

Subordinate Local Law No. 1.18 (Depasturage of Animals on a Town Reserve) 2018

Contents

Part 1	Preliminary.....	2
	1 Short title	2
	2 Purpose and how it is to be achieved	2
	3 Authorising local law	2
	4 Definitions	2
Part 2	Approval for prescribed activity	2
	5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a).....	2
	6 Approvals that are non-transferable—Authorising local law, s 15(2)	3
Schedule 1	Depasturage of animals on a town reserve	4
Schedule 2	Categories of approval that are non-transferable	9
Schedule 3	Dictionary.....	10

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.18 (Depasturage of Animals on a Town Reserve) 2018*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2018* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
 - (a) various matters regarding the granting of approvals for prescribed activities; and
 - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2018* (the **authorising local law**).

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
 - (a) names a prescribed activity in section 1; and
 - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
 - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
 - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

6 Approvals that are non-transferable—Authorising local law, s 15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

Schedule 1 Depasturage of animals on a town reserve

Section 5

1. Prescribed activity

Depasturage of animals on a town reserve.

2. Activities that do not require an approval under the authorising local law

No activities stated.

3. Documents and materials that must accompany an application for an approval

(1) Full details of—

- (a) why the applicant wishes to depasture animals on the town reserve; and
- (b) each type of animal to be depastured on the town reserve; and
- (c) the number of animals to be depastured on the town reserve and whether the animals are entire or not; and
- (d) the number of animals (including progeny) of the applicant which are already depastured on the town reserve; and
- (e) the age, breed and sex of each animal to be depastured on the town reserve; and
- (f) the period during which the animals are to be depastured on the town reserve; and
- (g) the registration details for each animal to be depastured on the town reserve; and
- (h) the person who will be responsible, on a day to day basis, for the care and control of each animal to be depastured on the town reserve; and
- (i) when, and where, the animals to be depastured on the town reserve are to be sold; and
- (j) when the animals depastured on the town reserve are to be removed from the town reserve; and
- (k) how the applicant, or any other person, has identified, or proposes to identify, each animal to be depastured on the town reserve; and
- (l) the place of residence of the applicant and the period during which the applicant has continuously resided at the place of residence; and
- (m) whether any person who resides at the place of residence holds a current approval to depasture animals on the town reserve, together

with particulars of the approval; and

- (n) the description (including any brands, ear marks and ear tag number) of each animal to be depastured on the town reserve.
- (2) The proposed term of the approval.
- (3) The materials, equipment and vehicles (if any) to be used in the undertaking of the prescribed activity.

4. Additional criteria for the granting of an approval

- (1) The undertaking of the prescribed activity must not—
 - (a) result in—
 - (i) harm to human health or safety; or
 - (ii) property damage or loss of amenity; or
 - (iii) nuisance; or
 - (iv) obstruction of vehicular or pedestrian traffic; or
 - (v) environmental harm; or
 - (vi) environmental nuisance; or
 - (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken.
- (2) Only an applicant who has resided at a place of residence in the local government area of the local government for a period of 3 continuous months may be granted an approval to depasture an animal on a town reserve.
- (3) An approval to depasture an animal on a town reserve must not be granted to a person who is residing at a place of residence in circumstances where another person who ordinarily resides at the residence already holds an approval to depasture animals on the town reserve.
- (4) An approval to depasture animals on the town reserve may only authorise the depasturing on the town reserve of horses and cattle.
- (5) An approval to depasture animals on the town reserve may only authorise the depasturing of whichever is the lesser of—
 - (a) a maximum of 20 cattle; and
 - (b) if the use of the town reserve for the depasturage of animals is impacted by drought—a maximum number of cattle (less than 20 cattle) determined from time to time by the local government by resolution, by reference to the safe carrying capacity of the town reserve.
- (6) An approval to depasture animals on a town reserve must not authorise the

depasturing on the town reserve of a stallion, bull, rig, stag or any male cattle over the age of 2 years.

5. Conditions that must be imposed on an approval

No conditions prescribed.

6. Conditions that will ordinarily be imposed on an approval

The conditions of an approval may—

- (a) require the surrender of the approval if the approval holder ceases to reside at a place of residence in the local government area of the local government; and
- (b) specify the types of animals that may be depastured on a town reserve, for example, the types of animal that may be depastured may be limited to horses and cattle; and
- (c) specify the maximum number of animals that may be depastured on a town reserve, for example, a limited number of horses and a limited number of cattle, or a combination of horses and cattle, but limited to a specified number; and
- (d) require that all cattle depastured on a town reserve be identified in a specified manner, for example, by the wearing of an ear tag issued by the local government; and
- (e) require that the approval holder deliver to the local government a description (including particulars of brand, ear mark and ear tag number) for each animal to be depastured on a town reserve prior to the depasturing of the animal on the town reserve; and
- (f) require that if the approval holder sells any animal depastured on a town reserve to another person who is also depasturing animals on the town reserve pursuant to an approval, then the approval holder must notify the local government of the sale within a specified period; and
- (g) give an authorised person of the local government the right to remove from a town reserve any animal depastured on the town reserve pursuant to the approval; and
- (h) require the approval holder to remove 1 or more animals from the town reserve within a specified period, or in a specified manner, if an authorised person is satisfied that the depasturing of the animal or animals on the town reserve is causing, or is likely to cause, injury to persons or property; and
- (i) give an authorised person of the local government the right to remove from a town reserve any animal depastured on the town reserve if the authorised person is unable to contact the approval holder and the authorised person is satisfied that immediate removal of the animal is necessary for safety reasons; and

- (j) prohibit the depasturing on a town reserve of a specified breed or species of animal, for example, the depasturing of a stallion, bull, rig, stag or any male cattle over the age of 2 years; and
- (k) limit the number of animals that may be depastured on a town reserve by reference to the safe carrying capacity of the town reserve; and
- (l) specify the number of entire animals that may be depastured on a town reserve; and
- (m) require that—
 - (i) all animals depastured on a town reserve by the approval holder are the bona fide property of the approval holder; and
 - (ii) the welfare of any animal depastured on a town reserve is the responsibility of the approval holder who must ensure the provision of adequate feed and water for the animal at all times; and
 - (iii) the approval holder pay an amount to the local government in respect of the undertaking of the prescribed activity on the town reserve, prior to the commencement of the prescribed activity on the town reserve; and
 - (iv) an animal depastured on a town reserve pursuant to the approval wear a specified device to facilitate the location of the animal, for example, a bell; and
 - (v) the approval holder consent in writing to the mustering of 1 or more or all of the animals of the approval holder on the town reserve—
 - (A) in a specified manner;
 - (B) periodically;
 - (C) by reference to specified periods;
 - (D) without notice;
 - (E) when considered necessary by an authorised person having regard to prevailing weather and stock conditions; and
 - (vi) the approval holder reimburse the local government for the cost of ear tags or replacement ear tags issued by the local government for each animal which are mustered by the local government.

7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.

- (2) The term of the approval must be specified in the approval.

8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

Table 1 – Third party certification

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

Schedule 2 Categories of approval that are non-transferable

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

Schedule 3 Dictionary

Section 4

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

residence means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) a self-contained unit used by, or intended for the exclusive residential use of, one household.

town reserve has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018*.

This and the preceding 9 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.18 (Depasturage of Animals on a Town Reserve) 2018* made in accordance with the provisions of the *Local Government Act 2009* by Balonne Shire Council by resolution dated the 18 day of October 2018.



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Chief Executive Officer