

NOTICE – PUBLIC CONSULTATION

Amendment of the Nhulunbuy (Animal Control) By-laws 1998

The Nhulunbuy Corporation Limited advises the proposed amendment of the Nhulunbuy (Animal Control) By-laws 1998 (the Animal Control By-laws)

Members of the public are invited to make submissions in relation to the proposed changes to the Animal Control By-laws. Submissions close on 8th November 2022.

The proposed By-laws are available for inspection during office hours at the Nhulunbuy Corporation Limited's Office at Shops 2 and 3, 19 Westal Street, Nhulunbuy.

Introduction

The Nhulunbuy Corporation is empowered to make Animal Control By-laws by virtue of *Local Government Act 2019 (NT)*, (LGA) s.355. The Nhulunbuy Corporation Animal Control By-laws were last reviewed in 2015.

The main amendments are:

Livestock: The By-laws have new provisions dealing with "Livestock". "Livestock" includes crocodiles, cattle, buffalo, horses, camels, sheep, goats, pigs, deer, alpacas, poultry, llamas and honeybees.

The definition of "Livestock" differs from the definition of "animal" which means an animal that is kept on private premises in the Corporation area and includes dogs, cats, birds and reptiles. The definition could include rabbits and guinea pigs.

Livestock is prohibited from being kept in the Corporation area unless expressly allowed for by the Animal Control By-laws. A person can apply for a permit to keep a maximum of five chickens (not roosters).

It is a strict liability offence to keep livestock contrary to the By-laws. That means that, if the offences were prosecuted in a court, the Nhulunbuy Corporation would not have to prove that the owner of a livestock intended to breach the By-law. The maximum penalty is 20 penalty units, or \$3,420 per breach of the By-law.

Definition of "Owner" of "animals" including dogs:

An "animal" is defined under the By-laws as including dogs, cats, reptiles and birds: the definition and may extend to rabbits and guinea pigs and other animals that are not livestock.

The owner of an animal, except a dog, is the person who is control or possession of the animal, or the occupier of the premises or the part of the premises where the animal is usually kept.

The owner of a dog is the registered owner, the person in control or possession of the dog, or the occupier of the premises, or the part of the premises where the dog is kept (cl.4AA).

Animals causing nuisance

The owner of an animal, whether it be a dog, cat, a reptile, or bird, must ensure the animal is not a nuisance to people or other animals. A “nuisance” is caused where an animal infringes upon public health, behaves repeatedly in a manner contrary to the public interest, is excessively and persistently loud to the detriment of neighbours, or defecates in locations that causes annoyance to the public (cl 19A). The Animal Control Officer as the authorised person is empowered to seize an animal that is causing a nuisance (cl.19B).

Dogs

The Corporation will now have the power to immediately destroy an animal without prior notice to the owner if the animal is diseased, injured, savage, or destructive, or is surrendered by its owner for destruction if the Corporation believes on reasonable grounds that this course of action is necessary (cl. 19K). The decision is that of the CEO of the Nhulunbuy Corporation as delegated by the Corporation. The decision of the CEO is not a “reviewable decision” under Part 3A on the Animal Control By-laws.

The By-laws expressly state that the Nhulunbuy Corporation has the discretionary power to waive the prohibition on the registration of more than two dogs if the Nhulunbuy Corporation considers it reasonable in the circumstances (cl. 22A(5)).

Previously the Corporation had the power to impose a condition of the registration of a dog of a “prescribed breed” as set out in Schedule 1 to the *Customs (Prohibited Imports) Regulations 1956 (Cth)*. The amended By-laws will give the Nhulunbuy Corporation the power to specify *any* breed of dog as a breed of dog in relation to which the Corporation has the power to impose the condition on its registration that require the dog to be always controlled on a suitable lead and to be kept muzzled when the dog is outside its own premises (cl 34(3)).

Review of decisions

The Animal Control By-laws will now include a provision for some decisions made by the Nhulunbuy Corporation to be subject to an administrative review reviewed (Part 3A). The process for review is governed by the *Local Government Act 2019 (NT)*, Chapter 18.1. The decisions now capable of review are:

- A decision to destroy a seized or unclaimed impounded animal;
- A decision to refuse to register or renew the registration of an animal; and,
- A decision to cancel a registration of a dog or impose additional conditions on the registration of dog.

Max Duncan
Chief Executive Officer
Nhulunbuy Corporation