog permit at any time, by giving the permit holder notice of the amendment and recording particulars of the amendment in its restricted dog register, if the amendment –</p> <p>(a) is to correct a clerical or formal error; or</p> <p>(b) does not adversely affect the holder’s interests; or</p> <p>(c) is at the holder’s written request.</p>
Part 4 (Regulated dog declarations)	
89	<p>Power to make declaration</p> <p>(1) Any local government may, by complying with the requirements of this part –</p> <p>(a) declare a particular dog to be a declared dangerous dog (a dangerous dog declaration); or</p> <p>(b) declare a particular dog to be declared menacing dog (a menacing dog declaration); or</p> <p>(c) declare a particular dog to be a restricted dog (a restricted dog declaration).</p> <p><i>Note – See sections 61 (What is a declared dangerous dog), 62 (What is a declared menacing dog) and 63(2) (What is a restricted dog).</i></p> <p>(4) A restricted dog declaration may be made for a dog only if the local government is satisfied the dog is of a breed mentioned in section 63(1).</p>
90	<p>Notice of proposed declaration</p> <p>(1) If a local government proposes to make a regulated dog declaration it must give any owner of the dog a notice (a proposed declaration notice).</p>

92	<p>Withdrawing proposed declaration notice</p> <p>The local government may withdraw the proposed declaration notice by giving notice of the withdrawal to any owner of the dog the subject of the notice.</p>
94	<p>Making declaration</p> <p>(1) The local government must consider any written representations and evidence accompanying them within the period stated in the proposed declaration notice.</p> <p>(2) If, after complying with subsection (1), the local government is satisfied that the relevant ground under section 89 still exists, it must make the regulated dog declaration for the dog.</p>
95	<p>Notice and taking effect of declaration</p> <p>(1) As soon as practicable after deciding to make a regulated dog declaration, the local government must give any owner of the dog the subject of the declaration a notice under subsection (2) or (3).</p>

Part 6 – (Miscellaneous provisions)

100	<p>Surrender of regulated dog</p> <p>(3) The local government must destroy the dog as soon as practicable after the surrender.</p>
102	<p>Recovery of seizure or destruction costs</p> <p>(2) The local government may recover the cost from the dog's owner or former owner if the incurring of the cost was necessary and reasonable.</p>

CHAPTER 10 – TRANSITIONAL PROVISIONS

Part 1 (Transitional provisions for Act No. 74 of 2008)

212	<p>Restricted dog registers</p> <p>(2) A restricted dog register may include other information the local government considers appropriate.</p>
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Schedule 3

Limitations to the Exercise of Power

Nil

APPENDIX 2**INDICATION OF POWERS TO BE SUB-DELEGATED
BY CEO TO SPECIFIED OFFICERS**

Section of <i>Animal Management (Cats and Dogs) Act 2008</i>	Description	Sub-Delegation to Specified Officer
CHAPTER 3 - REGISTRATION		
Part 2 (How cat or dog is registered)		
49	<p>Relevant local government must give registration notice</p> <p>(2) The relevant local government for the cat or dog must give its owner notice (the registration notice) that the cat or dog has been registered by the local government.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>
51	<p>Local government must keep registration form and information</p> <p>A local government giving a registration notice to the owner of a cat or dog must –</p> <p>(a) keep the registration form and other information about the cat or dog given to it by the owner; and</p> <p>(b) if the information must be recorded in a register kept by the chief executive officer of the local government – within 7 days, record the information in the appropriate register.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p> <p>Local Laws Compliance Officers</p> <p>Local Laws Patrol Officers</p> <p>Administration Officer – Local Laws</p> <p>Environmental Enforcement Officer</p> <p>Technical Building Officer</p>

CHAPTER 4 – REGULATED DOGS		
Part 3 (Restricted dog permits)		
Division 1 (Obtaining permit for restricted dog)		
Subdivision 1 (Permit applications)		
74	<p>Inquiries into application for permit</p> <p>(1) The relevant local government may, after a permit application has been made, by notice, require the applicant to give it a stated document or information that is relevant to the application.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>

75	<p>Deciding application</p> <p>(1) The relevant local government must either grant or refuse a permit application within 21 days after the later of the following to happen –</p> <p>(a) the making of the application;</p> <p>(b) it receives all necessary information to decide the application.</p> <p>(2) The local government must refuse the application if –</p> <p>(a) the applicant –</p> <p style="padding-left: 40px;">(i) is a minor; or</p> <p style="padding-left: 40px;">(ii) has been convicted of an offence against this chapter and the conviction is not a spent conviction; or</p> <p>(b) it is not satisfied the place for which the application is made has a detached house on it in which someone usually lives; or</p> <p>(c) it is satisfied the restricted dog</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>
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	<p>the subject of the application is 9 months or older and has not been desexed.</p> <p>(3) However, subsection (2)(c) does not apply if the local government is satisfied desexing is likely to be a serious risk to the health of the dog.</p> <p>(5) If the local government decides to grant the application, it may impose a condition provided for under a regulation made under section 80(2).</p>	
76	<p>Criteria for decision</p> <p>In deciding a permit application, the matters the relevant local government must consider include –</p> <p>(a) whether the place for which the application is made is suitable, having regard to community health and safety; and</p> <p>(b) whether, if the application were to be granted, the permit conditions would be complied with for each restricted dog the subject of the application; and</p> <p>(c) another matter prescribed under a regulation.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>
77	<p>Grant of application</p> <p>(1) As soon as practicable after deciding to grant a permit application, the relevant local government must issue the applicant with a restricted dog permit for the restricted dog the subject of the application.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>

79	<p>Notice of refusal of permit application</p> <p>As soon as practicable after deciding to refuse a permit application, the relevant local government must give the applicant an information notice about the decision.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>
84	<p>Deciding renewal application</p> <p>(1) The relevant local government must either grant or refuse a renewal application within 21 days after the later of the following to happen –</p> <p>(a) the making of the application;</p> <p>(b) it receives all necessary information to decide the application.</p> <p>(2) The local government must refuse the application if the applicant has been convicted of an offence against this chapter and the conviction is not a spent conviction.</p> <p>(3) A regulation may provide that the application must be refused in another stated circumstance.</p> <p>(4) The local government –</p> <p>(a) must, in deciding the application, consider the criteria mentioned in section 76; and</p> <p>(b) may seek further documents or information in the way mentioned in section 74.</p> <p>(5) The local government must, as soon as practicable after deciding the application –</p> <p>(a) if the decision is to grant–issue the applicant with a restricted dog permit that has</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>

	<p>been renewed (a renewed permit) in the approved form; or</p> <p>(b) if the decision is to refuse-give the applicant an information notice about the decision.</p>	
87	<p>Amendment by relevant local government</p> <p>(1) The relevant local government may amend a restricted dog permit at any time, by giving the permit holder notice of the amendment and recording particulars of the amendment in its restricted dog register, if the amendment –</p> <p>(a) is to correct a clerical or formal error; or</p> <p>(b) does not adversely affect the holder's interests; or</p> <p>(c) is at the holder's written request.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>
89	<p>Power to make declaration</p> <p>(1) Any local government may, by complying with the requirements of this part –</p> <p>(a) declare a particular dog to be a declared dangerous dog (a dangerous dog declaration); or</p> <p>(b) declare a particular dog to be declared menacing dog (a menacing dog declaration); or</p> <p>(c) declare a particular dog to be a restricted dog (a restricted dog declaration).</p> <p><i>Note – See sections 61 (What is a declared dangerous dog), 62 (What is a declared menacing dog) and 63(2) (What is a restricted dog).</i></p> <p>(4) A restricted dog declaration may be made for a dog only if the local government is satisfied the dog is of a breed mentioned in section 63(1).</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p>
90	<p>Notice of proposed declaration</p> <p>(1) If a local government proposes to</p>	<p>General Manager Planning & Environment</p>

	<p>make a regulated dog declaration it must give any owner of the dog a notice (a <i>proposed declaration notice</i>).</p>	<p>Manager Environmental Assessment Environmental Assessment Co-ordinator Co-ordinator Local Laws Compliance Unit Senior Local Laws Compliance Officers</p>
92	<p>Withdrawing proposed declaration notice</p> <p>The local government may withdraw the proposed declaration notice by giving notice of the withdrawal to any owner of the dog the subject of the notice.</p>	<p>General Manager Planning & Environment Manager Environmental Assessment Environmental Assessment Co-ordinator Co-ordinator Local Laws Compliance Unit Senior Local Laws Compliance Officers</p>
94	<p>Making declaration</p> <p>(1) The local government must consider any written representations and evidence accompanying them within the period stated in the proposed declaration notice.</p> <p>(2) If, after complying with subsection (1), the local government is satisfied that the relevant ground under section 89 still exists, it must make the regulated dog declaration for the dog.</p>	<p>General Manager Planning & Environment Manager Environmental Assessment Environmental Assessment Co-ordinator Co-ordinator Local Laws Compliance Unit Senior Local Laws Compliance Officers</p>
95	<p>Notice and taking effect of declaration</p> <p>(1) As soon as practicable after deciding to make a regulated dog declaration, the local government must give any owner of the dog the subject of the declaration a notice under subsection (2) or (3).</p>	<p>General Manager Planning & Environment Manager Environmental Assessment Environmental Assessment Co-ordinator Co-ordinator Local Laws Compliance Unit Senior Local Laws Compliance Officers</p>
Part 6 (Miscellaneous provisions)		
100	<p>Surrender of regulated dog</p> <p>(3) The local government must</p>	<p>General Manager Planning & Environment</p>

	<p>destroy the dog as soon as practicable after the surrender.</p>	<p>Manager Environmental Assessment Environmental Assessment Co-ordinator Co-ordinator Local Laws Compliance Unit Senior Local Laws Compliance Officers</p>
102	<p>Recovery of seizure or destruction costs</p> <p>(2) The local government may recover the cost from the dog's owner or former owner if the incurring of the cost was necessary and reasonable.</p>	<p>General Manager Planning & Environment Manager Environmental Assessment Environmental Assessment Co-ordinator Co-ordinator Local Laws Compliance Unit Senior Local Laws Compliance Officers Local Laws Compliance Officers Local Laws Patrol Officers Administration Officer – Local Laws Environmental Enforcement Officer Technical Building Officer</p>

CHAPTER 10 – TRANSITIONAL PROVISIONS		
Part 1 (Transitional provisions for Act No. 74 of 2008)		
212	<p>Restricted dog registers</p> <p>(2) A restricted dog register may include other information the local government considers appropriate.</p>	<p>General Manager Planning & Environment</p> <p>Manager Environmental Assessment</p> <p>Environmental Assessment Co-ordinator</p> <p>Co-ordinator Local Laws Compliance Unit</p> <p>Senior Local Laws Compliance Officers</p> <p>Local Laws Compliance Officers</p> <p>Local Laws Patrol Officers</p> <p>Administration Officer – Local Laws</p> <p>Environmental Enforcement Officer</p> <p>Technical Building Officer</p>