

Shire of Cuballing Cat Local Law 2022 – IMPORTANT NOTE

At its 16 November 2022 Ordinary Meeting Council made the following undertaking:

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

1. When the local law is next reviewed or amended, delete the reference to the *Veterinary Surgeons Act 1960* in clause 3.2(1)(c) and replace it with a reference to any equivalent provisions in the *Veterinary Practice Act 2021*.
2. Ensure any consequential amendments arising from the undertaking are made.
3. 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 undertaking.

For information, when the Local Law is next reviewed 3.1 (1) (c) would be replaced with the following or similar:

(a) a ***veterinary practice business*** or ***veterinary premises*** as defined under section 2 of the *Veterinary Practice Act 2022*.

CAT ACT 2011

LOCAL GOVERNMENT ACT 1995

Shire of Cuballing

CATS LOCAL LAW 2021

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Cuballing hereby records having resolved on 17 August 2022 to adopt the following local law.

PART 1 - PRELIMINARY

1.1 Citation:

This local law may be cited as the *Shire of Cuballing Cats Local Law 2022*.

1.2 Commencement

This local law comes into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Interpretation

(1) In this local law unless the context otherwise requires -

Act means the *Cat Act 2011*;

application means an application for a permit;

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

authorised person means a person authorised by the local government, under section 9.10 of the *Local Government Act 1995* to perform the functions conferred on an authorised person under this local law;

cat has the meaning given to it in the Act;

cat management facility has the meaning given to it in the Act;

cat prohibited area means an area as outlined in Schedule 3;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Cuballing;

nuisance means -

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier has the meaning given to it in the *Local Government Act 1995*;

owner has the meaning given to it in the Act;

permit means a permit issued by the local government under Part 3;

permit holder means a person who holds a valid permit under Part 3;

premises has the meaning given to it in the Act;

prescribed premises has the meaning given to it in the *Cat (Uniform Local Provisions) Regulations 2013*;

public place has the meaning given to it in the Act; and

standard number of cats has the meaning given to it in the *Cat (Uniform Local Provisions) Regulations 2013*.

- (2) A term that is used in this local law and is not defined in subclause (1) has the same meaning given to it in the Act or, if not defined in the Act, the same meaning given to it in the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or the *Local Government Act 1995*.

PART 2-CONTROL OF CATS

2.1 Cat not to be a nuisance

- (1) An owner shall not allow a cat to be or create a nuisance.
- (2) Where the local government receives a complaint from a person that is in accordance with the notice of complaint form as contained in Schedule 1 of this local law, and where in the opinion of an authorised person, that a cat is creating a nuisance, the local government may give a cat control notice to the owner 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 the local government on the notice which shall not exceed 28 days.

- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.
- (5) A cat control notice under subclause 2.1(2) shall be in the form of Schedule 1, Form 3 of the *Cat Regulations 2012*.

2.2 Cats in Prohibited Areas

- (1) A cat shall not be in any cat prohibited area as listed on Schedule 3.
- (2) If a cat is at any time in a place in contravention of subclause 2.2(1) -
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat in accordance with the Act.

PART 3-NUMBER OF CATS THAT MAY BE KEPT

3.1 Interpretation

For the purposes of applying this Part, a cat does not include a cat less than 6 months old.

3.2 Prescribed premises

- (1) This local law limits the number of cats that may be kept at prescribed premises within the district except -
 - (a) a cat management facility operated by a body prescribed as a cat management facility operator under the *Cat Regulations 2012*; or
 - (b) a cat management facility operated by the local government; or
 - (c) a veterinary clinic or veterinary hospital as defined under section 2 of the *Veterinary Surgeons Act 1960*.

3.3 Standard number of cats

- (1) For the purposes of the definition of *standard number of cats* in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, no more than two (2) cats may be kept on prescribed premises.

- (2) A person who keeps more than the standard number of cats on a prescribed premises without approval commits an offence.

3.4 Application for additional cats

- (1) Approval may be given for up to two (2) additional cats, where the total cats kept on the prescribed premises will not exceed four (4) cats.
- (2) An application for a permit to keep additional cats at a prescribed premises shall be-
 - (a) made in writing by an occupier of the premises in relation to those premises;
 - (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises; and
 - (c) accompanied by the consent in writing of the owner of the premises where the occupier is not the owner of the premises to which the application relates.

3.5 Refusal to determine application

The local government may refuse to determine an application for a permit if it is not made in accordance with clause 3.4.

3.6 Factors relevant to the 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;
 - (b) the environmental sensitivity and general nature of the location surrounding the premises;
 - (c) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
 - (d) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (e) 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 nearby residents; or
 - (b) advise nearby residents that they may make submissions to the local government on the application for a permit within 14 days of receiving that advice,

before determining the application for a permit.

- (3) The local government may specify the extent of consultation with nearby residents, as specified in subclause 3.6(2)(a) and may specify which properties should be consulted.

3.7 Decision on application

- (1) The local government may-

- (a) approve an application for a permit as it was submitted, in which case it shall approve it subject to the conditions in clause 3.8 and may approve it subject to any other conditions it sees fit;
 - (b) approve an application but specify an alternative number of cats permitted to be housed at the premise; or
 - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue a permit to the applicant in the form determined by the CEO.
- (3) If the local government refuses to approve an application under subclause (1) then it shall advise the applicant accordingly in writing.

3.8 Conditions

- (1) Every permit is issued subject to the following conditions -
 - (a) each cat kept on the premises to which the permit relates shall comply with the requirements of the Act, the *Cat Regulations 2012* and the *Cat (Uniform Local Provisions) Regulations 2013*; and
 - (b) without the consent of the local government, the permit holder will not substitute or replace any cat that is the subject of a permit once that cat -
 - (i) dies; or
 - (ii) is permanently removed from the premises.
- (2) In addition to the conditions in subclause (1) of this clause, a permit may be issued subject to other conditions, as the local government considers appropriate.

3.9 Compliance with conditions of permit

A permit holder shall comply with each condition of a permit.

3.10 Duration of a permit

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

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

3.11 Revocation

The local government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

3.12 Permit not transferable

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

3.13 Permit to be kept at premises and available for view

A permit issued by the local government shall be kept at the premises to which it applies and shall be provided to an authorised person on demand.

PART 4- MISCELLANEOUS

4.1 Giving of a Notice

- (1) A notice served under this local law may be given to a person: -
- (a) personally;
 - (b) by postal mail addressed to the person; or
 - (c) by leaving it for the person at her or his address.

PART 5 - OBJECTIONS AND APPEALS

5.1 Objections 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 or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

PART 6 - OFFENCES AND PENALTIES

6.1 Offences

- (1) 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.
- (2) A person who contravenes or fails to comply with any provision of this local law is, upon conviction, liable to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

6.2 Prescribed offences

- (1) An offence against any provision of this local law is a prescribed offence for the purpose of section 62(1) of the Act.
- (2) The amount appearing in the final column of Schedule 2 directly opposite an offence described in that Schedule is the modified penalty for that offence.

6.3 Forms

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.
- (2) An infringement notice in respect to an offence against this local law may be given under section 62 of the Act and is to be in the form of Schedule 1, Form 6 of the *Cat Regulations 2012*.

- (3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Schedule 1, Form 7 of the *Cat Regulations 2012*.

Schedule 1 - Forms
[Cl. 2.1(2)]

Form 1 - Nuisance Complaint Form

TAKE NOTICE THAT a cat, believed to be a (1) _____
has created a nuisance by (2) _____
the cat is believed to belong to (3) _____
and is kept at (4) _____
and I (5) _____
of

requests the local government to institute proceedings, if the nuisance does not stop,
and undertake:

- (a) to give full information to the local government as to this matter; and
- (b) to appear in Court and give evidence as a witness to the truth of this complaint.

DATED this _____ day of _____ 20

(to be signed by complainant)

- | | |
|-----|--|
| (1) | Insert breed or kind of cat and, where possible, its sex and identifying marks. |
| (2) | Describe details of the alleged nuisance, including the kind of nuisance and, where possible, the dates and time on or between which the nuisance occurred, and where the cat was at the time of the nuisance. |
| (3) | State name and address of the person believed to be the owner. |
| (4) | State, if known, where the cat is usually kept. |
| (5) | Insert name and address of complainant. |

Schedule 2
[Cl. 6.2(2)]

Prescribed Offences and Modified Penalties

Offence	Description	Modified Penalty
2.1(1)	Cat causing a nuisance	\$200
2.1(4)	Failure to comply with a cat control notice	\$200
2.2(1)	Cat.in a prohibited area	\$200
3.3(1)	Keeping more than the standard number of cats without a permit	\$200
3.9	Failure to comply with a condition of a permit	\$200

Schedule 3

[Cl. 2.3(1)]

**AREAS WHERE CATS ARE PROHIBITED
ABSOLUTELY**

Land Details	Reserve Number	Description	Locality
97 (Lot 9) Alton Street	-	Works Depot	Cuballing
211 (Lot 6) Cuballing East Road	-	Vacant Land	Cuballing
207-209 (Lot 4 & 5) Cuballing East Road	-	Vacant Land	Cuballing
96 (Lot 20) Francis Street	-	Popanyinning Fire Shed & Hall Car Park	Popanyinning
Lot 151 Cnr Batts & Williams Roads	-	Vacant Land	Popanyinning
108 (Lot 14) Francis Street	-	Vacant Land	Popanyinning
186 (Lot 3) Campbell Street	-	Shire Office	Cuballing
73 (Lot 135) Andover Street	-	Vacant Land	Cuballing
19 (Lot 139) Brundell Street	-	Vacant Land	Cuballing
192 (Lot 12) Campbell Street	-	Vacant Land	Cuballing
189 Campbell Street	13851	CWA Hall	Cuballing
PTA Lease L2124-1	-	War Memorial	Cuballing
PTA Lease L3076-1	-	Fmr Railway Station	Popanyinning
PTA Lease L6765-1	-	Rail Corridor	Cuballing
PTA Lease L6878	-	Karping Rail Siding	Popanyinning
Rail Corridor, Ridley St	-	Machinery Display	Cuballing
Merwanga Rd	1892	Public Utility	Popanyinning
Stratherne Road	2556	Gravel	Stratherne
Yornaning Road	5271	Recreation - Yornaning Dam and Surrounds	Yornaning
191 Campbell Street	6651	Agricultural Hall Site	Cuballing
Stratherne Road	7530	Recreation	Cuballing
Springhill Road	8405	Cemetery	Cuballing
40 – 46 Andover Street	8525	Fire Shed & Parking	Cuballing
Chungamunning Road	8861	Gravel Reserve	Cuballing
1 Dowling Street	9874	Recreation	Popanyinning
176 Popanyinning East Road	9875	Public Cemetery	Popanyinning
98 Francis Street	9972	Hall & Local Governing	Popanyinning
151 Brundell Street	10186	Waste Transfer Station	Cuballing
164 Francis Street	10908	Show Ground	Popanyinning
2 Cowcher Street	11176	Parklands	Yornaning
189 Campbell Street, Cuballing	13851	Hall Site	Cuballing
Pauley Road	15462	Recreation	Commodine
138 Campbell Street	16269	Recreation	Cuballing

Land Details	Reserve Number	Description	Locality
Wandering Narrogin Road	18356	Historical Site/Old Well	West Popanyinning
Cnr Napping Pool and Williams Roads	18407	Hall Site	West Popanyinning
Cnr Shaddicks and Popanyinning East Roads	18604 + 9301	Recreation	East Popanyinning
Cnr Stratherne, Parsons, Taylors Roads	19021	Gravel Reserve	Cuballing
Congelin Narrogin Road	19747	Landscape Protection	Contine
Cnr Bunmulling and Doncon Roads	21024	Gravel Reserve	Popanyinning
Hotham Street	22234	Recreation	Popanyinning
106 Francis Street	23368	Children's Playground-Memorial Garden	Popanyinning
28 Austral Street	23650	Children's Playground	Cuballing
Wandering Narrogin Road	24439	Landscape Protection	West Popanyinning
98 Daylesford Road	27005	Waste Transfer Station	Popanyinning
61 Spragg St	30772	Gravel Reserve	Popanyinning
60 & 64 Antrim Street	36117	Water Supply	Cuballing
1 Rose Street	42722	Park Recreation & Drainage	Cuballing
94 Munro Street	43395	Parklands	Cuballing
Ridley Street	46773	Recreation	Cuballing
48 Forrest Street	47419	Popanyinning School House	Popanyinning
18 Andover Street	49201	Aged Persons Accommodation	Cuballing
Yornaning West Road	50040	Gravel Reserve	Yornaning
35 - 47 Alton Street, 1 Darcy Street	50156	Equestrian Park, Cross Country Course	Cuballing
213-217 Cuballing East Road	50698	Protection Of Natural Landscape	Cuballing
Cnr Congelin Narrogin Road, Melchiorre Road	1864	Conservation reserve	Cuballing
15 Cuballing East Rd	6457	Quarry	Cuballing
Corrie Street Cuballing	6458	Water	Cuballing
Wardering Road	8772	Water	Cuballing
Popanyinning East Road	9301	Gravel	Popanyinning
Bridge Street	9440	Recreation	Popanyinning
Cnr Cuballing East Road, Wardering Rd	9467	Water Reserve	Cuballing
Merwanga Road	9843	Recreation	Popanyinning
Merwanga Road	9886	Agricultural Hall	Popanyinning
49 Brundell Street	10310	Crown Land	Cuballing
Merwanga Road	10418	Church	Popanyinning
Popanyinning East Road	10492	Crown Land	Popanyinning
Popanyinning East Road	10497	Gravel Reserve	Popanyinning
43 Forrest Street	11198	Church	Popanyinning

Land Details	Reserve Number	Description	Locality
Bow street	11652	Church	Cuballing
Merwanga Road	11660	Church	Popanyinning
49 Lord Street	13013	Cemetery	Popanyinning
Hotham Street	14084	Park Lands	Popanyinning
Forrest Street	14559	Crown Land	Popanyinning
Yornaning Road	15925	Conservation Reserve	Yornaning
Springhill Road	16803	Gravel Reserve	Cuballing
186 Francis St	17371	Race Course	Cuballing
205 Cuballing East Rd	22136	Drainage	Cuballing
Townsend Road	27027	Gravel Reserve	Towsendale
17 Dowling Street	27150	Resting Place	Popanyinning
17 & 18 Howard Street	27705	Crown Land	Popanyinning

Dated this 23rd Day of August 2022

The Common Seal of the Shire of Cuballing was hereunto affixed to this document by resolution of Council in the presence of:

**Eliza Dowling
Shire President**

**Stan Scott
Chief Executive Officer**