

McKinlay Shire Council

Subordinate Local Law No. 2 (Animal Management) 2019

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 2 (Animal Management) 2019*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 2 (Animal Management) 2019*, which provides for regulation of the keeping and control of animals within the local government's area.
- (2) The purpose is to be achieved by providing for—
 - (a) the circumstances in which the keeping of animals is prohibited or requires approval; and
 - (b) requirements for keeping animals, including minimum standards, mandatory desexing, proper enclosures, koala conservation and identification; and
 - (c) the control of animals in public places; and
 - (d) matters regarding the impounding of animals and the sale or disposal of impounded animals; and
 - (e) the conditions to be complied with by persons who offer animals, or a particular species of animals, for sale; and
 - (f) the declaration of a species of animal as a declared dangerous animal and the criteria for declaration of a specific animal as a declared dangerous animal.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Animal Management) 2019* (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 13 defines particular words used in this subordinate local law.

Part 2 Keeping of animals

5 Circumstances in which keeping animals prohibited—Authorising local law, s 5(1)

For section 5(1) of the authorising local law, keeping an animal or animals mentioned in column 1 of schedule 1 is prohibited in the circumstances described in column 2 of schedule 1.

6 Circumstances in which keeping animals requires approval—Authorising local law, s 6(1)

For section 6(1) of the authorising local law, keeping an animal or animals of the species or breed mentioned in column 1 of schedule 2 requires approval in the circumstances described in column 2 of schedule 2.

7 Animals that must be desexed—Authorising local law, s 7

For section 7 of the authorising local law, an animal of the species or breed mentioned in column 1 of schedule 3 must be desexed once it reaches the age specified in column 2 of schedule 3 except in the circumstances described in column 3 of schedule 3.

8 Minimum standards for keeping animals—Authorising local law, s 8(1)

- (1) For section 8(1) of the authorising local law, the minimum standards for the keeping of animals are set out in schedule 4.
- (2) For section 8(1) of the authorising local law, column 2 of schedule 5 sets out the minimum standards for keeping an animal of the species or breed mentioned in column 1 of schedule 5.

9 Identification for cats and dogs in certain circumstances—Authorising local law, s 9

For section 9 of the authorising local law, the identification required for a dog that is at a place other than the address stated in the registration notice for the dog is the registration device mentioned in section 12(2) of the *Animal Management (Cats and Dogs) Act 2008*.

Part 3 Control of animals**10 Public places where animals are prohibited—Authorising local law, s 10(1)**

(1) For section 10(1) of the authorising local law, the species or breeds of animals mentioned in column 2 of schedule 6 are prohibited in the public places described in column 1 of schedule 6.

(2) However, subsection (1) does not apply to—

- (a) an animal that is specifically authorised to be in a particular place pursuant to a condition of an approval issued by the local government under *Local Law No. 1 (Administration) 2019*; or
- (b) an animal in a cemetery that has been authorised in writing to be in the cemetery by an authorised person.

11 Dog off-leash areas—Authorising local law, s 11(1)

For section 11(1) of the authorising local law, the areas described in schedule 7 are designated as dog off-leash areas.

12 Animal faeces in public places—Authorising local law, s 13

For section 13 of the authorising local law, the following animals are prescribed as animals whose faeces must be removed from a public place and disposed of in a sanitary way—

- (a) dogs;
- (b) cats;
- (c) horses;
- (d) cattle;
- (e) goats;
- (f) donkeys;

(g) camels;

(h) sheep.

13 Requirements for proper enclosures for keeping animals—Authorising local law, s 14(2)

For section 14(2) of the authorising local law, column 2 of schedule 8 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of schedule 8.

14 Koala conservation—Authorising local law, s 15

(1) For section 15(1) of the authorising local law, schedule 9 sets out the requirements for keeping a dog on land that is within a koala area.

(2) For section 15(4) of the authorising local law, each area described in schedule 10 is designated as a koala area.

15 Criteria for declared dangerous animals—Authorising local law, s 19(1)

For section 19(1) of the authorising local law, the criteria for declaring an animal as a declared dangerous animal are set out in schedule 11.

Part 4 Seizure, impounding or destruction of animals

16 Place of care for impounded animals—Authorising local law, s 24

For section 24 of the authorising local law, the place of care for animals impounded by the local government will be operated by the local government.

17 Animals that may be disposed of without auction or tender—Authorising local law, s 32(1)(b)

For section 32(1)(b) of the authorising local law, all animals may be sold by private agreement, destroyed or disposed of in some other way.

18 Register of impounded animals—Authorising local law, s 33(3)

For section 33(3) of the authorising local law, the register of impounded animals will be kept at the local government's public office.

Part 5 Appeals against destruction orders

This part in the authorising local law does not contain any matters to be provided for by subordinate local law.

Part 6 Miscellaneous

19 Conditions regarding sale of animals—Authorising local law, s 42(1)

For the purposes of section 42(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 12 must comply with the conditions set out in column 2 of schedule 12.

20 Animals excluded from application of the local law—Authorising local law, schedule

For the purposes of the definition of “*animal*” in the schedule to the authorising

local law, the following species of animal are excluded from the application of the authorising local law—

- (a) fish;
- (b) insects;
- (c) amphibians;
- (d) reptiles.

21 Species that are declared dangerous animals—Authorising local law, schedule

For the purposes of the definition of “*declared dangerous animal*” in the schedule to the authorising local law, no species is declared as a declared dangerous animal.

22 Prescribed period for reclaiming animals—Authorising local law, schedule

- (1) For the purposes of the definition of “*prescribed period*” in the schedule to the authorising local law, the period within which an animal may be reclaimed is—
 - (a) if the animal is registered with the local government—5 days; or
 - (b) if the animal is not registered with the local government—3 days.
- (2) The prescribed period for an animal commences—
 - (a) on the day a notice of impounding is given to a person for the animal;
or
 - (b) if no notice is given to a person for the animal—on the day of the seizure of the animal.

Schedule 1 Prohibition on keeping animals

Section 5

	Column 1 Animal	Column 2 Circumstances in which keeping of animal or animals is prohibited
1	Dog	<p>(a) More than 2 dogs over the age of 12 weeks—</p> <p>(i) on an allotment with an area less than or equal to 1,000m² in a designated town area; or</p> <p>(ii) in a multiple dwelling (units, duplex, townhouse, etc) in a designated town area.</p> <p>(b) Any of the following breeds and cross breeds anywhere in the local government area: dogo Argentino; fila Brasileiro; Japanese tosa; Perro de Presa Canario or Presa Canario.</p>
2	Cat	<p>More than 2 cats over the age of 12 weeks—</p> <p>(a) on an allotment with an area less than or equal to 1,000m² in a designated town area; or</p> <p>(b) in a multiple dwelling (units, duplex, townhouse, etc) in a designated town area.</p>
3	Stallion or bull	<p>A stallion or bull in a designated town area unless the stallion or bull is kept on premises in the designated town area—</p> <p>(a) by a veterinary surgeon; and</p> <p>(b) for the primary purpose of facilitating the care and treatment of the animal by the veterinary surgeon.</p>
4	Sheep or goat	A sheep or goat on an allotment with an area less than 1,000m ² in a designated town area.
5	Pig	A pig in a designated town area.
6	Bees	A hive on an allotment in a designated town area.
7	Emu, ostrich or the like	A bird to which this item 7 applies in a designated town area.
8	Pigeon	<p>A pigeon—</p> <p>(a) on an allotment with an area less than or equal to 350m² in a designated town area; or</p> <p>(b) in a multiple dwelling (units, duplex, townhouse, etc) in a designated town area.</p>

9	Goose, turkey, duck or the like	A bird to which this item 9 applies— (a) on an allotment with an area less than or equal to 1,000m ² in a designated town area; or (b) in a multiple dwelling (units, duplex, townhouse, etc) in a designated town area.
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From the day of commencement of *Animal Management (Amendment) Subordinate Local Law (No. 1) 2022*, a prohibition prescribed in this schedule does not apply to the keeping of an animal or animals on premises if—

- (a) the animal or animals were kept on the premises before the commencement of *Animal Management (Amendment) Subordinate Local Law (No. 1) 2022*; and
- (b) the keeping of the animal or animals on the premises immediately before the commencement of *Animal Management (Amendment) Subordinate Local Law (No. 1) 2022* did not contravene any provision of a local law of the local government that was amended by the making of *Animal Management (Amendment) Subordinate Local Law (No. 1) 2022*.

Schedule 2 Requirement for approval to keep animal

Section 6

	Column 1 Species or breed of animal	Column 2 Circumstances in which keeping of animal or animals requires approval¹
1	Dog	(a) Up to 2 dogs in a multiple dwelling (units, duplex, townhouse, etc) in a designated town area. (b) 3 or more dogs over the age of 12 weeks on an allotment with an area greater than 1,000m ² in a designated town area.
2	Horse or cow	An animal to which this item 2 applies on an allotment in a designated town area.
3	Sheep or goat	A sheep or goat on an allotment with an area more than or equal to 1,000m ² in a designated town area.
4	Pigeon	More than 10 birds to which this item 4 applies on an allotment with an area greater than 1,000m ² in a designated town area.
5	Goose, turkey, duck or the like	More than 6 birds to which this item 5 applies on an allotment with an area of 1,500m ² or more in a designated town area.

¹ See *Local Law No. 1 (Administration) 2016* and *Subordinate Local Law No. 1 (Administration) 2016* in relation to the requirements and processes for approvals (e.g. form of application for approval, documents and materials that must accompany applications, criteria for granting approval, conditions that must be imposed on approvals, conditions that will ordinarily be imposed on approvals, term of approval, third party certification of applications).

Schedule 3 Requirement to desex animal

Section 7

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Schedule 4 Minimum standards for keeping animals generally

Section 8(1)

The owner of an animal kept on premises must comply with the following minimum standards—

- (a) ensure that waste waters from enclosures are drained in a nuisance free manner and that run-off is kept off adjoining land or as otherwise directed by an authorised person; and
- (b) ensure that excreta, food scraps, and other material that is, or is likely to become, offensive is collected at least once in each day and, if not immediately disposed of, is kept in a fly proof container of a kind approved by an authorised person; and
- (c) ensure that any enclosure in which the animal is kept is kept in a clean and sanitary condition and free from dust and odour; and
- (d) ensure that any enclosure in which the animal is kept is properly maintained in an aesthetically acceptable condition; and
- (e) take all reasonable steps to prevent the animals from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of other land or premises; and
- (f) ensure that the area available to the animal kept on the premises is appropriately sized so that the animal can be effectively and comfortably kept; and
- (g) any animal food must be stored in an impervious fly proof and vermin proof receptacle or in an impervious fly proof and vermin proof storeroom facility and the receptacle or storeroom facility, as the case may be, must be maintained to the satisfaction of an authorised person; and
- (h) ensure that all animals kept on the premises are provided with and have access to adequate shelter, drinking water and appropriate food; and
- (i) ensure that any enclosure used for the purpose of keeping an animal is thoroughly cleaned each week and effectively treated with an insecticide at least twice a year; and
- (j) comply with reasonable directions given by an authorised person to ensure that the keeping of the animal does not result in nuisance to occupiers of other land or premises; and
- (k) upon discovering the existence of a dead animal—
 - (i) immediately dispose of the remains of the dead animal so as not to cause a nuisance; and
 - (ii) ensure that the remains of the animal are not disposed of on or in a public place.

Schedule 5 Minimum standards for keeping particular animals

Section 8(2)

	Column 1	Column 2
	Species or breed of animal	Minimum standards for keeping animals
1	Horse or cow (but excluding stallion and bull)	Where the grazing behaviour of an animal to which this item 1 applies is causing, or is likely to cause, damage to neighbouring property, the occupier of the land where the animal is kept must take all reasonable measures to effectively isolate the animal from the property at risk, to the satisfaction of an authorised person.
2	Pigeon	Where pigeons are kept on premises they must be kept in accordance with any code of practice for the keeping of pigeons endorsed by a recognised pigeon racing or fancier association.
3	Rooster	The owner of a rooster kept on premises must— (a) take all reasonable steps to prevent the rooster from making a noise or disturbance that causes a nuisance or disturbance to any occupier of other land or premises; and (b) comply with all reasonable directions given by an authorised person to ensure that the keeping of the rooster does not result in a nuisance to any occupier of other land or premises.

Schedule 6 Prohibition of animals in public places

Section 10

	Column 1 Public place	Column 2 Species or breed of animals prohibited
1	All local government controlled areas where sport is played.	All animals except— (a) animals training for, or participating in, an organised event; and (b) where an approval has been granted by the local government or an authorised officer for the animal to be in the public place.
2	All parks and reserves.	All animals, subject to the following exceptions— (a) a dog, provided the dog is under the effective control of a person who is of sufficient strength and maturity to maintain control of the dog; and (b) animals training for, or participating in, an organised event; and (c) where an approval has been granted by the local government or an authorised officer for the animal to be in the public place.
3	In, or within 15 metres of, a designated children's playground, playground equipment, barbecue, shelter or picnic table in a park or reserve where animals are permitted, whether or not the facility is being used at the time.	All animals except a dog, provided the dog is under the effective control of a person who is of significant strength and maturity to maintain control of the dog.

Schedule 7 Dog off-leash areas

Section 11

The area bounded by Hickman Street, Old Normanton Road and Julia Street, Julia Creek, the external boundaries of which are more particularly indicated by a bold white line on the plan included in this schedule 7.



Schedule 8 Requirements for proper enclosures for animals

Section 13

	Column 1 Species or breed of animal	Column 2 Requirements for proper enclosures
1	All animals	<p>(a) The owner of an animal must provide a proper enclosure to contain the animal on the owner's premises.</p> <p>(b) A proper enclosure is—</p> <p>(i) an area of land on the owner's premises that is suitably fenced and effectively encloses the animal on the premises at all times other than when the owner allows the animal to leave the premises under effective control; and</p> <p>(ii) the enclosure must be of sufficient dimensions, having regard to the species, breed and size of the animal; and</p> <p>(iii) the enclosure must contain adequate shelter for all animals kept in the enclosure.</p> <p>(c) A proper enclosure is suitably fenced if—</p> <p>(i) it is fully surrounded by a fence comprised of strong and firm materials and designed and constructed in such a way as to prevent the enclosed animal escaping from the enclosure over, under or through the fence; and</p> <p>(ii) a part of a building or structure forms a section of the enclosure and does not have any openings through which the enclosed animal may escape from the enclosure; and</p> <p>(iii) a gate forms a section of the enclosure and the gate is kept closed and latched at all times other than when a person is effecting immediate entry to, or exit from, the enclosure.</p>
2	Dog	<p>(a) If the dog is a climber, the fence or enclosure must be constructed in such a way as to prevent the dog from climbing over the fence.</p> <p>(b) If the dog is a digger, a barrier must be installed directly below the fence or enclosure which is adequate to prevent the dog digging its way out.</p>
3	Cat	The enclosure (including a building or structure) must be such that it humanely prevents the cat from escaping from the premises.

4	Horse and cow (but excluding stallion and bull)	<p>(a) An enclosure must be constructed to prevent any animal to which this item 4 applies kept on premises from going within 10 metres of any dwelling (except any dwelling on the premises).</p> <p>(b) Except in rural areas, an enclosure must also be constructed to prevent any such animal from going within 10 metres of any premises (other than a domestic kitchen used solely for domestic purposes by the owner of the animal) used for the manufacture, preparation or storage of food for human consumption, other than food contained in hermetically sealed packages.</p> <p>(c) An enclosure, which includes an open fenced area, must be sited a minimum distance of 2 metres from each boundary of the premises (however, an exemption may be granted from compliance with this requirement if the boundary fence is not less than 2 metres high and the occupiers of the premises adjoining the boundary state in writing that they have no objection).</p>
5	Sheep and goat	<p>(a) An enclosure must be constructed to prevent any animal to which this item 5 applies kept on premises from going within 10 metres of any dwelling (except any dwelling on the premises).</p> <p>(b) An enclosure must also be constructed to prevent any such animal from going within 10 metres of any premises (other than a domestic kitchen used solely for domestic purposes by the owner of the animal) used for the manufacture, preparation or storage of food for human consumption, other than food contained in hermetically sealed packages.</p> <p>(c) An enclosure, which includes an open fenced area, must be sited a minimum distance of 2 metres from each boundary of the premises (however, an exemption may be granted from compliance with this requirement if the boundary fence is not less than 2 metres high and the occupiers of the premises adjoining the boundary state in writing that they have no objection).</p>
6	Pigeons	<p>(a) The cage or aviary must not be sited closer than 2 metres from the property boundaries.</p> <p>(b) The enclosure must be constructed to prevent any such bird from being within 10 metres of any dwelling (except any dwelling on the premises).</p> <p>(c) All pigeons must be housed in purpose built facilities.</p> <p>(d) Where wooden floors are used, a clear air space not less than 400mm between the ground level and the underside of the flooring timbers must be provided.</p> <p>(e) Where concrete floors are used, a concrete edge to the</p>

		<p>slab extending at least 600mm into the ground must be provided.</p> <p>(f) Pigeon lofts are to have a maximum height of 2.5 metres above natural ground level.</p> <p>(g) An appropriate size of enclosure must be selected to house a maximum number of birds within the proposed loft.</p> <p>(h) The maximum number of birds per cubic metre of air space must not exceed 5.</p> <p>(i) Positioning of pigeon lofts must be such that the amenity of adjoining premises is preserved, with no inconvenience or nuisance resulting from this activity or from flying birds.</p> <p>(j) Appropriate landing boards must be provided to encourage the uninterrupted return of birds to the loft, aviary or cage.</p>
7	Goose, duck, chicken, rooster, turkey and other poultry	<p>(a) The enclosure must not be sited closer than 2 metres from the property boundaries.</p> <p>(b) The enclosure must be located at the rear of the premises behind the residence (if any) situated on the premises.</p> <p>(c) The enclosure must also be constructed to prevent any such bird from going within 10 metres of any premises (other than a domestic kitchen used solely for domestic purposes by the owner of the birds) used for the manufacture, preparation or storage of food for human consumption, other than food contained in hermetically sealed packages.</p>

Schedule 9 Requirements for keeping a dog in a koala area.

Section 14(1)

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Schedule 10 Koala areas²

Section 14(2)

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² “Koala areas” under section 15(4) of the authorizing local law comprise the areas designated in this schedule plus “koala habitat areas” designated by a State planning instrument or a conservation plan made under the *Nature Conservation Act 1992*.

Schedule 11 Criteria for declared dangerous animals

Section 15

A dangerous animal declaration may be made for an animal if—

- (a) the animal has seriously attacked, or acted in a way that caused fear to, a person or another animal; or
- (b) there is a high likelihood of the animal causing injury to a person or animal or damage to property, taking into account —
 - (i) its prior history of attacking or causing fear to persons or animals or damaging property; or
 - (ii) the extent of injury or damage that could potentially be inflicted by an animal of its size and species or breed; or
 - (iii) an authorised person's first-hand assessment of the animal which indicates that the animal has demonstrated aggressive tendencies; or
 - (iv) a high level of concern about the danger posed by the animal has been expressed by neighbours or other persons who have come into contact with the animal.

Schedule 12 Conditions for sale of animals

Section 19

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Schedule 13 Dictionary

Section 4

allotment means a single parcel of land, or several contiguous parcels of land where all of the contiguous parcels of land are in—

- (a) the same ownership; or
- (b) the same occupation.

designated town area means an area identified as a designated town area in schedule 14.

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.

Schedule 14 Designated town area

Section 4

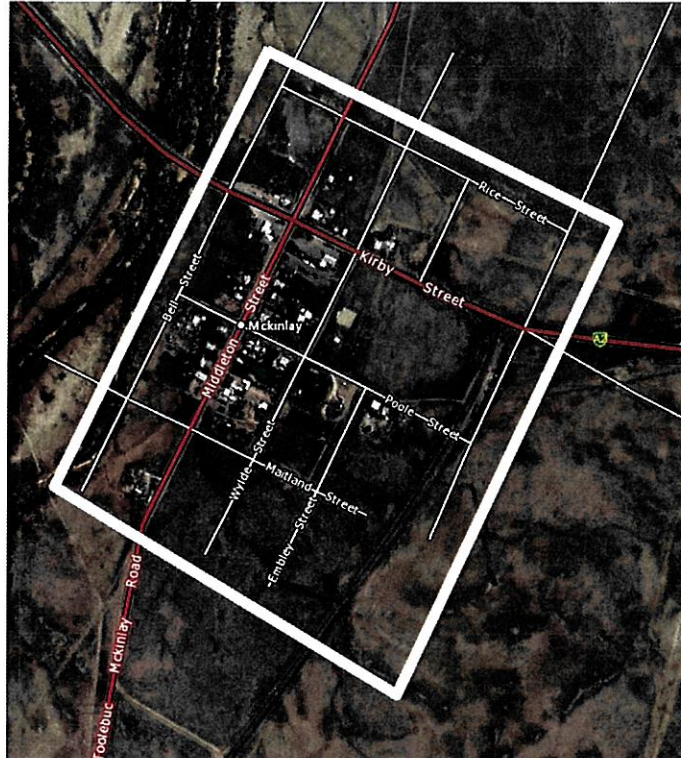
Designated town area — Julia Creek



Map - Designated town area — Julia Creek

The designated town area for the township of Julia Creek is the area of Julia Creek the external boundaries of which are indicated by a bold white line.

Designated town area — McKinlay



Map - Designated town area — McKinlay

The designated town area for the township of McKinlay is the area of McKinlay the external boundaries of which are indicated by a bold white line.

Designated town area — Kynuna



Map - Designated town area — Kynuna

The designated town area for the township of Kynuna is the area of Kynuna the external boundaries of which are indicated by a bold white line.

Designated town area — Nelia



Map - Designated town area — Nelia

The designated town area for the township of Nelia is the area of Nelia the external boundaries of which are indicated by a bold white line.

Certificate

This and the preceding twenty four (24) pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 2 (Animal Management) 2019*, adopted in accordance with the provisions of section 32 of the *Local Government Act 2009*, by the McKinlay Shire Council by resolution dated 20 January 2022.


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Chief Executive officer