



17 Queen Street, Pingelly
Western Australia 6308
Telephone: 9887 1066
admin@pingelly.wa.gov.au

Council Agenda

Shire of Pingelly

Special Council Meeting

Monday 21 October 2024

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Pingelly, positive by nature. Let's grow together!

Shire of Pingelly



Notice of Meeting

Notice is given that a Special meeting of the Council will be held in the Council Chambers, 17 Queen Street, Pingelly on Monday 21 October 2024 commencing at 4.30 pm.

Purpose of Meeting

This meeting is for Council to consider the Shire of Pingelly Save the Numbat Local Law 2024.

Disclaimer

The recommendations contained in this agenda are officers' recommendations only and should not be acted upon until Council has resolved to adopt those recommendations. The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered. Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Councils decision.

A handwritten signature in black ink, appearing to read "Andrew Dover", is written over a light blue horizontal line.

Andrew Dover
Chief Executive Officer

Risk Framework

Consequence Rating

Impact	Health	Financial	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant	Negligible injuries	Less than \$2,000	No material service interruption	No noticeable regulatory / statutory impact	Low impact, single complaint, low profile or 'no news' item	Inconsequential or no damage	Contained, reversible impact managed on site response
Minor	First aid injuries	\$2,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non-compliance	Low impact, a small number of complaints	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate	Medical type injuries <5 days	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Public embarrassment, moderate impact, low or moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major	Lost time injury >5 days	\$50,001 - \$200,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic	Fatality, permanent disability	More than \$200,000	Indeterminate prolonged interruption – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages	Public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution. Complete loss of property	Uncontained, irreversible impact

Likelihood Rating

	Description
Almost Certain	The event is expected to occur in most circumstances > once per year > 90% chance of occurring
Likely	The event will probably occur in most circumstances At least once per year 60% - 90% chance of occurring
Possible	The event should occur at some time At least once in 3 years 40% - 60% chance of occurring
Unlikely	The event could occur at some time At least once in 3 years 10% - 40% chance of occurring
Rare	The event may only occur in exceptional circumstances Less than once in 15 years < 10% chance of occurring

Risk Matrix

Consequence Likelihood	Insignificant	Minor	Moderate	Major	Catastrophic
Almost Certain	M (5)	H (10)	H (15)	E (20)	E (25)
Likely	L (4)	M (8)	H (12)	H (16)	E (20)
Possible	L (3)	M (6)	M (9)	H (12)	H (15)
Unlikely	L (2)	L (4)	M (6)	M (8)	H (10)
Rare	L (1)	L (2)	L (4)	L (4)	M (5)

Risk Acceptance Criteria

	Description	Criteria	Responsibility
Low (L)	Acceptable	Acceptable with adequate controls, managed by routine procedures and subject to annual monitoring	Staff Member
Moderate (M)	Monitor	Acceptable with adequate controls, managed by specific procedures, subject to semi-annual monitoring	Senior Manager
High (H)	Urgent action	Acceptable with effective controls, managed by senior management, subject to monthly monitoring	Senior Manager
Extreme (E)	Unacceptable	Only acceptable with excellent controls and all treatment plans to be explored and implemented where possible, managed by the CEO and subject to continuous monitoring	CEO

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Chairman to declare the meeting open.

2. ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the Noongar people of this area and recognise their continuing connection to land, waters and community. We pay respect to both the Aboriginal and non-Aboriginal people past, present and emerging.

3. ANNOUNCEMENTS BY THE PRESIDING MEMBER

4. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

5. PUBLIC QUESTION TIME

6. DISCLOSURES OF INTEREST

7. REPORTS OF COMMITTEES OF COUNCIL

8. OFFICE OF THE CHIEF EXECUTIVE OFFICER

8.1 Proposed Shire of Pingelly Save the Numbat Local Law 2024

File Reference:	ADM0103
Location:	Not Applicable
Applicant:	Not Applicable
Author:	Governance and Executive Officer
Disclosure of Interest:	Nil
Attachments:	1. Save the Numbats Local Law 2024 2. Shire of Pingelly- JSCDL Letter 3. Shire of Narrogin - Cats- Local- Law-2016- Track changes
Previous Reference:	16 October OCM 2024

Summary

Council is requested to make the Shire of Pingelly Save the Numbat Local Law 2023 in line with neighbouring local governments and community consultation undertaken to date.

Background

Pet cats kill approximately 186 animals per year on average, including 110 native animals (40 reptiles, 38 birds and 32 mammals). This average includes pet cats which are contained. On average, an individual feral cat in the bush kills 748 reptiles, birds and mammals a year. Many of these animals are native animals. Foxes and cats killed more than 2.6 billion animals in Australia each year – Source www.abc.net.au/news/science/2022-03-16/cats-foxs-feralpests-native-wildlife/100902790

In Western Australia, 36 mammals, 22 bird and 11 reptile species are vulnerable to predation by both feral and pet cats and a wide range of other native animals are also adversely affected by cats.

Australia-wide, cats have played a major role in the extinction of at least 27 mammal species and at present endanger 147 Australian mammals, birds, reptiles and frogs. Feral cats are recognised by the Environment and Invasives Committee as an extreme threat category for Australia (the highest threat).

The Cat Act 2011 requires cats to be desexed, microchipped and registered. In addition, it provides that a Cat Local Law may be made. Adjacent local governments including the Shires of Cuballing, Narrogin and Boddington have made a local law which has effect within their local government areas. These local laws combined with feral cat control have demonstrated an impact, as numbat numbers within Dryandra National Park have rebounded in recent years. However, it is estimated that there are fewer than 1,000 numbats left in the wild.

At the Ordinary Council Meeting of 19 July 2023, Council resolved the following:

That with respect to the draft Shire of Pingelly Cat Local Law 2023, Council, request the Chief Executive Officer to:

1. Modify the proposed Local Law to prohibit cats from public places unless under effective control;

2. Pursuant to section 3.12 (2) and (3) of the Local Government Act 1995, and all other legislation enabling it, give State wide and local public notice, inviting submissions during a minimum 6-week time frame, that it intends to make the following Shire of Pingelly Cat Local Law 2023:

Purpose – to encourage responsible cat ownership and to provide for the effective management of cats within the Shire of Pingelly.

Effect – ensure that persons who own or keep a cat within the Shire of Pingelly are to comply with the provisions of this local law.

3. Provide copies, in accordance with section 3.12 (3) of the Local Government Act 1995, to the Minister Local Government and any other person requesting it, of the proposed Local Law.

Following wide public consultation, At the Ordinary Council Meeting of 21 February 2024, Council resolved the following:

That Council:

1. Resolves to make the Shire of Pingelly Cat Local Law 2024, incorporating amendments arising from the advice of the Department of Local Government as per the attached document.
2. Authorise the President and CEO to sign and affix the Common Seal to the Local Law;
3. Authorise the CEO to –
 - a. Publish the Local Law in the Government Gazette and provide copies of the local law to the Minister for Local Government; and
 - b. Forward a copy of the Gazetted Local Law, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.

These actions have been completed.

The Parliamentary Joint Standing Committee on Delegated Legislation have now considered the gazetted local law and have determined that the modifications made at the request of the Department of Local Government were significant in nature so that the process should be recommenced. The Committee have requested undertakings by Council that this local law will not be enforced and that it will be repealed and replaced within 6 months.

At the Ordinary Council Meeting of 16 October 2024, Council resolved the following:

That Council:

1. Undertakes:
 - a) To repeal the Shire of Pingelly Cat Local Law 2024 and make a fresh local law within 6 months of this resolution
 - b) Not to enforce the Shire of Pingelly Cat Local Law 2024
 - c) To Display these undertakings wherever the Shire of Pingelly Local Law 2024 is displayed
2. Pursuant to section 3.12(2) and (3) of the Local Government Act 1995, and all other legislation enabling it, give Statewide and local public notice, inviting submissions during a minimum 6-week time frame, that intends to make the following Shire of Pingelly Save the Numbat Local Law 2024:

Purpose – to encourage responsible cat ownership and to provide for the effective management of cats within the Shire of Pingelly.
Effect – ensure that persons who own or keep a cat within the Shire of Pingelly are to comply with the provisions of this local law.
3. Provide copies, in accordance with section 3.12 (3) of the Local Government Act 1995, to the Minister for Local Government and any other person requesting it, of the proposed Local Law.

Subsequently, WALGA has provided advice which recommended several changes to the local law to ensure it's compliance.

Comment

The consultation undertaken indicated that the vast majority of ratepayers within the Shire of Pingelly support a Cat local law, including the containment of cats to their owner's property. The recommended process to achieve this is by adopting another local law by reference. This

is possible under Clause 82 of the *Cat Act 2011* and Clause 3.8 of the *Local Government Act 1995*. It is highly possible that the Department of Local Government will recommend that these containment clauses are removed. It is also highly possible that the Parliamentary Joint Standing Committee on Delegated Legislation will request undertakings that such a local law is not enforced and that it will be repealed and replaced. However, considering the precedent set by the Shires of Narrogin and Northam which both have containment clauses within their local laws and the importance of this local law to the native fauna, officers recommend that a local law is made which includes a containment clause.

The local law is proposed to have the following effects:

- Cats not to create a nuisance.
- Prohibit cats public places
- Restrict the number of cats to 2 per property

This is in keeping with the feedback from the consultation undertaken.

Consultation

For consultation

Statutory Environment

Section 79(3) of the *Cat Act 2011* provides that a Cat Local Law may be made as to one or more of the following:

- a. the registration of cats;
- b. removing and impounding cats;
- c. keeping, transferring and disposing of cats kept at cat management facilities;
- d. the humane destruction of cats;
- e. cats creating a nuisance;
- f. specifying places where cats are prohibited absolutely;
- g. requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;
- h. limiting the number of cats that may be kept at premises, or premises of a particular type;
- i. the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;
- j. the regulation of approved cat breeders, including record keeping and inspection;
- k. fees and charges payable in respect of any matter under this Act.

Policy Implications

There are no policy implications associated with this report.

Financial Implications

There are no financial implications evident at this time.

Strategic Implications

4.1 Sustainably manage local lands, waters and ecosystems.

4.2 Encourage the adoption of sustainable practices.

Risk Implications

Risk:	Reputational risk is not adopting a local law following feedback from the community		
Consequence Theme:	Reputational	Impact:	Moderate
Consequence:	Public embarrassment, moderate impact, low or moderate news profile		
Likelihood Rating:	Possible	Risk Matrix:	Moderate (9)
Action Plan:	Repeal the Shire of Pingelly Cat Local Law 2024 and make a fresh local law within 6 months of this resolution		

Voting Requirements:

Absolute Majority required

Officers Recommendation:

That Council:

1. Undertakes:

- a. To repeal the *Shire of Pingelly Cat Local Law 2024* and make a fresh local law within 6 months of this resolution
- b. Not to enforce the *Shire of Pingelly Cat Local Law 2024*
- c. To Display these undertakings wherever the Shire of Pingelly Local Law 2024 is displayed

-
- 2. Pursuant to section 3.12(2) and (3) of the Local Government Act 1995, and all other legislation enabling it, give Statewide and local public notice, inviting submissions during a minimum 6-week time frame, that intends to make the following *Shire of Pingelly Save the Numbat Local Law 2024*:

Purpose – to encourage responsible cat ownership and to provide for the effective management of cats within the Shire of Pingelly.

Effect – ensure that persons who own or keep a cat within the Shire of Pingelly are to comply with the provisions of this local law.

- 3. Provide copies, in accordance with section 3.12 (3) of the Local Government Act 1995, to the Minister for Local Government and any other person requesting it, of the proposed Local Law.

Moved: _____ Seconded: _____

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
Shire of Pingelly
SAVE THE NUMBATS LOCAL LAW 2024

Under the power conferred under Clause 82 of the Cat Act 2011, Clause 3.8 of the Local Government Act 1995 and all other powers enabling it, the Council of the Shire of Pingelly hereby records having resolved on DATE to adopt the following local law –

The Shire of Narrogin Cats Local Law 2016 as published in the *Government Gazette* No.144 on 8 September 2017 and as subsequently amended in the *Government Gazette* No.1 of 6 January 2022, is adopted as a local law of the Shire of Pingelly, with the following modifications –

1. Preliminary

- 1.1 Wherever the “Shire of Narrogin” is mentioned in the local law, substitute the “Shire of Pingelly”.
- 1.2 Wherever the “Cats Local Law 2016” is mentioned in the local law, substitute the “Save the Numbats Local Law 2024”.

2. Repeal

Add the words "and Repeal" to the title of this clause and add the sentence “This local law repeals the Shire of Pingelly Cats Local Law 2024.”

3. Clause 2.1 Impounded cats

Delete sub-clauses 2.1(2), 2.1(3), and 2.1(4) and renumber the subsequent clauses and sub-clauses accordingly, including references to other clauses and sub-clauses throughout the local law.

4. Clause 3.2 Limitation on the number of cats

Replace sub-clause 3.2(2) with “No more than 2 cats may be kept on any premises for the purpose of regulation 6 of the *Cat (Uniform Local Provisions) Regulations 2013*”.

5. Clause 3.3 Cats for which a permit is required

Replace sub-clauses 3.3(a) and 3.3(b) with “keep more than 2 cats over the age of 6 months and the young of those cats under that age” and reletter sub-clauses 3.3(c) and 3.3(d) accordingly including references to these clauses throughout the local law, and delete item 5A of Schedule 3 – Modified Penalties.

Dated this DATE.

The Common Seal of the Shire of Pingelly was affixed in the presence of—

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION



Your ref: ADM0103
Our ref: A1097753 and 4167:16

14 August 2024

Cr Jackie McBurney
President
Shire of Pingelly
17 Queen Street
Pingelly WA 6308

crmcburney@pingelly.wa.gov.au

Dear President

Shire of Pingelly Cats Local Law 2024

Thank you for the Explanatory Memorandum for this local law, which the Committee considered at its meeting today. The Committee resolved to write to you about the following matters.

Compliance with section 3.12(4) of the *Local Government Act 1995*

When scrutinising local laws, the Committee inquires whether a local law is within power (Committee Term of Reference 10.6(a)).

Section 3.12(4) of the *Local Government Act 1995* (Act) provides:

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*

An adopted local law must not be significantly different from that proposed. Otherwise, it is invalid and the local law-making process must be undertaken again. Section 3.13 of the Act states:

Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

A comparison of the proposed and adopted local laws reveals the following clauses where changes were made.

Cats in prohibited areas

Clause 2.2(1) of the proposed local law stated:

Cats in prohibited areas

- (1) A cat shall not be in an area defined as bushland, regardless of land ownership or management, greater than 5,000m².

The term 'bushland' was defined in clause 1.4 as:

uncultivated land that is covered with trees, shrubs, or other natural vegetation whether native or not;

By virtue of clause 2.2(2) of the proposed local law, a contravention of clause 2.2(1) was an offence which attracted a modified penalty of \$250.

The adopted local law regulates cat prohibited areas differently. It states in clause 2.2(1):

Cats in prohibited areas

- (1) A cat must not be in any cat prohibited area as listed on Schedule 3.

Schedule 3 contains a list of 126 properties where cats are prohibited absolutely.

The definition of 'bushland' is not included in the adopted local law.

The Committee is of the view these changes made the adopted local law significantly different from the proposed local law that was publicly advertised, in breach of section 3.12(4) of the Act. Cat prohibited areas form a significant and integral part of the local law. This is because cat prohibited areas are a key method for managing cats under the *Cat Act 2011*. Further, prohibition of cats from public places has received significant media and other public commentary. Shire residents were not consulted on the change to cat prohibited areas prior to the adoption of the local law.

Accordingly, changing cat prohibited areas from bushland greater than 5000m² in the proposed local law to a list of properties in Schedule 3 of the adopted local law makes it 'significantly different'. It breaches sections 3.12(4) and 3.13 of the Act and infringes Term of Reference 10.6(a).

Typographical errors

Clause 3.10 – Duration of a permit

There is a grammatical error in clause 3.10(a). It states:

Duration of a permit

Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires—

- (a) the cat is deceased;
- (b) if it is revoked; or
- (c) if the permit holder ceases to reside at the premises to which the permit relates.

The grammar in clause 3.10(a) should be corrected.

Schedule 2, item 3

There is an unnecessary full stop after the word 'Cat' in item 3 of Schedule 2.

Schedule 3, clause reference

Schedule 3 lists areas where cats are prohibited absolutely. The clause reference in the heading to Schedule 3 is to clause 2.3(1) of the local law which deals with interference with cat traps. The correct reference is to clause 2.2(1) which deals with cats in prohibited areas.

The incorrect clause reference in Schedule 3 should be amended.

Undertakings

The Committee requests the following undertakings:

1. Within 6 months, repeal the local law and make a new local law, complying with all requirements in section 3.12 of the *Local Government Act 1995* which does not contain the typographical errors identified in clause 3.10(a), Schedule 2 and Schedule 3.
2. The local law will not be enforced in a manner contrary to undertaking 1.
3. All consequential amendments arising from undertaking 1 will be made.
4. Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.

The undertakings should be given in the form of a letter signed by you as President, not the Chief Executive Officer or other officer of the Shire of Pingelly. This is because, pursuant to section 2.8(1)(d) of the Act, the 'Mayor or President speaks on behalf of the local government' to the Parliament of Western Australia.

Noting that your next Council meeting occurs on 18 September 2024, the Committee requests the undertakings be provided by **25 September 2024**.

To assist you I attach a suggested form of Council resolution to provide the undertakings.

Please also note that the fulfilment of the undertakings must be by making a local law that complies with all mandatory procedural steps contained in section 3.12 of the *Local Government Act 1995*.

Notice of Motion to Disallow

I advise that the Committee resolved to give a Notice of Motion in the Legislative Council to disallow the local law.

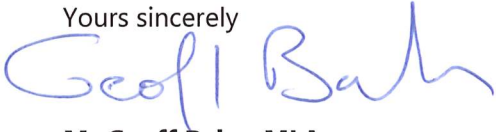
The reasons for giving notice are:

- to protect the Parliament's right to disallow the local law should the Committee recommend disallowance
- to provide the Committee with additional time to scrutinise the local law and, if necessary, obtain further information.

The giving of the notice should not be taken as indicating that the Committee has resolved to recommend disallowance at this stage.

Please provide your response by **25 September 2024**. If you have any queries in relation to this matter, please contact Ms Felicity Mackie, Advisory Officer (Legal) on 9222 7406 or at delleg@parliament.wa.gov.au

Yours sincerely



Mr Geoff Baker MLA
Chair

cc: Mike Hudson, Acting Chief Executive Officer – Executive Manager Works, mike.hudson@pingelly.wa.gov.au

This correspondence including any attachments is confidential and privileged. Your local government may only discuss the content of this letter and any attachments with the Western Australian Local Government Association, the Department of Local Government and the Shire's legal advisors to the extent necessary to obtain information the Committee seeks. Each person to whom you distribute this material must be made aware of its confidential and privileged status.

Suggested form of Council resolution to provide the undertakings

The Council of the Shire of Pingelly resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. Within 6 months, repeal the local law and make a new local law, complying with all requirements in section 3.12 of the *Local Government Act 1995* which does not contain the typographical errors identified in clause 3.10(a), Schedule 2 and Schedule 3.
2. The local law will not be enforced in a manner contrary to undertaking 1.
3. All consequential amendments arising from undertaking 1 will be made.
4. Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.

**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGINPINGELLY

CATS SAVE THE NUMBAT LOCAL LAW 20162024
Consolidated to 6 January 2022
Adopted by reference from the Shire of Narrogin Cats Local Law 2016

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This document is a consolidation reference for administrative use as required by the Local Government Act 1995 section 5.96A(1)(b), and is not to be relied on for legal purposes.

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PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of NarroginPingelly Cats Local Law 2016*.

1.2 Commencement and Repeal

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*. [This local law repeals the Shire of Pingelly Cats Local Law 2024.](#)

1.3 Application

This local law applies throughout the district.

1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Cat Act 2011*;

applicant means the occupier of premises who makes application for a permit under this local law;

approved cat breeder has the meaning given to it by section 3(1) of the Act;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

cat has the meaning given to it by section 3(1) of the Act; but does not include the young of a cat normally kept on the premises less than 6 months old;

cat management facility has the meaning given to it by section 3(1) of the Act, and includes a cattery;

cattery means any premises where more than 2 cats are boarded, housed or trained temporarily, usually for profit, and where the occupier of the premises is not the ordinary keeper of the cats;

central business zone means a lot zoned as central business in a local planning scheme;

commercial lot means a lot zoned under a local planning scheme as –

- (a) central business; or
- (b) service commercial;

CEO means the Chief Executive Officer of the local government;

Council means the Council of the local government;

district means the district of the local government;

effective control in relation to a cat means any of the following methods –

- (a) held by a person who is capable of controlling the cat;
- (b) securely tethered;
- (c) secured in a cage; or
- (d) any other means of preventing escape.

enclosed public space means a public place which is enclosed by walls, whether solid materials or glass, and includes attached or adjoining areas not permitted to the public, unless airflow between the areas is prevented, but does not include a cat management facility or veterinary clinic or hospital;

industrial lot means a lot zoned under a local planning scheme as industry;

keeper in relation to a cat means any of the following persons –

- (a) the owner of the cat as defined in the Act;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a permit holder of a permit which relates to the cat;
- (f) the holder of an exemption issued in relation to the cat;

local government means the Shire of ~~Narrogin~~Pingelly;

local planning scheme means a planning scheme of the local government made under the *Planning and Development Act 2005*;

local public notice has the meaning given to it by section 1.7 of the *Local Government Act 1995*;

nuisance means behaviour that includes where a cat –

- (a) excretes or urinates on premises being premises where the cat is not normally resident;
- (b) is, or is likely to be, injurious or dangerous to the health of any person or domestic or Australian indigenous animal;
- (c) creates a noise which persistently occurs or continues to a degree or extent which in the opinion of an authorised person, and has or could have a disturbing effect on the state of reasonable physical, mental, or social well-being of a person; or
- (d) is shown to be allowed to behave consistently in a manner contrary to the general interest of the community;

permit means a permit issued by the local government under clause 3.5 of this local law;

permit holder means a person who holds a valid permit granted under this local law;

pet shop means premises operating in compliance with the local planning scheme, from which a cat may be offered for sale;

premises includes the following –

- (a) land, whether or not vacant;
- (b) the whole or part of a building or structure whether of a permanent or temporary nature; and
- (c) a vehicle;

public place has the meaning given to it by section 3(1) of the Act;

RSPCA means the Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia;

Schedule means a schedule to this local law; and

set fee means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.

PART 2 - IMPOUNDING OF CATS

2.1 Impounded cats

- (1) The local government may determine from time to time –
 - (a) the times when a cat management facility will be open for the reception and release of cats; and
 - (b) times for the sale of cats from the cat management facility.

~~(2) The local government is to keep a proper record of impounded cats.~~

~~(3) The record is to contain the following information about each impounded cat –~~

- ~~(a) if known the breed and sex of the cat;~~
- ~~(b) the colour, distinguishing markings and features of the cat;~~
- ~~(c) if known, the name and address of the owner;~~
- ~~(d) the date and time of seizure and impounding;~~
- ~~(e) the name and address of the authorised person who impounded the cat and, if applicable, the person who delivered a cat for impounding;~~
- ~~(f) the reason for the impounding;~~
- ~~(g) a note of any order made by an authorised person relating to the cat; and~~
- ~~(h) the date of the sale, release or destruction of the cat.~~

~~(4) The record is to be available for inspection by the public.~~

~~(5)~~(2) A person shall not –

- (a) unless the person is the owner of the cat management facility, or an authorised person, release or attempt to release a cat from a cat management facility;
- (b) destroy, break into, damage or in any other way interfere with or render not cat proof a cat management facility; or
- (c) destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats which have been seized.

~~(6)~~(3) A cat must not be released to a person until the person obtains the necessary permit or the cat is registered where –

- (a) a person wishes to reclaim a cat within the period stated in a notice of impounding; and
- (b) a permit is required for the keeping of the cat, but the person does not have the necessary permit and/or the cat is not registered.

PART 3 - KEEPING OF CATS

3.1 Keeping of cats in non-residential zones

The keeping of cats is not permitted on a commercial or industrial lot unless –

- (a) the lot is associated with an occupied attached residence or caretaker's residence; or
- (b) the lot is an approved cat management facility.

3.2 Limitation on the number of cats

(1) This clause does not apply to premises which have been –

- (a) licenced under Part 4 of this local law as an approved cat breeder or cat management facility; or
- (b) granted an exemption under regulation 7 of the *Cat (Uniform Local Provisions) Regulations 2013*.

~~(2) No more than 2 cats may be kept on any premises for the purpose of regulation 6 of the Cat (Uniform Local Provisions) Regulations 2013~~

~~(2) ——— The standard number of cats which may be kept on any premises is, for the purpose of regulation 6 of the Cat (Uniform Local Provisions) Regulations 2013 —~~

- ~~(a) 2 cats over the age of 6 months and the young of those cats under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme; or~~
- ~~(b) 4 cats over the age of 6 months and the young of those cats under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme.~~

3.3 Cats for which a permit is required

Subject to clause 3.4 an occupier is required to have a permit to –

- ~~(a) keep more than 2 cats over the age of 6 months and the young of those cats under that age~~
- ~~(a) keep more than 2 cats over the age of 6 months and the young of those cats under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme;~~
- ~~(b) keep more than 4 cats over the age of 6 months and the young of those cats under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme;~~
- ~~(e)~~(b) use any premises as a cat management facility; or
- ~~(d)~~(c) be an approved cat breeder.

3.4 Permits not required

A permit is not required under clause 3.3 if the premises concerned are –

- (a) a cat management facility which has been approved by the local government;
- (b) a veterinary surgery;
- (c) a pet shop;
- (d) premises with 2 or less cats; or
- (e) the subject of an exemption granted by the local government.

3.5 Application for permit

An application for a permit under clause 3.3 shall be –

This document is a consolidation reference for administrative use as required by the Local Government Act 1995 section 5.96A(1)(b), and is not to be relied on for legal purposes.

(a) made by an occupier of the premises where the cats are to be kept;

- (b) if for a cat management facility, in the form of Schedule 1 and accompanied by the plans of the premises to which the application relates;
- (c) if for a cat breeder, in the form of Schedule 1;
- (d) accompanied by the consent in writing of the owner of the premises, where the occupier is not the premises to which the application relates; and
- (e) accompanied by the set fee.

3.6 Decision on application

- (1) The local government may, upon payment of the set fee –
 - (a) approve an application for a permit subject to the conditions outlined in clauses 4.1, 4.2, 4.3 or 4.4 (as applicable); or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue to the applicant approval in writing.
- (3) If the local government refuses to approve an application under subclause (1), then it is to advise the applicant accordingly in writing.

3.7 Factors relevant to determination of application

- (1) In determining an application for a permit the local government may have regard to –
 - (a) the physical suitability of the premises for the proposed use;
 - (b) the suitability of the local planning scheme zoning of the premises for the proposed use;
 - (c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
 - (d) the structural suitability of any enclosure in which any cat is to be kept;
 - (e) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
 - (f) the likely effect on the amenity of the surrounding area of the proposed use;
 - (g) the likely effect on the local environment including any pollution or other environmental damage which may be caused by the proposed use;
 - (h) any submissions received under subclause (2) within the time specified; and
 - (i) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require an applicant to –
 - (a) consult with adjoining landowners;
 - (b) advise the adjoining landowners that they may make submissions to the local government on the application for the permit within 14 days of receiving that advice, before determining the application for the permit; and
 - (c) give local public notice of the proposal.

3.8 Cats creating a nuisance

- (1) The keeper of a cat shall not allow a cat to create a nuisance.
- (2) Where, in the opinion of an authorised person, a cat is creating a nuisance, an authorised person may give written notice to the keeper of the cat requiring that person to abate the nuisance.
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by an authorised person on the notice or until the notice is withdrawn by an authorised person.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

[Clause 3.8 amended by Government Gazette No.1 of 6 January 2022]

3.9 Cats in temporarily vacant premises

The keeper of a cat shall not leave a cat on premises while the premises are temporarily vacant, without daily arrangements for the care and welfare of the cat.

PART 4 - PERMITS FOR KEEPING OF CATS

4.1 Conditions applicable to all permits

- (1) Every permit is issued subject to the following conditions –
 - (a) each cat kept on the premises to which the permit relates shall be registered under the Act;
 - (b) each cat shall be contained on the premises unless under the effective control of a person;
 - (c) the permit holder will provide adequate space for the exercise of the cats;
 - (d) the premises shall be maintained in good order and in a clean and sanitary condition; and
 - (e) such other conditions, as the local government considers appropriate.
- (2) In addition to the conditions subject to which a permit is to be issued under subclause (1), a permit may be issued subject to other conditions, as the local government considers appropriate.

4.2 Additional conditions for other than cat management facility

Where an application to keep more than 2 cats is approved under clause 3.6 for other than a cat management facility, the following conditions apply –

- (a) compliance with clause 4.1;
- (b) in the case of a multiple dwelling, where there is no suitable dividing fence, the written consent to the application for a permit of the occupier of the adjoining multiple dwellings has been obtained; and
- (c) without the consent of the local government, the permit holder will not substitute or replace any cat once that cat –
 - (i) dies; or
 - (ii) is permanently removed from the premises.

4.3 Additional conditions for cat management facility

- (1) Where the local government approves an application under clause 3.6 for a cat management facility, the following conditions apply –
 - (a) compliance with clause 4.1; and
 - (b) compliance with Schedule 2.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions contained in Schedule 2.
- (3) A cat management facility may be inspected by an authorised person to ensure compliance with the conditions of the permit.

4.4 Additional conditions for approved cat breeders

- (1) Where a permit is approved under clause 3.6 as an approved cat breeder, the following conditions apply –
 - (a) compliance with clause 4.1;
 - (b) compliance with clause 4.2;
 - (c) compliance with Schedule 2 items (4)(c) to (g) inclusive;
- (2) The fee for an approved cat breeder is as specified in Schedule 3 of the *Cat Regulations 2012*.

4.4A Variation of permit conditions

An authorised person may vary the conditions of a permit by giving not less than 14 days notice.

[Clause 4.4A inserted by Government Gazette No.1 of 6 January 2022]

4.5 Duration of permit

Unless otherwise specified in a condition on a permit, a permit for a cat management facility or as an approved cat breeder granted under clause 3.3(~~be~~) or (~~cd~~), commences on the date of issue and is valid for a period of 12 months from the date of issue unless and until –

- (a) it is revoked; or
- (b) the permit holder ceases to reside at the premises to which the permit relates.

4.6 Permit not transferable

A permit is not transferable either in relation to the permit holder or the premises.

4.7 Renewal of permit

- (1) The local government may renew a permit for a cat management facility or as an approved cat breeder granted under clause 3.3(~~be~~) or (~~cd~~) upon –
 - (a) payment of the set fee; and
 - (b) certification by the occupier that the circumstances of the original application are unchanged.
- (2) Where circumstances of the original application have changed, the application for renewal is to be considered an initial application.

4.8 Revocation of permits

- (1) A permit may be revoked by the local government if there is a breach of any condition of that permit or if the permit holder is convicted of a breach of any provision of this local law.
- (2) On revocation of a permit the permit holder is to be taken to have forfeited any set fees paid in respect of the permit.

PART 5 - CATS IN PUBLIC PLACES

5.1 Cats in public places

A cat shall not be in a public place unless the cat is, in the opinion of an authorised person, under effective control.

5.2 Places where cats are prohibited absolutely

A cat shall not be in the following places at any time, whether or not under effective control –

- (a) an enclosed public place; or
- (b) any nature reserve.

PART 6 - MISCELLANEOUS

6.1 Fees and charges

Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

6.2 Giving of a notice

A notice given under this local law may be given to a person –

- (a) personally;
- (b) by registered mail addressed to the person; or
- (c) by leaving it for the person at her or his address.

6.3 Objection and appeal rights

Any person who is aggrieved by the conditions imposed in relation to a permit, the revocation of a permit, or by the refusal of the local government to grant a permit may object to or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

PART 7 - ENFORCEMENT

7.1 Offences

Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

7.2 General penalty

Any person who commits an offence shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

7.3 Modified penalties

- (1) An offence against a clause specified in Schedule 3 is a prescribed offence for the purposes of section 84 of the Act.
- (2) The amount of the modified penalty for a prescribed offence is set out in the fourth column adjacent to the clause in Schedule 3.

7.4 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 6 of the Schedule 1 of the *Cat Regulations 2012*.

7.5 Withdrawal of infringement notice

- (a) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 7 of the Schedule 1 of the *Cat Regulations 2012*.
- (b) A person authorised to issue an infringement notice under clause 7.4 cannot sign a notice of withdrawal.

Schedule 1 – Application for a licence for cat management facility or cat breeder

[cl. 3.3]

Shire of ~~Narrogin~~Pingelly

I / We (full name/s) –		
Postal address –		
Telephone number –		
Mobile number –		
Fax number –		
E-mail address –		
APPLY FOR A LICENCE	Under clause 3.3 <u>b</u> (e) for cat management facility	
	Under clause 3.3(<u>cd</u>) as cat breeder	
Address of proposed premises –		
CAT MANAGEMENT FACILITY –		
For number of cats –		

Attached are –	a site plan of the premises showing the location of the cat management facility and all other buildings and structures and fences;	
	plans and specifications of the proposed cat management facility.	
CAT BREEDER -		
For number of cats –		
Breed of cats –		
Attached are –		
(a) copy of notice of proposed use to appear in newspaper; (if required)		
(b) copy of notice of proposed use to be given to adjoining premises; (if required)		
Signature of applicant/s –		
Date –		
NOTE – a licence will have effect for a period of 12 months if issued		
OFFICE USE ONLY	Application fee paid on – Receipt No –	

Schedule 2 – Conditions of a permit for an approved cat management facility
[cl. 4.3]

Shire of NarroginPingelly

An application for a permit for an approved cat management facility may be approved subject to the following conditions –

- (1) Compliance with the conditions of clause 4.1.
- (2) Buildings and structures –
 - (a) all building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements;
 - (b) there is to be a feed room, wash area, isolation cages and maternity section;
 - (c) materials used in structures are to be approved by the local government;
 - (d) the internal surfaces of walls are to be smooth, free from cracks, crevices and other defects, where possible;
 - (e) all fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
 - (f) washing basins and running hot and cold water are to be available;
 - (g) the walls shall be rigid, impervious and structurally sound;
 - (h) the roof shall be constructed of approved impervious materials;
 - (i) all untreated external surfaces of cattery shall be well maintained and aesthetically suitable as not to detract from the local environment and amenity;
 - (j) each module and every part thereof shall not be at any less distance than nine metres from the boundaries of the land in the occupation of the owner of the cat management facility;

- (k) each module and each yard and every part thereof shall be behind the house line; and
 - (l) any other matter which in the opinion of the local government is deemed necessary for wellbeing of any person, or adjoining premises or the amenity of the area (or any part thereof);
- (3) Walk-in modules and enclosures –
- (a) cats shall be housed in walk-in modules that include a sleeping compartment and an exercise area or in colony pens;
 - (b) walk-in modules must have a minimum floor area of 1.5 square metres and contain at least 2 levels including raised sleeping quarters.
 - (i) this size is for 1 cat only and an additional 1 square metre floor space is required for a second cat;
 - (ii) no more than 2 cats may be housed together in this type of accommodation;
 - (c) cats may be multiple housed in colony pens provided that –
 - (i) each cat shall have a floor area of 2 square metres plus an individual sleeping area;
 - (ii) only desexed compatible cats should be housed in this type of accommodation;
 - (d) the lowest internal height shall be at least 1.65 metres from the floor;
 - (e) each yard shall be securely fenced and kept securely fenced with a fence not less than 1.65 metres in height constructed of galvanised iron, wood, galvanised link mesh or netting;
 - (f) all doors shall be provided with proper catches or means of fastening;
 - (g) the upper surface of the floor shall be set at least 75 millimetres above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a smooth surface, it shall have a fall of not less than 1 in 100;
 - (h) all modules and yards shall be surrounded by a drain which shall be properly laid, ventilated and trapped, and all floor washings shall be disposed of in accordance with the health requirements of the local government; and
 - (i) the floor of any yard shall be established and maintained to ensure a safe and hygienic environment.
- (4) Management –
- (a) cats must be housed singly except in the case of compatible cats from the same household with the written agreement of the keeper;
 - (b) enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease;
 - (c) no sick or ailing cat is to be kept on the premises;
 - (d) the maximum number of cats to be kept on the premises stated on the permit is not to be exceeded;
 - (e) an register is to be kept recording in respect of each cat or kitten, the –
 - (i) date of admission or birth if a kitten;
 - (ii) date of departure, sale or transfer;
 - (iii) breed, age, colour and sex;
 - (iv) the cat or kitten's microchip number; and
 - (v) the name and residential address of the keeper;
 - (f) the register is to be made available for inspection on the request to an authorised person; and
 - (g) any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area.

Schedule 3 – Modified penalties

[cl.7.3]

Item	Clause No.	Nature of offence	Modified penalty \$
1	2.1(53)(a)	Unauthorised release or attempted release of a cat	500
2	2.1(53)(b)	Interference with a cat management facility	500
3	2.1(53)(c)	Interference with cage or container for seized cats	500
4	3.1	Keeping a cat in a non-residential zone	200
5	3.3(a)	Keeping more than 2 cats without a permit	200
5A	3.3(b)	Keeping more than 4 cats without a permit	200
6	3.3(be)	Failure to hold permit as a cat management facility	500
7	3.3(cd)	Failure to hold permit as approved cat breeder	500
8	3.8(1)	Cat creating a nuisance	200
9	3.8(4)	Failure to comply with notice to abate a nuisance	200
10	3.9	Failure to make adequate arrangement while temporarily absent	200
11	4.1	Failure to comply with conditions for all permits	200
12	4.2	Failure to comply with conditions of permit for other than a cat management facility	200
13	4.3	Failure to comply with conditions of permit for cat management facility	500
14	4.4	Failure to comply with conditions of permit for approved cat breeder	500
15	5.1	Cat in a public place not under effective control	200
16	5.2	Cat in a place where prohibited	200
17	7.1	All other offences not specified	200

[Schedule 3 amended by Government Gazette No.1 of 6 January 2022]

Dated 12 July 2016.

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of —

R.S. YURYEVICH, Chairman of Commissioners

A.J. COOK, Chief Executive Officer

Notes to this administrative compilation —

1. — Original local law published in Government Gazette No.144 on 8 September 2017
2. — Amended as published in Government Gazette No.1 of 6 January 2022 page 1

This document is a consolidation reference for administrative use as required by the Local Government Act 1995 section 5.96A(1)(b), and is not to be relied on for legal purposes.

9. DIRECTORATE OF CORPORATE AND COMMUNITY SERVICES

Nil

10. DIRECTORATE OF WORKS

Nil

11. CONFIDENTIAL ITEMS

Nil

12. CLOSURE OF MEETING

The Chairman to declare the meeting closed.