

26 ACTION REPORTS

26.1 CITY OF DARWIN DRAFT BY-LAWS - CONSULTATION OUTCOMES

Author: Senior Policy Advisor

Authoriser: General Manager Government Relations & External Affairs

Attachments: 1. Consultation Report (Draft) City of Darwin By-laws [↓](#)
2. Draft City of Darwin Proposed By-laws [↓](#)

Section under the Act	The grounds on which part of the Council or Committee may be closed to the public are listed in Section 65(2) of the <i>Local Government Act</i> and Regulation 8 of the Local Government (Administration) Regulations.
Sub-clause and Reason:	8(d) - information subject to an obligation of confidentiality at law, or in equity.

RECOMMENDATIONS

1. THAT the report entitled City of Darwin Draft By-laws - Consultation Outcomes be received and noted.
2. THAT Council note the recommendations in the By-laws – Consultation Outcomes Report, which will be actioned by Council Officers, those being:
 - a. The feedback outlined in the consultation report informs the finalisation of the City of Darwin's By-laws. This is to be achieved by reviewing all feedback received as a collective and striking a balance with regard to existing legislation, legal advice and with input from Parliamentary Counsel.
 - b. Once this review is completed, and Council has endorsed the new By-laws, undertake a comprehensive communication program to ensure the changes are understood across all stakeholder groups and the broader Darwin community.
 - c. Once endorsed, City of Darwin make the Consultation Report available on Engage Darwin and email the link to organisations and individuals who provided input during the consultation period.
3. THAT this report be deemed a confidential document and be treated as such in accordance with Section 75 and 76 of the Local Government Act 2008 and that the document remains confidential unless Council decides otherwise by resolution.
4. THAT this report be moved into Open upon the adoption of the City of Darwin By-laws.

PURPOSE

The purpose of this report is to provide the results of the consultation regarding City of Darwin's proposed new By-laws **Attachment 1** and the revised draft By-laws at **Attachment 2**.

KEY ISSUES

- A comprehensive consultation process on City of Darwin's proposed new By-laws is now complete. The consultation process has met the requirements of the Local Government Act 2008 and has included key stakeholders and community. The results of this consultation are contained in the By-laws – Consultation Outcomes Report at **Attachment 1**.
- Internal consultation has taken place with relevant officers and departments across City of

Darwin and will be incorporated into the next phase of drafting instructions.

The revised draft By-laws are at **Attachment 2**. Significant changes or major redirection of the proposed draft By-laws attached at **Attachment 2** will require an additional consultation period, as mandated by the Local Government Act, however this was not an outcome of the consultation results, so is not envisaged.

DISCUSSION

The Consultation Report outlines the Methodology, Consultation outcomes, Media reach and Analysis on the draft By-laws. Appendices have been included that show the submissions received by key stakeholders and community members in relation to the proposed By-laws.

This report seeks that Council notes the recommendations of the Consultation Report, which are outlined at page 41 of **Attachment 1**. The consultation recommendations can guide Council officers to work through feedback, seek any necessary legal advice and compile instructions for the next draft of the By-laws to Parliamentary Counsel.

To summarise the outcomes, the consultation highlighted the following areas as issues for consideration in the final draft of City of Darwin's new By-laws:

Community feedback

The majority of community feedback focussed on the By-laws that relate to **Part 5 Animal Management**.

The response from the community focussed on three main elements of Part 5 including:

- Restricting chickens to six on a residential property and banning roosters
- Cat containment; and
- Dangerous dog controls and nuisance behaviour by dogs such as barking.

Stakeholder feedback

Stakeholder feedback was primarily focused on:

- Part 1 Preliminary Matters
- Part 4 Health and Safety
- Part 5 Animal Management
- Part 6 Public Facilities and Places
- Part 9 Compliance and Enforcement.

The following observations can be made regarding the feedback received from stakeholders:

- The big-ticket items from a stakeholder perspective are:
 - Activities on public land (Part 6)
 - Dangerous Dogs (Part 5)
 - Cat containment (Part 5)

PREVIOUS COUNCIL RESOLUTION

At the 29 September 2020 meeting Council resolved:

THAT the report entitled development of new City of Darwin By-Laws - Update be received and noted. (RESOLUTION ORD302/20)

At the 30 March 2021 meeting Council resolved:

THAT the report entitled Draft City of Darwin By-laws - Community Consultation be received and noted.

2. *THAT Council endorse the City of Darwin By-laws - Consultation Draft attached for the purpose of community consultation (Attachment 2).*
3. *THAT this report be deemed a confidential document and be treated as such in accordance with Section 75 and 76 of the Local Government Act 2008 and that the document remains confidential unless Council decides otherwise by resolution.*

(RESOLUTION ORD159/21)

STRATEGIC PLAN ALIGNMENT	6 Governance Framework 6.3 Decision Making and Management
CRITICAL DATES	25 May: Ordinary Council Report on City of Darwin By-laws Consultation Outcomes 15 June: Ordinary Council Report Final draft of City of Darwin By-laws 1 July: New Local Government Act commences
BUDGET / FINANCIAL	Costs associated with transitional arrangements for the implementation of the By-laws will be borne operationally. Arrangements range from signage changes to staff training and will be met through operational budgets.
RISK ASSESSMENT	<p>Assets & Infrastructure <input type="checkbox"/> Environment & Waste <input type="checkbox"/></p> <p>Financial <input type="checkbox"/> Info Comms & Tech <input type="checkbox"/></p> <p>Legal & Compliance <input checked="" type="checkbox"/> Ops & Service Delivery <input checked="" type="checkbox"/></p> <p>Reputation & Brand <input checked="" type="checkbox"/> Work Health & Safety <input type="checkbox"/></p> <p>In accordance with City of Darwin Risk Management Framework, the post treatment, mitigation risk is: Low</p> <p>Risks identified, in relation to this report, will be managed through the use of legal advisors, work with Parliamentary Counsel and Department of Local Government and during the implementation phase of new By-laws for the 12 months post introduction.</p>
LEGISLATION / POLICY CONTROLS OR IMPACTS	<p>Legislation:</p> <p>Local Government Act 2019 and associated Regulations.</p> <p>Policy:</p> <p>Various policies will be impacted and will be consolidated for review, coordinated by the Policy and Legislation area in the Government Relations and External Affairs Department.</p>
RESOURCE IMPLICATIONS	<p>Existing Position No: Senior Policy Advisor</p> <p>Contractor: N/A</p>
CONSULTATION & ENGAGEMENT	<p>Engagement Level:</p> <p>City of Darwin has a policy on community engagement with a commitment to open, transparent and responsive community engagement. Using the International Association for Public Participation (IAP2) principles that guide good community engagement, this engagement was conducted at the level of inform and consult. At these levels Council's promise to the public is to keep them informed, listen to their concerns and provide feedback on how their input</p>

	<p>influenced the decision.</p> <p>Tactics:</p> <p>Internal, Stakeholder input and Community and Stakeholder review and feedback.</p>
COMMUNICATION PLAN FOR THIS INITIATIVE	<p>Internal</p> <p>As per Attachment 1 recommendations.</p> <ul style="list-style-type: none"> • Training of Staff and the development of a manual for City of Darwin on By-laws and their implementation will be undertaken in-house. <p>External</p> <p>Recommendations include a comprehensive communication plan to ensure the changes are understood across all stakeholder groups and the broader Darwin community. This can be achieved through:</p> <ul style="list-style-type: none"> • A dedicated Council By-laws webpage with information about the new By-laws and the impacts; <ul style="list-style-type: none"> ○ To include questions and answers to enhance understanding; ○ To include visuals and graphics to communicate changes; ○ Information should be provided in different formats and languages to improve accessibility • Council-led By-laws Roadshow to be rolled out to key stakeholders and made available to the broader Darwin community; • A broad media campaign geared toward to promoting awareness and understanding of the By-law changes being implemented.
PLACE SCORE STATEMENT	N/A
DECLARATION OF INTEREST	<p>The report author does not have a conflict of interest in relation to this matter.</p> <p>The report authoriser does not have a conflict of interest in relation to this matter.</p> <p>If a conflict of interest exists, staff will not act in the matter, except as authorised by the CEO or Council (as the case requires).</p>



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By-laws

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Building Better By-laws

Consultation Report

12 May 2021



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Executive summary

In 2020, the City of Darwin embarked on a full review of the Darwin City Council By-laws that were created in 1994. Council's goal was to work closely with stakeholders and the community to develop a more modern set of By-laws that reflect today's community standards and expectations.

Since September 2020, City of Darwin has worked closely with Elected Members, Council staff, specialist stakeholders and the Northern Territory Government's Department of Local Government and Parliamentary Counsel to develop a consultation draft that the community and stakeholders could review and provide input on.

The consultation draft of the proposed new By-laws for City of Darwin was released for public review and feedback on 31 March with endorsement from Council (**RESOLUTION ORD001/21**). The mandated period for consultation under the Act is 21 days.

Goals and objectives

The **goal** of this consultation was to comply with the mandated period for consultation and ensure that the By-laws review is undertaken with strong input from Elected Members, Council officers, key stakeholders and the broader community.

The **objectives** were to:

- ensure Elected Members and Council staff remain informed and engaged during the By-Law review
- connect with specialist stakeholders early to ensure their input was incorporated and they informed the proposed changes
- provide adequate information and time for the ratepayers and residents of the City of Darwin to understand the proposed changes and provide feedback.



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Tools and tactics

Several tools and tactics were used to support the consultation process, as summarised below.

Internal engagement	Key and specialist stakeholder input	Community and stakeholder engagement
One-one-one meetings Briefings Workshops	<ul style="list-style-type: none">•Interviews•One-one-one meetings	<ul style="list-style-type: none">•Four-week consultation period•Engage Darwin•Fact sheet•Information Paper•Community pop-up displays•Social media

Consultation snapshot

The following is a snapshot of the way in which people engaged and provided feedback during the consultation period for Building Better By-Laws that ran from 30 March to 31 April 2021:

Community feedback <ul style="list-style-type: none">•25 emails•14 submissions to Engage Darwin•2 phone calls•1 petition with 70 signatures•147 conversations with people at community pop-up stalls
Stakeholder feedback <ul style="list-style-type: none">•10 written submissions (email, Engage Darwin)•2 verbal / phone conversations where feedback was provided
939 people visited Engage Darwin <ul style="list-style-type: none">•392 downloaded the draft By-laws 2021•134 downloaded the public information paper•175 downloaded the fact sheet
Social media <ul style="list-style-type: none">•Facebook:<ul style="list-style-type: none">•City of Darwin shared six posts that reached a total of 20 127 people during the consultation period•This resulted in 1926 people engaging with Council's six Facebook posts about the proposed By-laws during the consultation•Twitter:<ul style="list-style-type: none">•Council shared the media release detailing the proposed By-laws•This reached 498 people and engaged with 19 people during the consultation•Instagram:<ul style="list-style-type: none">•Council shared two posts detailing upcoming stalls, attracting 62 total likes and reaching 3603 people



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Consultation feedback

Given the large amount of feedback received during the Building Better By-laws consultation, the analysis has been broken up into stakeholder feedback and community feedback.

Below is a snapshot of where the feedback came from on each of the Parts of the draft By-laws:

Part	Name	Stakeholder feedback	Community feedback
1	Preliminary Matters	Y	Y
2	Meeting of Members	N	Y
3	Administrative Matters	N	N
4	Health and Safety	Y	Y
5	Animal Management	Y	Y
6	Public Facilities and Places	Y	Y
7	Public Libraries	Y	Y
8	Outdoor Advertising	N	Y
9	Compliance and Enforcement	Y	Y
10	Repeal and Transitional Matters for City of Darwin By-laws 2021	N	N

In general, the Parts that generated the most feedback were:

- Part 4 Health and Safety
- Part 5 Animal Management
- Part 6 Public Facilities and Places
- Part 8 Outdoor Advertising
- Part 9 Compliance and Enforcement.



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Recommendations

Based on the range of feedback received during the By-laws consultation, it is recommended that:

1. The feedback outlined in this Consultation Report informs the finalisation of the City of Darwin's By-laws. This is to be achieved by reviewing all feedback received as a collective and striking a balance with regard to existing legislation, legal advice and with input from Parliamentary Counsel.
2. Once this review is completed, and Council has endorsed the new By-laws, Council to undertake a **comprehensive communication program** to ensure the changes are understood across all stakeholder groups and the broader Darwin community. This can be achieved through:
 - A dedicated Council By-laws webpage with information about the new By-laws and the impacts;
 - To include questions and answers to enhance understanding;
 - To include visuals and graphics to communicate changes;
 - Information should be provided in different formats and languages to improve accessibility.
 - Council-led *By-laws Roadshow* to be rolled out to key stakeholders and made available to the broader Darwin community.
 - A social media campaign geared toward promoting awareness and understanding of the By-law changes being implemented.
 - Training of staff and the development of a manual for City of Darwin on By-laws and their implementation.
3. Once endorsed, City of Darwin make this Consultation Report available on Engage Darwin and email the link to organisations and individuals who provided input during the consultation period.

Background

Councils are responsible for the making of their By-Laws, in accordance with the requirements of the Act for their local government area.

City of Darwin use By-laws to respond to issues and community need within the municipality. By-laws complement responsibilities and powers under both state and federal law.



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By-laws should be current and fit for purpose and include laws governing the conduct of Council itself as well as areas such as:

Health and safety

- Including waste management and recycling facilities

Animal management

- Ranging from registration issues to menacing or dangerous dogs

Public Places

- Including swimming pools and recreation areas, markets, verges and activities such as busking

Council libraries

- Their use and rules for membership, borrowing and behaviour

Signs and advertising

- Including purpose and placement

Enforcement

- Covering areas like ranger and outreach programs

Council matters

- Regulation of meetings and processes

The primary objectives of City of Darwin's 2020/21 By-Laws review is to complete a full review of the Darwin City Council By-Laws and implement the revised City of Darwin by-Laws in conjunction with the implementation of the new Local Government Act due for commencement in July 2021.

The current Darwin City Council By-laws were created in 1994. Since that time, community standards, expectations, Council, staff membership, and operations have changed significantly.



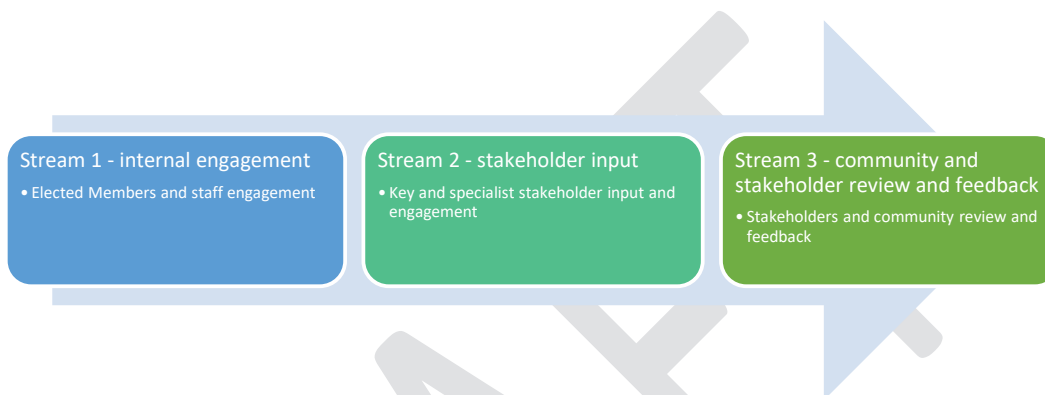
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As part of the By-laws review, the City of Darwin has worked closely with the Northern Territory Government's Department of Local Government and Parliamentary Counsel to develop a consultation draft that the community and stakeholders could review and provide input on.

The consultation process for the City of Darwin's By-law review was carried out under three streams:



The consultation draft of the proposed new By-laws for City of Darwin was released for public review and feedback on 31 March with endorsement from Council (**RESOLUTION ORD002/21**). The mandated period for consultation under the Act is 21 days.

Methodology

Goals and objectives

The goal of this consultation was to comply with the mandated period for consultation and ensure that the By-laws review is undertaken with strong input from Elected Members, Council officers, key stakeholders and the broader community.

The objectives were to:

- ensure Elected Members and Council staff remain informed and engaged during the By-Law review
- connect with specialist stakeholders early to ensure their input was incorporated and they informed the proposed changes
- provide adequate information and time for the ratepayers and residents of the City of Darwin to understand the proposed changes and provide feedback.



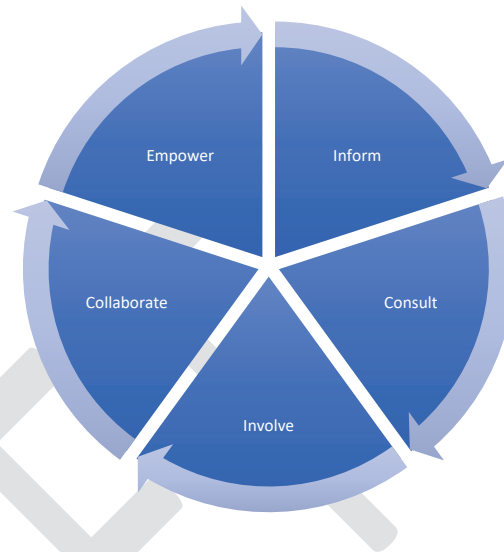
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Level of Engagement

City of Darwin has a policy on community engagement with a commitment to open, transparent and responsive community engagement. Using the International Association for Public Participation (IAP2) principles that guide good community engagement, this engagement was conducted at the level of **inform** and **consult**. At these levels Council's promise to the public is to keep them informed, listen to their concerns and provide feedback on how their input influenced the decision.



Approach

The consultation approach for the By-laws review was divided into three 'streams' - internal engagement, specialist stakeholder input and stakeholder and community review and feedback.

The streams ran in parallel with Elected Members and Council staff continuing to be engaged throughout the process. The streams are summarised below.

Stream 1 Internal engagement	Stream 2 Stakeholder input	Stream 3 Community and stakeholder review and feedback
<ul style="list-style-type: none">• September 2020 to March 2021• Elected Member workshops and briefings• Council staff meetings and workshops	<ul style="list-style-type: none">• September 2020 to March 2021• One-on-one meetings and phone calls with key and specialist stakeholders	<ul style="list-style-type: none">• 31 March to 30 April 2021• Engage Darwin• Key stakeholders and all ratepayers and residents within the City of Darwin



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This Consultation Report focuses on the feedback from the stakeholder and community streams only (Stream 3). However, for completeness, the engagement effort undertaken in Stream 1 and Stream 2 is included in the tools and tactics section of this report. This helps to paint the broader picture about the engagement effort that took place for this project.

Resourcing

City of Darwin led this consultation through the Senior Policy Advisor with support from the Manager Engagement and Events. Given the scale of the consultation and resourcing limitations, consultation support was provided by True North Strategic Communication as follows:

- Drafting of information materials to inform consultation (Engage Darwin, fact sheet, FAQs)
- Set up Engage Darwin online platform
- Provide support at community pop-up booths
- Manage email and phone inquiries from the public
- Report and analyse social media engagement
- Prepare consultation summary on community feedback received

Stakeholders

There were several stakeholders engaged during the consultation process. The stakeholders below were offered the opportunity to engage early and many provided feedback on current By-laws (from September 2020 through to March 2021) – Stream 2. Several stakeholders generously provided information or highlighted issues of concern to their interests via phone conversations, one-on-one meetings or in writing.

- Animal management in regional and remote Indigenous communities (AMRRIC)
- Anti-Discrimination Commission NT
- Australian Library and Information Association NT (ALIA NT)
- Casuarina Landcare
- Casuarina Coastal Reserve Landcare
- Darwin City and Waterfront Retailers Association (DCWRA)
- Environment Protection Authority NT



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- Hospitality NT
- Larrakia Nation
- Life without Barriers NT
- Local Government Association of the NT (LGANT)
- North Australian Aboriginal Justice Agency (NAAJA)
- Northern Territory Government Departments and Branches:
 - Activate Darwin
 - Biosecurity and Animal Welfare division
 - Department of Infrastructure, Planning and Logistics
 - Library and Archives NT
 - Livestock Identification System Administration
 - Police Fire and Emergency Services
 - Wildlife Operations
- NT Shelter
- NT Council of Social Services (NTCOSS)
- PAWS Darwin
- Property Council of the NT
- Royal Society for the Prevention of Cruelty to Animals (RSPCA)
- Surf Life Saving Association NT
- Top End Rehoming Group

The following City of Darwin Advisory Committees were also informed of the City of Darwin's By-laws review and were provided an opportunity to give feedback on early drafts (September 2020 to March 2021):

- Art and Cultural Advisory Committee
- Youth Advisory Committee
- Access and Inclusion Advisory Committee

All organisations listed above received a personal invitation to provide formal submissions through the consultation period which ran from 31 March to 30 April – Stream 3. The following organisations also received the same invitation but did not schedule meetings or provide submissions.

- Aboriginal Medical Services Alliance NT (AMSANT)



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- Chamber of Commerce NT
- Cycling NT
- DiversAbility
- Multicultural Council of the NT
- Music NT
- Nightcliff Market Association
- Parap Market Association
- Mindil Beach Market Association
- Power Water
- Department of Health
- YMCA

Tools and tactics

Several tools and tactics were used to support the consultation process, as summarised below.

Internal engagement	Key and specialist stakeholder input	Community and stakeholder engagement
One-one-one meetings Briefings Workshops	<ul style="list-style-type: none">• Interviews• One-one-one meetings	<ul style="list-style-type: none">• Four-week consultation period• Engage Darwin• Fact sheet• Information Paper• Community pop-up displays• Social media

Internal engagement

During September 2020 to March 2021 (Stream 1), the following internal engagement took place regarding the By-laws review:

- Elected Members attending 2 briefings and 2 workshops to learn more about the proposed changes and provide feedback
- Council staff attended 6 one-on-one meetings and 5 internal workshops, this included with the following business units:
 - Community and Regulatory Services



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- City Planning
- Engineering and City Services
- Governance
- Corporate Services
- SDG and SLT were invited to attend all sessions

The input received during the internal engagement strongly informed the consultation draft By-laws and ensured that City of Darwin Elected Members and staff were kept fully informed and contributed specialist knowledge on specific matters.

Key and specialist input

From September 2020 to March 2021, key specialist stakeholders and potentially impacted stakeholders were engaged to provide feedback on current By-laws (Stream 2). This took place via one-on-one meetings and phone conversations. Several stakeholder organisations generously gave their time to the discussion and provided information and references that helped inform the drafting process. A list of the stakeholders engaged in this process is provided above.

Community and stakeholder review and feedback

On 31 March the consultation period opened for the community and stakeholders to review the draft By-laws and provide feedback and several tools and tactics were used to promote engagement, as outlined below.

Stakeholder emails

Identified stakeholders (see above) were emailed a copy of the By-laws consultation draft and the public information paper and links to the Engage webpage with an invitation to discuss or provide feedback. Reminder emails were also sent near the end of the consultation process to prompt engagement and feedback.

Engage Darwin

The Engage Darwin platform <https://engage.darwin.nt.gov.au/building-better-by-laws> was used for this consultation and contained the following information:

- Draft of the proposed By-laws, the public information paper and fact sheet
- Link to the existing City of Darwin By-laws 1994

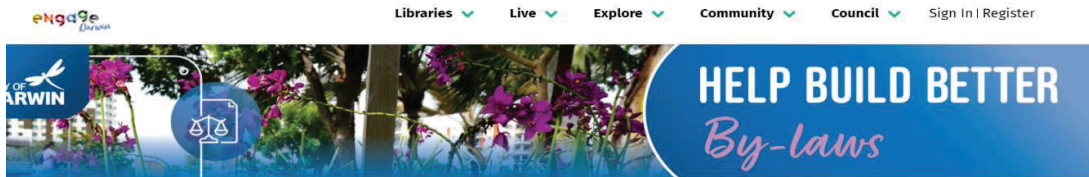


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- Frequently Asked Questions to assist in understanding the proposed changes
- Key dates including details of the public displays / stalls
- Submission portal (for written submissions)
- Contact details for further information



Home » Building Better By-laws

Building Better By-laws

City of Darwin would like your help in designing better By-laws.

By-laws allow City of Darwin to regulate activity, provide direction, impose charges and issue permits and infringements. They are part of our daily lives and help protect the city and our community.



By-law consultation starts
31 March 2021

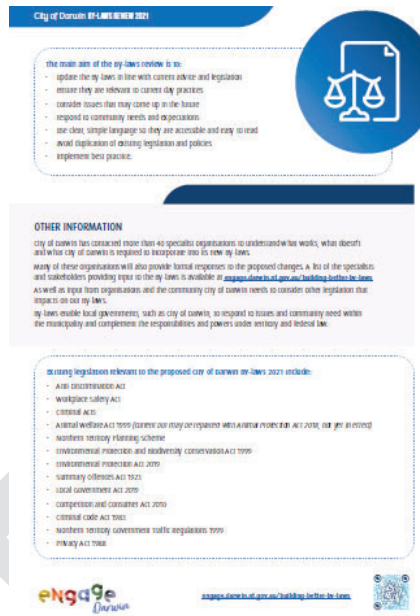
Pop-up information stall, Smith Street Mall 10am-2pm
07 April 2021

Pop-up information stall, Parap Markets 7:30am-2pm

Snip of <https://engage.darwin.nt.gov.au/building-better-by-laws>

Fact sheet

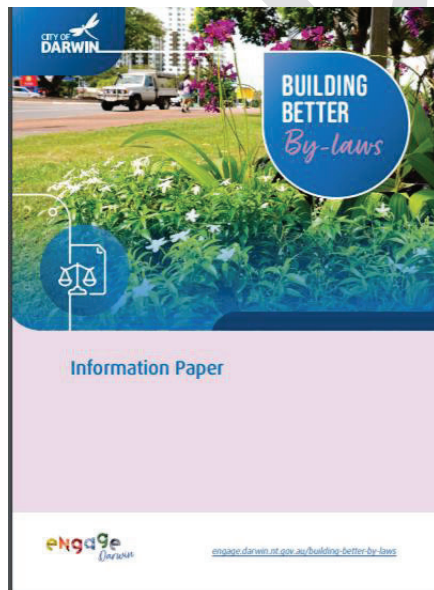
A fact sheet was prepared to assist people to understand the intent of the consultation process and general information on the By-laws review. This provided a quick and easy reference point for people who are time poor to quickly understand the sort of changes proposed to help them decide if they would like to engage or read more. The fact sheet was made available on Engage Darwin and at the community pop-up stalls.



City of Darwin By-laws Review Fact Sheet

Public Information Paper

A public information paper was prepared as required by the Local Government Act. It set out in plain English the proposed changes under each Part of the By-laws.



Public Information Paper



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Community pop-up stalls

During the consultation period 31 March to 30 April 2021, there were several community pop-up stalls, both staffed and static, to promote the consultation process on the ground. The details of these and the number of discussions that took place outlined below.

What	Where	Discussions
Community pop-up stalls (staffed)	Smith Street Mall (7 th April)	11
	Parap Market (10 th April)	51
	Nightcliff Market (11 th April)	37
	Casuarina Shopping Centre (17 th April)	46
Static display booths	Karama and Casuarina Libraries	Unknown
	Civic Centre Customer Service Area	



Smith Street Mall, 7
April 2021



Casuarina Square, 17
April 2021



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Media

A media release was issued at the commencement of the consultation period to generate interest and promote the consultation process. During the consultation there was strong media interest as summarised below:

Radio mentions	Greg & Ali at MIX 104.9, Darwin, Mix Breakfast with Greg and Ali, 1 April 2021 Katie Woolf at MIX 104.9, Darwin, 360, 1 Apr 2021 Liz Trevaskis at ABC Radio Darwin, 5 May 2021
Radio interviews	Adam Steer at ABC Radio Darwin, Interview with Kon Vatskalis, Darwin Lord Mayor, 14 April 2021 Adam Steer at ABC Radio Darwin, Interview with Kon Vatskalis, Darwin Lord Mayor, 3 May 2021 ABC Radio Darwin, Interview with Kate Dixon, Administrator Darwin Chicken Hub, 4 May 2021
Print media	NT News, "Outdated by-laws to face knife", 1 April 2021 NT Independent, "Off-the-planet by-laws proposed: what you need to know", 17 April 2021

City of Darwin also placed an advertisement in the NT News on 30 April 2021 as required under the Local Government Act and also promoting the consultation on the draft By-laws and encouraging feedback.



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PREP 4-in-1 Paint

4L Prep 4-in-1 Paint \$63.90

14203706

4L Easycoat Interior Paint White, Low sheen, non-yellowing. **\$59**

4L Wash & Wear Low sheen, non-yellowing. **\$82.40**

4L Eggshell Paint Low sheen, non-yellowing. **\$130**

50mm Pro Renovator Paint Brush Half bristle, suitable for all paints. **\$6.68**

1.5kg White Rags Heavy duty, all purpose. **\$7.50**

300g Acrylic Spray Paint Gloss, semi gloss, matt. **\$11.95**

Heavy Duty Roller Kit Available in 25mm & 37mm. **\$16.15**

Aluminium Work Platform 10kg load rating, 8kg top. **\$109**

Flexio 550 Paint Sprayer Variable nozzle, 1000ml tank. **\$239**

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10 NEWS

THURSDAY APRIL 1, 2021

SEE WHAT'S OPEN IN DARWIN OVER EASTER LONG WEEKEND

Need to know what's on over the Easter long weekend? The NT News has compiled a list of what's open in Darwin.

ROYAL DARWIN HOSPITAL
EMERGENCY DEPARTMENT
Good Friday - 24 hour
Easter Saturday - 24 hour
Easter Sunday - 24 hour
Easter Monday - 24 hour

PALMERSTON HOSPITAL
EMERGENCY DEPARTMENT
Good Friday - 24 hour
Easter Saturday - 24 hour
Easter Sunday - 24 hour
Easter Monday - 24 hour

TOP END MEDICAL CENTRE
Good Friday - CLOSED
Easter Saturday - 9am to 4pm
Easter Sunday - 9am to 3pm
Easter Monday - 9am to 4pm

CHALMERS SQUARE
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 10am to 5pm
Easter Monday - 10am to 5pm

GATEWAY
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 10am to 5pm
Easter Monday - 10am to 5pm

WILKINSON'S
MOODWORTH
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

COLES
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

IGC W
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

KINABAT
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

TARGET
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

TARGETWAY LINDON
Good Friday - CLOSED
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

SEALOOD
Good Friday - 9am to 5pm
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

MR BARBA
Good Friday - 9am to 5pm
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

DARWIN WATERFRONT
OYSTER BAR DARWIN
Good Friday - 10am to 5pm
Easter Saturday - 10am to 5pm
Easter Sunday - 10am to 5pm
Easter Monday - 10am to 5pm

HOT TANKS
Good Friday - 11:30am to 10pm
Easter Saturday - 11:30am to 10pm
Easter Sunday - 11:30am to 10pm
Easter Monday - 11:30am to 10pm

CURVE CAFE AND BAR
Good Friday - 9am to 5pm
Easter Saturday - 9am to 5pm
Easter Sunday - 9am to 5pm
Easter Monday - 9am to 5pm

THE PRECINCT TAVORN
Good Friday - 10am to 5pm
Easter Saturday - 10am to 5pm
Easter Sunday - 10am to 5pm
Easter Monday - 10am to 5pm



PROPOSED CITY OF DARWIN BY-LAWS 2021

City of Darwin intends to introduce new By-Laws to replace the Darwin City Council By-Laws 1994. The proposed new By-Laws will modernise the existing By-Laws ensuring they reflect the Council's and residents' current views and expectations.

The proposed new By-Laws will regulate:

- Animal management including responsible ownership of dogs and cats, dangerous dogs, seizure and impounding of dogs and cats and prohibitions on keeping livestock, and other animals within the Council area.
- Health and safety including waste and recycling, trees and unsafe behaviour.
- Council meetings including procedural matters and public participation.
- Public facilities and places including protecting public land, activities on public land, control of vegetation, control of vehicles and boats, public swimming and selling goods and services.
- Public facilities including conduct in a public library.
- Outdoor advertising including outdoor advertising code and permits.
- Offences under the By-Laws.

most aspects of the proposed City of Darwin By-Laws 2021 and Public Information Paper are available at the Civic Centre, Korumburra and Casuarina Libraries during opening hours.

Soft copies are accessible on Council's Engage website at: engage.darwin.nt.gov.au

Feedback regarding the proposed new By-Laws can be provided to the City of Darwin Engage website, by emailing feedback@darwin.nt.gov.au, by mail to GPO Box 141 Darwin NT 0801 or by phone 0801 4445.



All submissions must be received by midnight on Friday 19 April 2021.

NT News Advertisement, 30 March 2021



BUILDING BETTER By-laws



engage.darwin.nt.gov.au/building-better-by-laws

Social media

During the consultation there were 9 social media posts promoting the By-law review consultation, a summary is provided below:

DATE	TOPIC	COMMENTS	LIKES	SHARES	REACH	ENGAGEMENT
Facebook						
Wednesday 31 March	Calling all Darwin residents! https://business.facebook.com/198033420299350/posts/3303783559724305/	15	15	13	6743	1110
Wednesday 7 April	Come say hello! Smith St Mall & other https://business.facebook.com/198033420299350/posts/3327274640708530/	11	31	6	6618	525
Friday 9 April	Whether you own a furry companion, horse or chicken https://business.facebook.com/198033420299350/posts/3333307126771948/	0	7	3	1753	36
Wednesday 14 April	How do the City of Darwin's By-laws affect you? Waste Management https://business.facebook.com/198033420299350/posts/3347108732058454/	0	11	1	1267	28
Wednesday 21 April	Did you know there are new By-laws on keeping cats at home? https://business.facebook.com/198033420299350/posts/3365668103535850/	5	23	0	1758	123
Friday 23 April	https://business.facebook.com/198033420299350/posts/3370926126343381/	0	10	4	1988	104
Twitter						
Wednesday, 31 March 2021	Media Release - City of Darwin leads the way with proposed new By-laws https://twitter.com/cityofdarwin/status/1377079802407092224		1	2	498	19
Instagram						



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Wednesday, 31 March 2021	Calling all Darwin residents!	1- n/a	29		1608	31
Wednesday, 7 April 2021	Come say hello! 🐾 Smith Street Mall https://www.instagram.com/ p/CNV0W5fnVhV/	2 - n/a	33		1995	39



31 March 2021



9 April 2021



21 April 2021



23 April 2021

Social media for By-laws consultation



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Consultation

Snapshot

The following is a snapshot of the way in which people engaged and provided feedback during the consultation period for Building Better By-Laws that ran from 30 March to 31 April 2021:

Community feedback

- 25 emails
- 14 submissions to Engage Darwin
- 2 phone calls
- 1 petition with 70 signatures
- 147 conversations with people at community pop-up stalls

Stakeholder feedback

- 10 written submissions (email, Engage Darwin)
- 2 verbal / phone conversations where feedback was provided

939 people visited Engage Darwin

- 392 downloaded the draft By-laws 2021
- 134 downloaded the public information paper
- 175 downloaded the fact sheet

Social media

- **Facebook:**
 - City of Darwin shared six posts that reached a total of 20 127 people during the consultation period
 - This resulted in 1926 people engaging with Council's six Facebook posts about the proposed By-laws during the consultation
- **Twitter:**
 - Council shared the media release detailing the proposed By-laws
 - This reached 498 people and engaged with 19 people during the consultation
- **Instagram:**
 - Council shared two posts detailing upcoming stalls, attracting 62 total likes and reaching 3603 people



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Social media engagement

Social media activity on the Building Better By-laws consultation included posts shared to Facebook, Twitter and Instagram during the consultation period.

Additional accounts also took to Facebook to share the proposed By-laws, including the NT Independent, RSPCA Darwin and Top End Rehoming Group Inc, who made posts of their own.

A review of the 38 Facebook comments across all pages showed that about six comments were positive, 11 were negative and 21 were considered neutral. The majority of Facebook comments related to animal management, with 20 comments regarding barking and dangerous dogs, chicken limits, and rooster ban and cat containment. Other comments related to waste management and public places.

Key suggestions included managing chickens and roosters under nuisance and noise levels as opposed to limiting flock numbers. Across social media, there was varied support for By-laws, with people commenting for and against the proposed animal management By-laws, particularly the limit of chickens in residential areas, cat containment and dangerous dogs.

Consultation feedback

Below sets out the feedback on the draft By-laws by stakeholders and the community during the consultation period 30 March to 31 April 2021.

The main points from the submissions (both in writing and verbal) are presented under the relevant Parts of the draft By-laws for ease of reference. The full submissions are provided as Appendices to this report, unless stakeholders have requested confidentiality. Personal details have been removed for community members for confidentiality purposes.



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Part 1 Preliminary Matters

Part 1 Preliminary Matters	
Stakeholder feedback	<p>Danila Dilba Health Service:</p> <p>Strong support for acknowledgement of Larrakia in the By-laws.</p> <p>Arts and Cultural Development Advisory Committee:</p> <p>Draft minutes for 13 April show strong support for acknowledgement of Larrakia in the By-laws.</p> <p>NT Police:</p> <p>Request that the definition of 'authorised officer' be included or clarified if NT Police are required to act on these By-laws.</p> <p>RSPCA:</p> <p>Request definition of 'containment', noting a need for humane definition.</p>
Community feedback	<p>Community pop-up stalls:</p> <p>14 people supported the acknowledgement of Larrakia</p> <p>Suggestions:</p> <p>Support the inclusion of an acknowledgement of Larrakia in the by-laws</p>

Part 2 Meeting of Members

Part 2 Meeting of Members	
Stakeholder feedback	No stakeholder feedback received on this Part of the draft By-laws.
Community feedback	<p>Submissions:</p> <p>By-law 12 – this section could be misused by the chair to silence questions, criticism or debate among members</p>



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	<p>Suggestions:</p> <p>Include a Member's Code of Conduct, Council's compliance with its approved policies, management of conflicts of interest and related procedural matters in the by-laws. Similar to how 'disorderly conduct' is included in the revised by-laws.</p> <p>Include the need for Council's decision making to be transparent and members to be accountable for their decisions such as by having reports of meetings, record deliberations of members not just decisions and how each individual member voted on an issue.</p> <p>Televise Council meetings.</p>
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Part 3 Administrative Matters

Part 3 Administrative Matters	
Stakeholder feedback	No feedback received on this Part of the draft By-laws.
Community feedback	No community feedback received on this Part of the draft By-laws.

Part 4 Health and Safety

Part 4 Health and Safety	
Stakeholder feedback	<p>Danila Dilba Health Services:</p> <p>Recommend repeal or amend:</p> <ul style="list-style-type: none">• 33 – Offence of depositing waste• 38 – Breaking glass or other material• 39 – Unsanitary behavior. <p>Such laws discriminatorily affect homeless people on the grounds of their housing status and the necessary location of their conduct, not on</p>



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	<p>the basis that the behaviour or activities themselves are inherently reprehensible and ought to be criminalised.</p> <p>It effectively prohibits the performance of essential human acts in public, but not within a home. This causes people without homes to rely on the provision of public toilets and facilities by the City of Darwin, which are not always available.</p> <p>In addition, those with complex health needs and disabilities may be less cognisant of accepted public standards of 'sanitary behaviour' and the consequences of breaching these standards. They are therefore more likely to be targeted by such laws.</p> <p>The City of Darwin would better serve the community by increasing the number of public toilets available in the CBD, in particular, but also in suburban shopping areas and parks. Toilets are frequently closed from early evening, leaving no option other than the street for any homeless person or even people out in the late evening. It is unreasonable to criminalise essential human acts while refusing to provide facilities that allow compliance.</p> <p>Where waste disposals, bins or recycling facilities are not available, people experiencing homelessness may have no other option than to have their waste remain on the land that they occupy. They are therefore more likely to be affected by these laws, not due to non-compliance or culpability, but because of a lack of alternative options. A fine in this regard may constitute punishment that is disproportionately severe to the 'crime'.</p>
Community feedback	<p>Community pop-up stalls:</p> <p>General support for Council's waste recycling services.</p> <p>Submissions:</p>



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	<p>Suggest Council offering a smaller red bin size for some residences to save costs.</p> <p>By-law 33 Offence of depositing waste – penalty is not high enough to stop people depositing waste on a large scale.</p> <p>Fines are not high enough to deter people from keeping blocks untidy.</p> <p>Not enough clarity about what ‘unkempt’ means to untidy allotments.</p> <p>Suggestions:</p> <p>By-law 33 – increase penalties for depositing waste on a large scale.</p> <p>By-law 38 Breaking glass or other material – remove 1c because whether the glass is likely to cause injury to a person or animal is not relevant.</p> <p>Increase fines for people who own vacant land that is untidy to \$1000 fine.</p> <p>Clarify the wording around what ‘unkempt’ means.</p> <p>Do not allow people to put rubbish in bins on vacant land, all waste should be removed off premises.</p> <p>Review current fee structure for garden waste at Shoal Bay Waste.</p> <p>Facility so gardening contractors pay per weight.</p> <p>Introduce green waste bins for households.</p>
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Part 5 Animal Management

Part 5 Animal Management	
Stakeholder feedback	<p>RSPCA:</p> <p>Request definition of ‘containment’ reworded to include humane reference. Would prefer a more succinct description of ‘proper containment’, such as ‘containment to restrict chance of escape, while</p>



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	<p>also providing enough space and enrichment items to allow the dog or cat to exhibit normal behaviors’.</p> <p>Request addition of restrained and declared in key sections for clarity.</p> <p>Propose adding ‘restrained’ in reference to animals in Ute trays By-law 49 (2) B. Such as the animal should be restrained safely and securely in such a way that they cannot accidentally fall out or jump out of the vehicle. Propose adding ‘declared’ before dangerous dog By-law 51 (4).</p> <p>Timeframes for impounding. Request clarification on By-law 69 (1) – is the proposed time frame 3 business days or 3 days regardless of week or operating hours? It is currently 4 business days; they do not support a reduction to 3 business days or less.</p> <p>Support for the proactive approach to control cats at large, particularly near areas where native fauna is found. RSPCA Darwin may support a more widespread expectation of same, not simply in zoned cat control areas. In other words, containment expectations under proposed Section 53 could potentially be included for <u>all</u> cats but only on the provision that careful consideration and education be given to welfare of cats and grandfathering of changes for those unable to contain.</p> <p>43 (2) b – better define ‘a person or entity that provides animal welfare services’</p> <p>44 (1) Opposed to registration tag being compulsory and believe microchip should suffice.</p> <p>Note lack of uniformity of mandatory registration of cats at State and Local Government level and believe that this is unlikely to have significant impact on overpopulation – recommend using funds to increase desexing or employ a cat management officer.</p> <p>Only trained and regulated professionals should be allowed to trap cats, greater owner education needs to be introduced.</p>
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	<p>Need to clarify that dogs and cats cannot be tethered as a primary method of containment.</p> <p>Do not support removal of the review process for dogs classified as dangerous.</p> <p>Recommend different title for Division 3 Badly behaved dogs.</p> <p>Hold period should remain at 4 days or more.</p> <p>PAWS:</p> <p>Supports CEO authority to recognise organisations as training providers for assistance dogs.</p> <p>Wildlife Operations, NTG:</p> <p>Propose amending 76 Animal causing nuisance to include 'irrespective of ownership'. This would cover off on feed wildlife or abandoned/released domestic animals etc. It may also help where people going past your property deliberately tease the animal etc.</p> <p>Confidential Submission:</p> <p>Livestock – Part 5 Division 5. Recommend Council consider By-laws relating to livestock that creates risk of pollution of ground and surface waters or erosion or cause any detriment to amenities or constitute a risk to spread of infectious disease or public health. Propose consideration of hectare per living area per classes of livestock.</p>
Community feedback	<p>Community pop up stalls:</p> <p>85 people provided feedback about animal management by-laws at the stalls.</p> <p>Most common issue discussed was by-laws relating to dangerous dogs and strengthening controls on dangerous dogs, with 52 community members discussing this topic.</p>



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	<p>Cat containment was the second most commented topic regarding animal management by-laws with 18 community members discussing this topic, and most supporting cat containment being included in the By-laws.</p> <p>Third most common issue was restricting the number of chickens and banning roosters, which was discussed by 13 community members, with most opposing these restrictions.</p> <p>Submissions:</p> <p>44 submissions from community members related to animal management by-laws.</p> <p>33 of these submissions related to chickens and roosters (by-law 72)</p> <p>Livestock, including:</p> <ul style="list-style-type: none">• 24 community members opposed restricting the number of chickens on residential properties and banning roosters• Five supported restricting the number of chickens and banning roosters <p>Six submissions referred to By-laws relating to dogs and five supported strengthening the dangerous dog controls.</p> <p>Four submissions referred to By-laws relating to cats and supported to cat containment being included in the By-laws.</p> <p>A petition with 70 signatures was submitted asking Council not to restrict the number of chickens or ban roosters on residential properties in Darwin.</p> <p>Support By-law 41 as it seems reasonable.</p> <p>By-law 43 offence of unregistered dog or cat - obtaining proof that a person has kept a cat or dog unregistered for three months or longer will be hard and create problems for enforcement.</p> <p>Support By-laws referring to properly containing dogs and cats.</p> <p>Support By-law 53 as it provides an option to declare areas other than at Lee Point as Special Cat Control areas in the future. Support higher penalties for this By-law.</p>
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	<p>Support By-law 66 - strongly support mandatory registering, micro chipping and cost recovery for the pound.</p> <p>Support By-law 68 - support the need to be able to destroy animals in particular circumstances but need to be sure the animal meets the criteria under 68(b) and is not destroyed prematurely.</p> <p>Support by-laws addressing issues of feral and domestic cats killing native wildlife.</p> <p>Suggestions:</p> <p>By-law 72 Livestock:</p> <ul style="list-style-type: none">• Need to clarify about residential zones in current NT Planning Scheme rather than referencing zonings in Planning Act 1999• Do not restrict the number of chickens on a residential property• Do not ban roosters on a residential property• Deal with issues with poultry (chickens and roosters) under the By-laws relating to nuisance (smell and noise) or animal welfare• Purebred poultry breeders and show enthusiasts of Darwin that are poultry club members should be exempt from the by-laws• Roosters to only be kept by club members and must be locked up nightly and only be let out after a certain time.• No limits on number of chickens (within reason) providing all birds are well-cared for and everything is clean and tidy• Don't refer to chickens in these By-laws• Increase chicken limit to 12• Ban chickens entirely and encourage people to move rural if they want to keep chickens• Consider more consultation about including chickens and roosters in these By-laws <p>Council to enforce the dangerous dog controls better.</p> <p>Remove 44(4) as it is not necessary.</p> <p>Suggest By-law 48 (1) Proper containment of dogs and cats:</p>
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- Needs to be clarified as it is ambiguous
- Suggest that cats and dogs being contained within a secure cat box or dog box while being transported should come under being under effective control as well
- Suggest a new 2c is added: "enclosed in a secure container for transportation" Note for clause 2c that a suitable enclosure includes a purpose built cat box and dog box
- Do not remove the reference to a vehicle.

By-law 53 - suggest that (1) be amended to "This by-law applies to any area that the City declares to be a special cat control area". If cats escape from properties (in a Special Cat Control Area) on multiple occasions, the owner should be required to undergo training, or the cat be surrendered to the pound (similar to dangerous dogs).

By-law 64 and 65 - suggest a separate penalty for allowing the cat or dog to be uncontrolled at large as per the other provisions of the draft By-laws with daily charges for caring for the animal while in the pound.

By-law 69 - suggest for humane treatment and welfare of any animals transferred to an entity that provides animal welfare services that there be a maximum period of time for holding these animals by that service, after which the animals are destroyed.

By-law 74 - remove (2) c as it is not relevant or necessary.

Remove the need for plastic tags to be put on the collars of dogs and cats to identify them as registered. Rely on microchips instead.

Delete references to seizing or destroying dogs for being unregistered (S.64 (1) (a) S68 (b) and S (69(3).

Increase the holding time in the pound from 72 hours to a week.

Strengthen the provisions in S69 (1) and (2) for rangers to work with community based rescue groups to place dogs in permanent homes rather than destroying them.

Run a workshop with Darwin's Rescue groups to get ideas on how to help them help council not kill pets.



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	<p>Authorise officers to apply compassionate discretion to ensure people hit with fines have every reasonable chance to get their pet back alive. Clarify whether the new By-law relating to the animal management purpose of part extends Council's jurisdiction into the industrial area with respect to animal nuisance issues, such as dogs barking:</p> <ul style="list-style-type: none">• By-law 49 keeping dogs and cats under control - keep the wording as it currently stands as this is confusing and shorten the leash length, 3 metres too long for effective control• Division 3 badly behaved dogs - change this heading, as it is not appropriate.
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Part 6 Public Facilities and Places

Part 6 Public Facilities and Places	
Stakeholder feedback	<p>Fire and Emergency Services:</p> <p>At the time of drafting formal feedback was not received due to travel by key contact, this will be updated for consideration prior to the Ordinary Council meeting on 25 May.</p> <p>Danila Dilba Health Services:</p> <p>Recommend repeal or amend:</p> <ul style="list-style-type: none">○ 92 – Structures on public land○ 96 – Abandoned goods○ 99 – Camping or setting up camp on public land. <p>These by-laws prohibit people experiencing homelessness from occupying or constructing shelter (e.g. a tent) on public land. Punishing a person for attempting to fulfil a basic need such as shelter may be in contravention of s 189(1) (d) of the <i>Local Government Act 2008</i> (NT). This provision states that 'a By-law must not infringe personal rights in an unreasonable way or to an unreasonable extent'.</p>



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Prohibiting someone from erecting shelter or camping on public land in the context of homelessness would likely constitute an infringement on the right to housing. Similarly, these by-laws may contravene s 189(2) (e), which states that 'a By-law should be consistent with basic principles of justice and fairness'.

In relation to By-law 99(4) (a), directing someone to leave public land may force people experiencing homelessness into more hidden and consequently more unsafe corners of the city. This may expose them to greater risk of assault, make it more difficult for homeless services to locate and engage people, and support them into housing.

Where a shelter or tent is removed under By-law 99(4) (b), it is degrading and cruel to force a person to live without these basic human amenities. This may therefore contravene Article 7 of the *International Covenant on Civil and Political Rights*, which prohibits cruel, inhuman or degrading treatment or punishment.

These By-laws will not be effective in eradicating public camping or rough sleeping; they will simply leave people without shelter or push them into more remote, and therefore more vulnerable, areas. DDHS recommends that special provision be included in By-laws 92 and 99 that make an exception for people experiencing homelessness, similar to that made in by-law 96.

DDHS commends the inclusion of special provision for people experiencing homelessness and sleeping rough through By-law 96(2). However, we still consider the 24-hour time limit to be too inflexible and does not go far enough in providing protection for people experiencing homelessness. We therefore recommend that the 24-hour limit be amended to a 48-hour limit.



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	<p>NT Shelter:</p> <p>Consideration should be given to those attempting to generate a modest income through busking and it is proposed that By-laws focus on behaviours that are genuinely causing offence rather than harmless acts of performing.</p> <p>Darwin City Waterfront Retailers Association:</p> <p>No mention of soup kitchens and like services that have popped up around the city centre to service itinerants and disadvantaged in the community.</p> <p>NAAJA:</p> <p>Recommend provisions be made for Larrakia people to organise political protest activities on Larrakia land without costs involved.</p> <p>Recommend By-law 94 is changed to enable an Officer to issue a permit on the spot and that guidance is provided in this process to ensure the interests of the public are clear.</p> <p>Welcomes amendment to illegal camping By-law and recommends Council utilise its full advocacy and lobbying efforts to ensure pathways for suitable and culturally appropriate accommodation options in Darwin for visitors.</p> <p>Welcomes the inclusion of measures to prevent the seizing of belongings of people experiencing homelessness. In the event that belongings are seized, recommends that all reasonable efforts be made to reunite the owner with their goods. This might include collaboration with homelessness services or other NGO services to ensure a more appropriate pathway for the return of belongings.</p> <p>Property Council NT:</p> <p>Whilst sympathetic to City of Darwin having to manage with the repercussions of policy decisions by the Northern Territory Government.</p>
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	<p>Property Council believe the current wording for what is defined as camping is too narrow. We recommend, like subclause 2 (a), that occupying, between sunset and sunrise, a public place for sleeping is also expressly included.</p> <p>Recommend that an additional provision be included to cover footpaths for both sleeping and occupying (siting) at any time.</p> <p>Recommend new category of cutting being permissible when vegetation is encroaching either on or likely to cause imminent damage to neighbouring property.</p>
Community feedback	<p>Community pop-up stall:</p> <p>Support for any measures to improve public facilities and places.</p> <p>Submissions:</p> <p>Council needs to have some control over vegetation that grows in private property if it causes damages to neighbouring properties.</p> <p>Council needs to provide better maintenance of grass verges and other overhanging hazardous vegetation and maintain grass verges.</p> <p>Council needs to refer to e-scooters and risky behaviour of bike riders in By-law 78.</p> <p>Suggestions:</p> <p>Enable Council to control over vegetation that grows in private property that causes damage to neighbouring properties.</p> <p>By-law 78 - include as examples use of e-scooters (helmets, speed, parking etc.) and speed and other risky behaviours of bicycle riders, especially on shared pathways.</p> <p>By-law 105 selling food and beverages on public land – prohibit the sale/use of disposable/single use, non-biodegradable/compostable crockery and cutlery at these events.</p>



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	By-law 40 throwing stone or object - suggest adding 'into' so it says 'on, into or from' public land.
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Part 7 Public Libraries

Part 7 Public Libraries	
Stakeholder feedback	Danila Dilba Health Services: Recommend repeal or amend 124 – Prohibited conduct in a public library By-law 124(b) and (c) appear to duplicate s 47(1) of the <i>Summary Offences Act 1923</i> (NT). This provision prohibits 'any riotous, offensive, disorderly or indecent behaviour [...], or using obscene language, in or within the hearing or view of any person in any road, street, thoroughfare or public place' (s 47(1) (a)). It also prohibits 'unreasonably causing substantial annoyance to another person' (s 47(1) (e)). This is inconsistent with s 189(2) (d) which states that a by-law should avoid duplication of, or overlap with, other legislation.
Community feedback	Community pop-up stall: Support for any measures to improve public libraries.

Part 8 Outdoor Advertising

Part 8 Outdoor Advertising	
Stakeholder feedback	No stakeholder feedback received on this Part of the draft By-laws.
Community feedback	Community pop-up stall: Four people supported strengthening outdoor advertising by-laws and appreciated the clarity of the proposed new By-laws in this area. Suggestions:



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	<p>Installing centralised pods for outdoor advertising, which have digital capability.</p> <p>There should be a warning before a fine as part of the process.</p>
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Part 9 Compliance and Enforcement

Part 9 Compliance and Enforcement	
Stakeholder feedback	<p>NT Shelter:</p> <p>In the application of By-laws, consideration needs to be given to circumstances, homelessness, literacy and comprehension in relation to infringements and capacity. Penalties and infringements must be appealable without the requirement and burden of court or tribunal action and accessible to all Darwin residents, the CEO should have the discretion to reduce or revoke a penalty based on a person's capacity and resources to pay. Poverty, homelessness, mental health and infirmity are considerations that should be taken into account by the CEO when making a determination.</p> <p>Accumulation of fines by vulnerable people including those with no fixed address is not appropriate and creates great burden on a person living in poverty.</p> <p>NAAJA:</p> <p>Recommend By-laws that relate to behaviours in public do not include infringement notices as the sole penalty response. Further, NAAJA recommends a co-design process be put in place with relevant stakeholders, and particularly the Aboriginal Community Controlled Health Sector, to develop and resource a comprehensive primary health care response to address the behaviours exhibited by people the by-laws are seeking to address.</p> <p>Opposes the inclusion of strict liability provisions and an increase in fines as a penalty and sole response to support enforcement.</p>



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Community feedback	Community pop-up stall: Council's ability to enforce the by-laws was mentioned by one community member. Submissions: Support By-law 140 – good that this is covered but the penalty needs to be increased so people do not ignore Council or Court's decision. Support by-law 143 as it is imperative that Council can respond quickly to suspected breaches. Suggestions: Increase penalties for breaching by-law 140.
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Part 10 Repeal and Transitional Matters for City of Darwin By-laws 2021

Part 10 Repeal and Transitional Matters for City of Darwin By-laws 2021	
Stakeholder feedback	<ul style="list-style-type: none">No stakeholder feedback received on this Part of the draft By-laws.
Community feedback	<ul style="list-style-type: none">No community feedback received on this Part of the draft By-laws.



BUILDING BETTER *By-laws*



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Feedback analysis

Given the large amount of feedback received during the Building Better By-laws consultation, the analysis has been broken up into stakeholder feedback and community feedback.

Below is a snapshot of where the feedback came from on each of the Parts of the draft By-laws:

Part	Name	Stakeholder feedback	Community feedback
1	Preliminary Matters	Y	Y
2	Meeting of Members	N	Y
3	Administrative Matters	N	N
4	Health and Safety	Y	Y
5	Animal Management	Y	Y
6	Public Facilities and Places	Y	Y
7	Public Libraries	Y	Y
8	Outdoor Advertising	N	Y
9	Compliance and Enforcement	Y	Y
10	Repeal and Transitional Matters for City of Darwin By-laws 2021	N	N



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By-laws



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In general, the Parts that generated the most feedback were:

- Part 4 Health and Safety
- Part 5 Animal Management
- Part 6 Public Facilities and Places
- Part 8 Outdoor Advertising
- Part 9 Compliance and Enforcement.

Community feedback

The majority of community feedback focussed on the By-laws that related to **Part 5 Animal Management**.

The response from the community focussed on three main elements of Part 5 including:

- Restricting chickens to six on a residential property and banning roosters
- Cat containment
- Dangerous dog controls and nuisance behaviour by dogs such as barking.

A petition was received with signatures from 70 Darwin residents opposing restricting the number of chickens that can be kept on a residential property and banning roosters.

The sentiment from the community on this issue was that any issues regarding noise, smell or welfare should be covered under other by-laws that are relevant to 'nuisance'. It is noted that a lot of the feedback pointed out the positive impacts of having chickens as a pet and not just producing eggs. While some residents voiced support for limits, the majority of submissions received were opposed to restrictions on the number of chickens.

Strengthening controls on dangerous dogs was generally supported in the community feedback received during the consultation, with other issues raised such as dog barking and faeces.

Cat containment was generally supported as a responsible measure to protect local wildlife, although some feedback was received that cats did not need to be covered in the By-laws.

Several community members also provided quite detailed suggestions and changes to the By-laws, which are reflected in this report.



BUILDING BETTER

By-laws



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Social media activity about the Building Better By-laws consultation was moderate, with the main issues raised relating to chicken limits, rooster bans, dangerous dogs and cat containment.

Stakeholder feedback

Stakeholder feedback was primarily focused on:

- Part 1 Preliminary Matters
- Part 4 Health and Safety
- Part 5 Animal Management
- Part 6 Public Facilities and Places
- Part 9 Compliance and Enforcement.

The following observations can be made regarding the feedback received from stakeholders:

- The big ticket items from a stakeholder perspective are:
 - Activities on public land
 - Dangerous Dogs
 - Cat containment
- There is general stakeholder consensus about the following:
 - Support for acknowledgement of Larrakia
 - Requests to review and add some definitions
 - Requests to reword to improve understanding and provide clarity
 - Request to retitle Badly Behaved Dogs section
- There are conflicting stakeholder views about the following:
 - Activities on public land: Most stakeholder submissions support the notion that By-laws should acknowledge the disadvantage in our community and minimise further harm to vulnerable populations (Danila Dilba, NAAJA, NT Shelter). One stakeholder (Property Council NT) sought to introduce new restrictions in this area regarding use of public footpaths and to keep existing By-law regarding sleeping in public places. One stakeholder (DCWRA) sought to introduce new categories for permits for activity of soup kitchens.



BUILDING BETTER *By-laws*

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Recommendations

Based on the range of feedback received during the By-laws consultation, it is recommended that:

4. The feedback outlined in this Consultation Report informs the finalisation of the City of Darwin's By-laws. This is to be achieved by reviewing all feedback received as a collective and striking a balance with regard to existing legislation, legal advice and with input from Parliamentary Counsel.
5. Once this review is completed, and Council has endorsed the new By-laws, Council to undertake a **comprehensive communication program** to ensure the changes are understood across all stakeholder groups and the broader Darwin community. This can be achieved through:
 - A dedicated Council By-laws webpage with information about the new By-laws and the impacts;
 - To include questions and answers to enhance understanding;
 - To include visuals and graphics to communicate changes;
 - Information should be provided in different formats and languages to improve accessibility.
 - Council-led *By-laws Roadshow* to be rolled out to key stakeholders and made available to the broader Darwin community.
 - A social media campaign geared toward promoting awareness and understanding of the By-law changes being implemented.
 - Training of staff and the development of a manual for City of Darwin on By-laws and their implementation.
6. Once endorsed, City of Darwin make this Consultation Report available on Engage Darwin and email the link to organisations and individuals who provided input during the consultation period.



BUILDING BETTER

By-laws

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Appendices

DRAFT

Appendix 1: Stakeholder Submissions

Submission No.	Name	Category	Date received
1	Library & Archives of the NT	Stakeholder	1/10/2020
2	Danila Dilba Heath Service	Stakeholder	27/04/2021
3	NTCOSS	Stakeholder	27/04/2021
4	4.1 RSPCA	Stakeholder	27/04/2021
	4.2 RSPCA	Stakeholder	27/04/2021
5	NT Shelter	Stakeholder	29/04/2021
6	Confidential Submission	Stakeholder	30/04/2021
7	DCWRA	Stakeholder	30/04/2021
8	Wildlife Operations NTG	Stakeholder	4/05/2021
9	NAAJA	Stakeholder	5/05/2021
10	Property Council of Australia	Stakeholder	5/05/2021

Dear Melissa and Angela

Thank you for the opportunity to provide feedback on the By-Laws as they relate to public library services.

Our Assistant Director Library Sector Services, Maeva Masterson, has reviewed this and provided the information below. If you would like to discuss this further please feel free to contact Maeva directly – I have cc'ed her into the email.

Regards
Patrick

Part 6 Public Libraries: 122 Definitions

“permanent resident means a person who, in the opinion of a librarian, resides permanently in the municipality” In order to align this definition with ConnectNT, municipality should be replaced with the Northern Territory. ConnectNT refers to a requirement within the *Public Library Funding Agreement 2017-2023* that references the provision of reciprocal borrowing privileges to applicants who are members of any other public library service in the Northern Territory.

Part 6 Public Libraries 124 Registration of Borrowers

Consideration may need to be provided to online only borrowers and homeless borrowers with respect to the requirement to provide evidence of a person's place of residence.

Part 6 Public Libraries 127 Borrowers from other Libraries (1)

“Where a person registered as a borrower with another public library that is outside the municipality but that is in the Territory applies for registration as a borrower the person shall produce to the librarian the person's borrower's card from the other library and the librarian may register the person as a borrower.” Through ConnectNT, this is no longer a requirement as membership cards can be used interchangeably between library services.

Part 6 Public Libraries 137 Lost or damaged books or materials (1c)

“if the book or material is one of a set and it is impracticable to repair or replace the book or material, to pay the cost of replacing the set.” LANT considers this may create potentially significant costs to library patrons. Consideration should be provided to hidden costs or fees.

Part 6 Public Libraries Division 2 Miscellaneous 144 Animals in libraries (2)

The term *‘guide dog’* may need to be revised to *‘registered service animal’*.

Part 6 Public Libraries Division 2 Miscellaneous 145 Vehicles in libraries

“A person shall not, except with the permission of the librarian, bring a vehicle or conveyance into a library.” Consideration should be provided to mobility devices such as motorised wheelchairs or scooters.

Part 6 Public Libraries Division 2 Miscellaneous 146 Conduct of persons in libraries

(1e) *“A person shall not make a copy of a borrowers card”* Consideration should be provided to online applications that make a digital copy of borrowers cards.

(1hv) *“A person shall not smoke, eat or drink, except in an area designated by the librarian for that purpose”* Consideration should be provided to the limits on eating and drinking in library spaces. It is considered common practice to allow food and drink in libraries, and many library programs offer food and beverages to participants.

Additional consideration may also be provided to online use of library services including;

- accessing online material via library devices or Wi-Fi services
- accessing membership data via the library catalogue or resource
- accessing or utilising eResources in alternative ways

Patrick Gregory

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Department of Territory Families, Housing and Communities

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Department of
**TERRITORY FAMILIES,
HOUSING AND COMMUNITIES**

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City of Darwin By-Laws 2021

Danila Dilba Health Service Submission

27 April 2021

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Executive Summary

Danila Dilba Health Service (**DDHS**) is grateful for the opportunity to provide feedback to the City of Darwin regarding the By-laws consultation draft.

While DDHS commends the City of Darwin for repealing certain discriminatory laws and for the Acknowledgement of Larrakia, we remain deeply concerned about the discriminatory impact of many of the By-laws contained in the consultation draft. It is clear that while homeless people are not specifically referenced, they are often the clear target of many of these by-laws, which are aimed at addressing and deterring ‘public nuisance’ behaviour. Many of the by-laws will similarly have a discriminatory effect on people with disabilities, particularly cognitive and mental health issues, who may be more likely to engage in conduct targeted by these by-laws.

Aside from being cruel and inhumane, prohibiting conduct that is not necessarily performed out of choice but rather out of circumstances does not act as an effective deterrent. What is needed instead is a humane response underpinned by evidence that addresses the underlying causes of issues regarding public health, hygiene and safety.

DDHS strongly urges the City of Darwin to repeal or amend the following by-laws:

- 33 – Offence of depositing waste
- 38 – Breaking glass or other material
- 39 – Unsanitary behaviour
- 92 – Structures on public land
- 96 – Abandoned goods
- 99 – Camping or setting up camp on public land
- 124 – Prohibited conduct in a public library

Introduction

DDHS is an Aboriginal Community Controlled Health Service, delivering comprehensive primary health care to Aboriginal and Torres Strait Islander People in the Greater Darwin Region.

The DDHS vision is outlined in our strategic plan 2017-22; ‘that the health, well-being and quality of life of Aboriginal and Torres Strait Islander Australians equals that of non-Indigenous Australians.’ To achieve this vision, DDHS has adopted a comprehensive and integrated approach to the delivery of primary health care by addressing and improving the social determinants of health that drive inequities in health outcomes through our services and advocacy.

DDHS enjoys a high level of trust and engagement with the local Aboriginal and Torres Strait Islander community of whom 80 per cent are counted as regular clients across our nine clinics. Many of our clients have a range of complex mental and physical health needs, and experience many of the socio-economic factors that contribute to poor health and wellbeing. Our data reveals that we have 2,200 transient clients (those whose address is outside our service area) mainly from remote communities, and 800 clients who are homeless and sleeping rough.

Background

It is well known that the Northern Territory experiences the highest rate of homelessness and rough sleeping (living in improvised dwellings, tents or sleeping out) in Australia, with this issue being particularly pronounced in Darwin City.¹ It is also well documented that these issues disproportionately affect Aboriginal people, who make up 30.3% of the NT's population, yet account for 88% of the NT's homeless population.²

Homelessness and rough sleeping are both a result and cause of serious disadvantage across a range of determinants of well-being and health. Complex issues such as structural disadvantage, socio economic factors, substance use, employment, education, mental health and physical health are all significant contributors to homelessness.

Feedback in relation to proposed by-laws

Acknowledgement of Larrakia

DDHS welcomes the inclusion of the Acknowledgement of Larrakia contained in by-law 5 and the City of Darwin's commitment to a positive and cooperative relationship with the Larrakia people.

Discriminatory operation of proposed By-Laws

DDHS welcomes the amendments made to certain previous by-laws that effectively targeted people experiencing homelessness, including the repeal of by-law 103(1)(c) that criminalised sleeping between sunset and sunrise in public places, as well as by-law 104 that criminalised leaving shopping trolleys in public places. DDHS commends this as a step in the right direction in removing discriminatory laws.

However, DDHS is concerned that many of the remaining by-laws continue to discriminate against vulnerable population groups by targeting activities associated with the state of homelessness or that are more likely to be performed by someone with a disability. To criminalise such behaviour is counter-productive, harsh and unreasonable. Clearly, the capacity of people experiencing homelessness to pay fines is in all likelihood negligible. Similarly, it is unlikely that provisions outlawing these activities would in any way serve to deter people experiencing homelessness from engaging in such conduct as erecting a shelter or camping on public land.

This was a position recently held by the UN Special Rapporteur on the Right to Housing, Leilani Farha, in response to similar by-laws proposed in Melbourne in 2017. Of particular concern were proposed by-laws that prohibited camping in the city and abandoning goods, akin to by-laws 92, 99 and 96 respectively. In a statement to the Attorney-General, Ms Farha stated:

¹ ABS (2018). 2049.0 – Census of Population and Housing: Estimating Homelessness, 2016. Canberra: ABS. Retrieved from: [Census of Population and Housing: Estimating Homelessness, 2016 | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au/ausstats/abs@/customs/main.do?nav=MAIN&tid=6611)

² Ibid.

“The criminalisation of homelessness is deeply concerning and violates international human rights law. It’s bad enough that homeless people are being swept off the streets by city officials. The proposed law goes further and is discriminatory – stopping people from engaging in life sustaining activities, and penalising them because they are poor and have no place to live.”³

The following table identifies potentially problematic by-laws and details why they may be discriminatory in operation:

<p>92 – Structures on public land</p> <p>(1) A person must not, without an authorisation, erect or install on public land a post, rail, fence, pole, tent, booth, furniture, stand, display, exhibition, decoration or structure, whether permanent or temporary.</p> <p>Maximum penalty: 50 penalty units. The infringement amount is 2 penalty units.</p> <p>99 – Camping or setting up camp on public land</p> <p>(1) A person must not camp or set up camp on public land, without an authorisation or the consent of the owner or occupier of the public land.</p> <p>(2) For this by-law, the following activities are taken to be camping or setting up camp:</p> <ol style="list-style-type: none"> occupying, between sunset and sunrise, a vehicle used for sleeping; erecting a tent or other shelter used for camping; setting up bedding, camping gear or other equipment used for camping. <p>(3) A person commits an offence if:</p> <ol style="list-style-type: none"> the person camps or sets up camp on public land; and the person does not have an authorisation or the consent of the owner or occupier of the public land. <p>Maximum penalty: 20 penalty units. The infringement amount is 1 penalty unit.</p> <p>(4) An authorised person may direct a person who fails to comply with clause (1) to do any of the following:</p> <ol style="list-style-type: none"> leave the public land; remove any vehicle, tent, shelter, gear or equipment to a place specified by the authorised person. 	<p>These by-laws prohibit people experiencing homelessness from occupying or constructing shelter (e.g. a tent) on public land. Punishing a person for attempting to fulfill a basic need such as shelter may be in contravention of s 189(1)(d) of the <i>Local Government Act 2008</i> (NT). This provision states that ‘a by-law must not infringe personal rights in an unreasonable way or to an unreasonable extent’.</p> <p>In our views, prohibiting someone from erecting shelter or camping on public land in the context of homelessness would likely constitute an infringement on the right to housing. Similarly, these by-laws may contravene s 189(2)(e), which states that ‘a by-law should be consistent with basic principles of justice and fairness’.</p> <p>In relation to by-law 99(4)(a), directing someone to leave public land may force people experiencing homelessness into more hidden and consequently more unsafe corners of the city. This may expose them to greater risk of assault and make it more difficult for homeless services to locate and engage people and support them into housing.</p> <p>Where a shelter or tent is removed under by-law 99(4)(b), it is degrading and cruel to force a person to live without these basic human amenities. This may therefore contravene Article 7 of the <i>International Covenant on Civil and Political Rights</i> which prohibits cruel, inhuman or degrading treatment or punishment.</p> <p>These by-laws will not be effective in eradicating public camping or rough sleeping; they will simply leave people without shelter or push them into more remote, and therefore more vulnerable, areas.</p> <p>DDHS recommends that special provision be included in by-laws 92 and 99 that make an exception for</p>
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³ Office of the High Commissioner, United Nations Human Rights, ‘Proposed “Homeless Ban” in Australia cause for concern – UN Expert’ (13 March 2017). Retrieved from: < [OHCHR | Proposed “Homeless Ban” in Australia cause for concern – UN Expert](#)>.

	people experiencing homelessness, similar to that made in by-law 96.
<p>39 – Unsanitary behaviour</p> <p>(1) A person commits an offence if the person spits, urinates or defecates on public land, other than in a toilet. Maximum penalty: 20 penalty units. The infringement amount is 1 penalty unit.</p>	<p>Such laws discriminatorily affect homeless people on the grounds of their housing status and the necessary location of their conduct, not on the basis that the behaviour or activities themselves are inherently reprehensible and ought to be criminalised. It effectively prohibits the performance of essential human acts in public, but not within a home. This causes people without homes to rely on the provision of public toilets and facilities by the City of Darwin, which are not always available.</p> <p>In addition, those with complex health needs and disabilities may be less cognisant of accepted public standards of ‘sanitary behaviour’ and the consequences of breaching these standards. They are therefore more likely to be targeted by such laws.</p> <p>It is our view that the effect of these laws may be inconsistent with s 189(2)(e), in the context of a provision which is arguably aimed at a particular demographic within the community.</p> <p>The City of Darwin would better serve the community by increasing the number of public toilets available in the CBD in particular but also in suburban shopping areas and parks. Toilets are frequently closed from early evening, leaving no option other than the street for any homeless person or even people out in the late evening. It is unreasonable to criminalise essential human acts while refusing to provide facilities that allow compliance.</p>
<p>96 – Abandoned goods</p> <p>(1) An authorised person may seize any goods abandoned on public land.</p> <p>(2) The goods of people experiencing homelessness or people sleeping rough must be respected as not abandoned, but may be considered abandoned if left unattended for more than 24 hours.</p> <p>(3) As soon as practicable after seizing the goods, the authorised person must take reasonable steps to give written notice of the seizure to the owner of the goods.</p> <p>(4) The notice must include the following information:</p> <ol style="list-style-type: none"> a description of the goods; the reason for seizing the goods; details of how the goods may be recovered, including any fee for recovery; 	<p>DDHS commends the inclusion of special provision for people experiencing homelessness and sleeping rough through by-law 96(2). However, we still consider the 24-hour time limit to be too inflexible and does not go far enough in providing protection for people experiencing homelessness. We therefore recommend that the 24-hour limit be amended to a 48-hour limit.</p>

<p>d. a warning that the goods may be disposed of if the person fails to recover the goods within 14 days of receiving the notice.</p> <p>(5) If seized goods are not recovered within 14 days:</p> <ol style="list-style-type: none"> the goods are forfeit; and the goods are to be sold, destroyed or otherwise disposed of as the CEO sees fit. 	
<p>33 – Offence of depositing waste</p> <p>(1) A person commits an offence if the person deposits waste on land or allows waste to remain on land. Note for clause (1)</p> <p>Maximum penalty: 20 penalty units. The infringement amount is 1 penalty unit.</p> <p>38 – Breaking glass or other material</p> <p>(1) A person commits an offence if:</p> <ol style="list-style-type: none"> the person breaks glass or other material; and the pieces of the glass or other material are on public land; and the pieces of the glass or other material are likely to cause injury to a person or animal. <p>Maximum penalty: 50 penalty units. The infringement amount is 1 penalty unit</p>	<p>Where waste disposals, bins or recycling facilities are not available, people experiencing homelessness may have no other option than to have their waste remain on the land that they occupy.</p> <p>They are therefore more likely to be affected by these laws, not due to non-compliance or culpability, but because of a lack of alternative options. A fine in this regard may constitute punishment that is disproportionately severe to the ‘crime’.</p>
<p>124 – Prohibited conduct in libraries</p> <p>(1) A person must not engage in any of the following conduct:</p> <ol style="list-style-type: none"> taking library materials or other things without authority from a public library; disturbing, interrupting or annoying another person in a public library; behaving in a disorderly manner or using violent, abusive or offensive language in a public library; entering or remaining in a public library if the person is under the influence of liquor or an intoxicating drug. <p>Maximum penalty: 10 penalty units. The infringement amount is 1 penalty unit.</p>	<p>By-law 124(b) and (c) appear to duplicate s 47(1) of the <i>Summary Offences Act 1923</i> (NT). This provision prohibits ‘any riotous, offensive, disorderly or indecent behaviour [...], or using obscene language, in or within the hearing or view of any person in any road, street, thoroughfare or public place’ (s 47(1)(a)). It also prohibits ‘unreasonably causing substantial annoyance to another person’ (s 47(1)(e)).</p> <p>This is inconsistent with s 189(2)(d) which states that a by-law should avoid duplication of, or overlap with, other legislation.</p>

Ways forward

Homelessness and its associated behaviours and activities cannot be addressed or responded to by legislation alone. Rather than punishing people for acts that they have no choice but to perform in public, it is essential that we as a community develop humane and evidence-based responses. As well as affording people experiencing homelessness and other vulnerable population groups greater dignity and respect, these responses could also address legitimate concerns such as public sanitation and health and safety.

What is needed is robust policy and greater investment in infrastructure and specialist services that address homelessness and rough sleeping. However, DDHS is concerned that despite an increase in rates of homelessness and rough sleeping in Darwin City, Darwin support services and their capacity

to assist are decreasing. In 2019/2020, there were an average of 19 unassisted requests for homelessness services per day, an increase from 15 per day in 2018/2019.⁴

In 2020, DDHS made a submission to the Department of Local Government, Housing and Community Development to take the lead in operating the Better Pathways Centre, which was designed to provide a support hub delivering services to homeless people and those sleeping rough. We were disappointed to see the eventual abandonment of the Darwin City Better Pathways Centres as part of the government's five point plan to tackle 'anti-social behaviour'. We were also disappointed that some elected members of Council spoke against the Better Pathways Centre.

While the City of Darwin and NT government have made some commendable efforts to support vulnerable population groups in Darwin, there is a need for greater investment in community driven initiatives that address the underlying causes of 'public nuisance' behaviour. At the level of local council, practical steps that may be taken to improve public health and hygiene include:

- The creation and implementation of a 'Homelessness Strategy' that provides the council with a blueprint for tackling homelessness and rough sleeping.⁵
- Advocate to the NT Government to proceed with the establishment of the Better Pathways Centre in the CBD and the originally planned Centre and short term accommodation in the Casuarina area.
- Working with and investing in community-driven programs and services that address mental health, housing, disability and income inequality issues. Such notable service providers that exist in the Darwin City region include:
 - Larrakia Nation – provides a range of services to those experiencing homelessness and rough sleeping, including Patrol Services, Healthy Engagement & Assistance in the Long Grass, and Assistance with Care & Housing. They also provide various services to vulnerable population groups, such as the elderly and those experiencing domestic violence, who are more vulnerable to homelessness.
 - Orange Sky Laundry – provides free laundry, showers and conversations to those experiencing homelessness.
 - YWCA – provides housing and accommodation for women and their families.
 - Mission Australia – provides homelessness crisis and prevention services, social and affordable housing, assist struggling families and children, address mental health issues, fight substance dependencies, and support people with disability.
- Utilisation of primary health care services, especially ACCHOs, in responding to people with complex health needs, disabilities and substance use issues. Additional investment in these organisations should be used as both a preventative strategy in regards to public health and hygiene, as well as an immediate response strategy where people are in need of assistance in public spaces.

⁴ AIHW (2020). Specialist Homelessness Services 2019-2020: Northern Territory Fact Sheet. Canberra: AIHW. Retrieved from: [Specialist homelessness services 2018-19: Northern Territory Fact sheet \(Full Publication;29Nov2019Edition\)\(AIHW\)](#); AIHW (2019). Specialist Homelessness Services 2018-19: Northern Territory Fact Sheet. Canberra: AIHW. Retrieved from: <https://www.aihw.gov.au/reports/homelessness-services/shs-annual-report-18-19/fact-sheets-by-state-and-territory>.

⁵ For an example of a recent council 'Homelessness Strategy' document, see the [Salisbury Homelessness Strategy](#).

- Increasing the amount and opening hours of public toilets, ablution facilities, and waste disposals.
- Advocating for increased low cost and affordable housing outcomes that are responsive to current and future needs of the community.

Conclusion

While DDHS commends the City of Darwin for repealing certain discriminatory laws and for the Acknowledgement of Larrakia, we remain deeply concerned about the discriminatory impact of particular by-laws contained in the consultation draft.

Prohibiting activities associated with homelessness and rough sleeping does not act as an effective deterrent; it simply exacerbates the stresses and financial hardships causing homelessness. This prohibitive response fails to acknowledge that it is homelessness itself that needs to be addressed, not the behaviours that result. The prohibition on camping on public land is meaningless when rough sleepers simply have no alternative place to sleep. What is needed instead is a humane response underpinned by evidence through greater investment in specialist services that address the underlying causes of 'public nuisance' behaviour.

For any further enquiries, please contact Policy Officer Talia Slonim: 0430 155 788.

Good afternoon Angela,

Janine Sims from NTCOSS gave me your contact details.

I have been asked to review the proposed changes to the City of Darwin By-laws, to check if there's anything of interest there for NTCOSS as the peak body for community and social services in the NT.

I've had a quick read and nothing stood out to me, but I wanted to check with someone who is more familiar with the by-laws to see if there's any sections in particular I should be checking.

Thank you for your assistance and please feel free to call me if you have time to have a quick chat about this.

Kind regards,

Marissa Pattison

Pronouns: she/her

Research Officer

Northern Territory Council of Social Service (NTCOSS)

Working days: Monday – Thursday

P: (08) 8948 2665 | **M:** 0429 54 3331 | **E:** marissa@ntcross.org.au

2/5 Goyder Road Parap NT 0820 | PO Box 1128 Nightcliff NT 0814



NTCOSS acknowledges that we work on the land of the Larrakia people and respect their continuing cultural connections as Traditional Owners of this country. NTCOSS recognises that sovereignty was never ceded.

City of Darwin

By email: feedback@truenorthcomm.com.au

Tuesday 27 April 2021

Dear Lord Mayor, Aldermen and Chief Executive Officer,

Re: RSPCA Darwin Submission - Animal Management By-law Changes

On behalf of RSPCA Darwin, I thank Council for the opportunity to provide a submission to the proposed changes to Animal Management By-laws.

As outlined in the following pages, RSPCA Darwin provides a comprehensive response to the proposed changes for the consideration of the Council. This response has been prepared with the assistance of the RSPCA Australia policy team who operate across all Australian jurisdictions and provides insights and learning to how other local governments have worked with similar matters.

RSPCA Darwin supports responsible pet ownership and encourages Council to consider the potential unintended implications to animal welfare (as outlined) the proposals could create.

The proposed hold period change from current practice of four days to the proposed three days as outlined in the by-laws is not supported by RSPCA Darwin. This change can result in a greater euthanasia of animals rather than rehoming and potential reuniting with their owners.

RSPCA Darwin supports the education of our community to provide better animal care, address behaviours and avoid the need for the council ranger intervention and our own rehoming services.

I also enclose an RSPCA report titled 'Identifying Best Practice Domestic Cat Management in Australia' which may assist in the considerations of these by-laws.

RSPCA Darwin along with the RSPCA Australia science and policy team are happy to discuss these matters directly with Council. Should you require additional information or to set up a further discussion, please do not hesitate to contact me on 0408 061 285 or chair@rspcadarwin.org.au.

Yours sincerely



Danny Moore
Chair
RSPCA Darwin

RSPCA Darwin
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RSPCA Darwin: Feedback on City of Darwin proposed changes to Animal Management By-laws

Proposed Change	RSPCA Darwin feedback
43.2b <i>"a person or organisation that provides animal welfare services".</i>	How will this be defined? More detail is required.
44.1 <i>"A registered dog and cat must wear a tag issued by the City when outside the premises where the dog or cat is usually kept."</i>	<p>This (and the following clause 45) is problematic for cats as some cats will not allow a collar to be kept on them. Having an offence for a cat not wearing an ID tag is unfair, unhelpful.</p> <p>It would be better to require a microchip and advocate for external ID tag for cats where possible.</p>
Cat registration (in general)	<p>Points to consider in regard to mandating cat registration:</p> <p>Although some councils have introduced mandatory registration, there are no reports of its successful implementation, but the objectives are not clearly apparent which makes assessment of the outcomes difficult. Cat owners generally do not see the benefits of registration and view it as an extra cost and layer of bureaucracy. Also, some councils do not see benefit in imposing mandatory registration with mandatory identification being implemented.</p> <p>Where councils allocate funds from registration to support community initiatives such as desexing and microchipping, then these parameters would be useful measures to assess the impact of registration.</p> <p>There is a lack of uniformity regarding mandatory registration at the state and local government level with some jurisdictions removing this provision as it has not been widely supported.</p> <p>Mandatory registration is unlikely to have any significant impact on the cat overpopulation problem. Its implementation and administration is expensive and the cost of enforcement and monitoring is likely to be prohibitive. However, some councils have used the funds raised to help employ a cat management officer or to subsidise desexing costs for low-income families which can be worthwhile.</p>
48 Proper containment of dogs and cats	<p>With respect to cats:</p> <p>Is the intention here to mandate the containment of all cats?</p> <p>If so, then careful consideration needs to be given to how this is implemented.</p> <p>Restrictions on roaming will serve the dual purpose of protecting wildlife and cats. Collaborative education programs involving councils, veterinarians, animal welfare groups and other stakeholders are essential to increasing acceptance and implementation of cat containment.</p> <p>Despite containment having many benefits for cats, there are also health risks to some cats who are confined indoors including obesity, immobility, lower urinary tract disease and behaviour problems. Therefore, it will be vital to ensure adequate education and concentration on welfare provisions for contained cats. In addition, grandfathering this kind of law in is important so that people can retain the cats that they already have, even if it is not possible to contain those cats to their property.</p>

	<p>There are a number of issues associated with cat containment regulations that must be considered and addressed:</p> <ul style="list-style-type: none"> • The potential negative impact of containment on the health and behaviour of cats if not done properly. • Inadvertent trapping of owned cats that are not contained (or have escaped) • Increased owned cat surrender or abandonment due to the imposition of an added responsibility to cat ownership. <p>Enforcement of containment regulations can prove difficult for various reasons including:</p> <ul style="list-style-type: none"> • difficulty of capturing cats in breach of containment regulations • unrealistic community expectations in regard to enforcement and management • the majority of trapped and impounded cats are not owned or traceable to an owner so there is no possibility of taking any enforcement action • the expense of proper monitoring and enforcement may be high. <p>Anecdotal information from councils that have introduced cat containment regulations shows that there have been limited numbers of enforcement actions by animal management officers following their introduction. Instead, the public are reportedly taking action by trapping cats through council cat trap programs and trap loan schemes. As a result, cat trap services have expanded, with the purchase of additional traps and allocation of additional staff resources to manage the delivery and collection of traps and impounding of cats, all at significant cost. There are also major concerns regarding trapping by untrained members of the public and the impact of this on cat welfare. The RSPCA advocates that only trained and regulated professionals should be allowed to trap cats.</p> <p>These problems may be mitigated if regulation is preceded by owner education and facilitating behaviour change towards more responsible cat ownership.</p> <p>Has adequate thought gone into how this will be enforced and what will be done with cats who are not contained within the owner's property?</p> <p>Also, having an offence for roaming cats may encourage the vilification and retaliation against roaming cats, which must be avoided, even if laws are introduced to contain cats.</p> <p>Implementation of cat containment should be preceded by programs to educate owners about the benefits of containment and how to ensure the welfare of contained cats.</p>
<i>Additional note re containment section</i>	<p>A clause should be added that states that dogs or cats cannot be tethered as a primary method of containment.</p> <p>Could also add a requirement that owners must desex their dog or cat if he/she has not been kept under control on more than one occasion.</p> <p>For example:</p> <p>The council may require the owner of a dog or cat to have that animal desexed if:</p> <p>(1)(a) the dog or cat has not been kept under control on more than one occasion within a 12-month period, the council may require the owner of the dog or cat to have the animal desexed; and (b) the dog or cat owner has received an infringement relating to subclause (1)(a).</p>

<p>49 Keeping dogs and cats under control <i>(b) enclosed in a vehicle, or in or on the back of a flat-topped, tray-backed or well-bodied vehicle, in such a manner that no part of the dog or cat is projecting from the vehicle.</i></p>	<p>The animal should be restrained safely and securely in such a way that they cannot accidentally fall out or jump out of the vehicle.</p>
<p>53 Special cat control area</p>	<p>With regard to this – there should be consideration of people and animals already residing in those areas. Is the intention to make people give up their animals or move? Grandfathering in would be an option to deal with this. Also, see notes under 48 Proper containment of dogs and cats. Also, having an offence for roaming cats may encourage the vilification and retaliation against roaming cats, which must be avoided, even if laws are introduced to contain cats.</p>
<p>54 Offences related to dog or cat areas</p>	<p>Note considerations above re cat containment and enforcement and the potential consequences involved.</p>
<p>59 Dangerous dog</p>	<p>There should be a review process for owners of dogs classified as dangerous due to the dog's behaviour. For example, If a dog has been classified as menacing due to their behaviour, the owner should be able to request the classification be reviewed after a 12-month period if: (a) the owner provides evidence of a dog behavioural assessment report, at the owner's expense; (b) the owner has not obtained any infringements in relation to the dog within the preceding 12-month period; and (c) the owner has completed a responsible dog ownership course such as that available in Victoria. Note that removing the classification of the dog would still be at the council's discretion.</p>
<p>Division 3 Badly-behaved dogs</p>	<p>This is inappropriate language. These dogs have undesirable behaviours or problem behaviours, they are not badly behaved.</p>
<p>Division 4 Seizure and impounding of dogs and cats 64 Seizure and impounding <i>(a) impound the dog or cat in a pound; or</i> <i>(b) return the dog or cat to its owner.</i></p>	<p>There should be a section that mandates the immediate return of an animal seized wandering at large that would be applicable if (a) an animal has been seized under section 64(1)(a or c); and (b) the authorised person who seizes the animal knows, or can readily find out, the name and address of the keeper of the animal. (2) The authorised person may return the animal to the keeper of the animal. (3) If the authorised person does not return the animal to the keeper under subsection (2), the authorised person may impound the animal under section 64(2)(a).</p>
<p>66 Release from pound</p>	<p>This could be an opportunity to introduce the requirement that these animals must also be desexed (if they are not already) unless a veterinarian certifies in writing that desexing is not possible due to the animals' health. In addition, the RSPCA recommends a policy of returning dogs in the first instance of straying to allow direct education of owners and the opportunity to help owners address their dog's escape methods.</p>

68 Destruction of dog or cat	<p>This is problematic as it does not provide adequate protections for the animals, hold periods or time for owners to find the animal. In addition, the proposed timeframe for holding an animal (72 hours) is a reduction compared to current practice and will see more animals euthanised.</p> <p>There are no specific time frames (i.e. hold periods) for unidentified or identified animals that would allow an owner to come forward and claim the animal.</p> <p>This section needs to mandate that the authorised person must ensure that the cat or dog is appropriately scanned for a microchip and identification looked for. If the animal has identification or there is a known owner, section 65 re notice of impounding applies.</p> <p>There should be a hold period of at least 7 days if the owner is known, and notice must be given. If microchip identification is found, the animal must be held for at least seven days after the notification to the owner. If the animal has no identification/microchip/known owner, then the hold period should be 4 days (as is current practice).</p> <p>The only exemption from the hold period should be if the dog or cat is diseased or injured such that the animal is suffering and cannot be adequately treated and a veterinarian advises immediate euthanasia on humane grounds.</p>
69 Disposal or destruction of impounded dogs and cats	Same as above
70 Humane method	<p>A dog or cat may only be destroyed under these By-laws:</p> <p>(a) in a manner approved by the Australian Veterinary Association; and</p> <p>(b) by a veterinarian or another person who is, in the opinion of the CEO, qualified to destroy it.</p> <p>The highlighted section is inappropriate.</p> <p>Legislation in some jurisdictions allows non-veterinarians to obtain and administer these drugs. This is not supported by the Australian Veterinary Association (AVA).</p> <p>Any euthanasia or humane killing should be performed with appropriate euthanasia drugs and veterinary oversight is essential to protect the welfare of animals being euthanased and ensure the safety of everyone involved.</p>
76 Animal causing nuisance	<p>(3) The owner of an animal that defecates in public must immediately removes the faeces and dispose of them in a sanitary manner.</p> <p>Typo highlighted above</p>

Hi Ang,

Thanks very much for your availability and openness to commentary and feedback with regard to the draft City of Darwin By-laws 2021. As discussed over the phone today, I have a couple of additional comments for consideration (I provided an earlier email with some commentary) in relation to Part 5 Animal Management. They are referenced below:

Section 48 Proper containment of dogs and cats

- The interpretation of 'containment' can be varied, ranging from a shoebox-sized cage or similar for a large cat or dog to a fenced yard or run with no chance of escape as being 'proper'. RSPCA Darwin would prefer a more succinct description of 'proper containment', such as 'containment to restrict chance of escape, while also providing enough space and enrichment items to allow the dog or cat to exhibit normal behaviours'.

RSPCA's Knowledgebase website provides a good deal of advice and suggestions for many aspects of animal welfare and ownership. Cat containment and responsible ownership hints are an example and can be found at the below links:

<https://kb.rspca.org.au/knowledge-base/i-want-to-start-keeping-my-cat-indoors-how-do-i-adjust-an-outdoor-cat-to-containment-to-my-property/>

<https://kb.rspca.org.au/knowledge-base/how-can-i-be-a-responsible-cat-owner/>

Section 53 Special cat control areas

- RSPCA Darwin supports the proactive approach to control cats at large, particularly near areas where native fauna are found. Stray and feral cats account for a high incidence of wildlife predation and while not the only source of the problem, they are a large contributor.
- Section 53 suggests that 'zoned' areas may be subject to more strict regulation of cat containment. RSPCA Darwin supports this view and would also support a more widespread expectation of same, not simply in zoned cat control areas. In other words, containment expectations under proposed Section 53 could potentially be included for all cats in Section 48, provided the definition of 'containment' is better explained.

Please give me a call or drop me an email if you would like any further information on the above.

Regards

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29 April 2021

City of Darwin
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CITY OF DARWIN - BUILDING BETTER BY-LAWS – CONSULTATION SUBMISSION

We refer to City of Darwin's review of By-laws 2021.

NT Shelter is pleased to be given this opportunity to provide feedback regarding aspects of the current By-laws. We also provide some ideas as to how future By-laws might operate in order to achieve positive social, economic and cultural outcomes for the City of Darwin.

Context

Visitors and residents to the City of Darwin have rights and responsibilities relating to acceptable behaviour. Anti-social behaviour is not welcome.

By the same token, there are a number of aspects relating to rough sleeping that present significant challenges for visitors, or longer-term homeless populations, to live safely, comfortably and healthily in Darwin. The By-laws, policies and operational practices of the City of Darwin can and do significantly impact on the experience and behaviours of vulnerable people, including how they engage with others.

Homelessness in Darwin is the highest per capita of any major city in Australia. Applying urbanized, mainstream city responses to people sleeping rough in Darwin will not adequately address the issues created by years of disadvantage, inadequate housing, discrimination and marginalisation.

Aboriginal people sleeping rough and not engaging in inappropriate behaviour should not be considered by the City of Darwin to be a danger or threat to the community. Too often in the media and in public conversation, homeless people are unfairly criticised by being mistaken for visitors to town behaving poorly. In reality, they are a vulnerable group that needs the support of the wider community in order to become more fully engaged and connected to the diversity, vibrance and culture of Darwin. Ultimately, rough sleepers need a safe place to stay, whether that be culturally appropriate visitor accommodation or longer-term housing, depending on their circumstances.

By-laws must never be seen as a means to rid the city of rough sleepers, excluding them from participating fully in the economic, social and cultural opportunities and activities that all of us are entitled to access and enjoy.

NT Shelter would like to see the revised City of Darwin By-laws value and embrace the diversity of race and culture of our vibrant capital city, emphasising the expectation of appropriate behaviours on Larrakia land. All efforts should be made to clearly set out expectations, communicate in language, and educate people who live here as well as those visiting the city. Punitive measures, including infringements and fines, should be a last resort.

City of Darwin Reconciliation Action Plan

NT Shelter commends the City of Darwin's intent to develop a Reconciliation Action Plan that addresses the five dimensions of reconciliation: race relations, equality and equity, institutional integrity, unity and historical acceptance.

The City of Darwin By-laws and its application of those By-laws should support the reconciliation action plan. For example, there is a distinction between mainstream tourists and Aboriginal people visiting Darwin. Backpackers living on the foreshore have different circumstances and capacity to Aboriginal people sleeping rough. Professional buskers are a distinctly different cohort to Aboriginal homeless people attempting to earn a few dollars to buy food. Bylaws should recognize these differences, be developed in close consultation with Aboriginal organisations and communities and be applied in line with the intention of the Reconciliation Action Plan.

NT Shelter believes that the City of Darwin By-laws should be consistent with its Reconciliation Action Plan in respect of promoting indigenous interests, protecting and promoting indigenous culture, and improving social and economic outcomes for indigenous people. Newly written By-laws should reflect the inevitability, vulnerability, uniqueness and potential of the Darwin "long grass" population in the following areas:

Penalties

Camping or sleeping rough by vulnerable people with few or no resources should not be considered anti-social behaviour warranting a punitive response. Issuing fines to people with no capacity to pay them will not affect behaviour. The accumulation of fines could eventually result in imprisonment and further marginalization and trauma. Additionally, a person with no address cannot be notified of the penalty. Applying further fines in the event of non-payment is unfair and a further burden for a person living in poverty unaware of the fine(s).

Infringement Notices

Issuing infringement notices to people who in reality have little choice but to live in public spaces is harsh, and unreasonable. We have seen instances where people who are unable to read and comprehend the contents of infringement notices have faced harsher penalties. We consider this to be unfair and an issue that needs to be worked through. In applying the By-laws, regard needs to be had for a person's circumstances and personal capacity.

Penalties and infringements must be appealable without the requirement and burden of court or tribunal action. The appeals process must be accessible to all Darwin residents. The CEO of the City of Darwin should have the discretion to reduce or revoke a penalty based on a person's capacity and resources to pay. Poverty, homelessness, mental health and infirmity are considerations that should be taken into consideration by the CEO when determining whether or not to exercise such discretion.

Removal of persons from reserve

Removing a person from a public space where they are not a danger to others or themselves should be a last resort. Having the ability to refuse them entry to an area for up to 6 months, and to issue penalties is not appropriate in circumstances where vulnerable people have few if any alternative choices. Such persons may be accessing the area for reasons of personal safety, to seek refuge from overcrowded and unsafe housing, to escape the confines of hostel accommodation or because they have nowhere else to congregate. As previously mentioned, whether or not they have the capacity to read or understand such notices is also a factor.

Issuing notices that will, in effect, expose the person to further trauma, vulnerability or financial hardship will serve little purpose if those targeted do not have any other option but to breach those notices.

NT Shelter notes the City of Darwin has proposed new By-laws to provide fairness to the disposal of a homeless person's belongings. As recognised by the City of Darwin, homeless persons need additional support and not greater disadvantage if they are to overcome their challenges, live productive lives and positively contribute to our society. NT Shelter commends the City of Darwin for this proposed change to the By-laws.

Performing, offering entertainment, make a painting or drawing in a public place – busking

Poverty is a major cause of many of the behaviours the City of Darwin is trying to control through its By-laws. Restricting people from generating modest income through traditional, long respected means further marginalizes those living in public spaces.

NT Shelter proposes that the City of Darwin develop programs, policy or By-laws that support Aboriginal people to create financial independence. By-laws must focus on behaviours that are genuinely "causing offence" rather than harmless acts of performing.

NT Shelter looks forward to engaging constructively with City of Darwin in any future consultation opportunities.

Yours faithfully



Peter McMillan
Executive Officer

Confidential Submission.

6.

Hello Angie

Feedback in relation to:

Part 6 Public facilities and places
Division 4 Activities on public land
City of Darwin By-laws 2021

There is no mention of soup kitchens and like services that have popped up around the city centre to service itinerants and disadvantaged in the community.

Many thanks



ANDREA WICKING - GENERAL MANAGER

Please note I work part time hours

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Hi Angela,

I was just checking with Flora and Fauna Unit as they had not seen the By-Law proposals.

Keith Saalfeld (Fauna and Flora) and I were looking at the nuisance section and were thinking to possibly add to S76 – A person must not engage in behaviour that results in any animal (irrespective of ownership) becoming a nuisance to people or other animals.

This would cover off on feed wildlife or abandoned/released domestic animals etc. It may also help where people going past your property deliberately tease the animal etc.

We did talk about abandon or the word release but abandon covers it.

There are animals (included protected wildlife) that can be held without a permit – this list is generally gazetted – frogs is one. Prohibited animals that are listed in the regulations etc. Not sure how it matches with S71.

Otherwise the By-Laws covers everything that we spoke of.

Sorry about the late submission but I am hoping we are not too late.

Kristen Hay

Director

Wildlife Operations

Department of Environment, Parks and Water Security

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North Australian Aboriginal Justice Agency

Submission on the 'Darwin City Council Building Better By-Laws'

April 2021

1 About NAAJA

The North Australian Aboriginal Justice Agency (NAAJA) provides high quality, culturally appropriate legal aid services for Aboriginal people in the northern and central region of the Northern Territory in the areas of criminal, civil and family law, prison support and through-care services. NAAJA is active in systemic advocacy and law reform in areas impacting on Aboriginal peoples' legal rights and access to justice. NAAJA travels to remote communities across the Northern Territory to provide legal advice and advocacy.

2 Fines based system

The proposed by-laws are a continuation of relying solely on a fines based system for enforcement. That is, the by-laws lead to a penalty which is a fine and no other apparent pathway or response is defined. Whilst the enforcement of by-laws may include other matters at the discretion of the Darwin City Council administration and CEO, it is the legal wording of by-laws which directs the enforcement measures.

We raise concerns on the reliance of a fines based system for enforcement due to the apparent ineffectiveness of this to address the issues and behaviours the by-laws seek to address. The question must be asked, what is the purpose and effect of fines as the sole enforcement mechanism?

Many people in Darwin receive infringement notices (fines) that continue to accumulate and build on each other in a way where they amount to thousands or tens of thousands of dollars. These fines keep increasing unless they are dealt with through a repayment agreement. Many people who accumulate fines have cognitive disabilities or mental health or related serious health issues. A person who

accumulates fines and in circumstances where the amount owing continues to increase usually does not address this issue because of the seriousness of their health issues. These people are not incentivised the same way as many people who live in Darwin are, and yet the same system applies. They have quite different health circumstances. Fines as a penalty is clearly not a deterrent. The accumulation of fines and the ongoing increase in the amount should be a red flag pointing to the lack of a deterrence effect the fines system seeks to embed.

The practical effect of this is if these people are affected as a Victim of Crime or are in a Motor Vehicle Accident where they are entitled to compensation, the amount of compensation they are entitled to will be reduced or offset by the amount owing in fines. The systems set up to support Victims of Crime and people who are injured through Motor Vehicle Accidents is not set up in a way that supports the Aboriginal people who are affected.

This also goes to the nature of trauma and its impact. Many people who have serious health issues also suffer from trauma and inter-generational trauma. As a society, the way we fail to provide suitable accommodation options and pathways to comprehensively address serious health issues characterises the systemic discriminatory nature of the system we as a society support. We do not have a comprehensive primary health response to the health issues arising for many people in Darwin. As a society and with our governments including nationally through disability support we have the resources to address this, but not the political and policy framework to support unmet need.

Interpersonal discrimination affects mental health. In this system, systemic or institutionalised discrimination affects mental health. There is a direct connection between trauma as a compounding experience attributed to the issuing of infringement notices as the sole penalty response and the systemic discrimination inherent in these circumstances. Trauma compounds trauma. The issuing of fines as the sole penalty response in this context reflects a system that is not a trauma-informed response to the behaviours the By-Laws seek to address.

NAAJA recommends by-laws that relate to behaviours in public do not include infringement notices as the sole penalty response.

Further, NAAJA recommends a co-design process is put in place with relevant stakeholders, and particularly the Aboriginal Community Controlled Health Sector, to develop and resource a comprehensive primary health care response to address the behaviours exhibited by people the by-laws are seeking to address.

3 Strict liability and increase of fines

NAAJA understands a core difference in the revised by-laws is the inclusion of strict liability and increase of the fine amount.

Strict liability provisions are aimed at discounting the submission of any evidence relating to the circumstances or any other potential relevant matters. This can reduce and limit the scope of a particular by-law.

We respectfully submit there is no publicly stated and valid reason as part of the consultation process to include strict liability provisions.

The ability to contest matters in the independent judiciary and based on the particular circumstances of a case should be supported to strengthen access to justice.

Further, for the reasons set out above a suggested increase in the amount of fines will not impact the deterrence factor the fines based system seeks to achieve.

The sections 141 – 154 in division 3 as they relate to the process of infringement notices and enforcement are designed in a way to ignore the health circumstances and also the cultural or language barriers for people who may exhibit behaviours the by-laws are seeking to address.

NAAJA opposes the inclusion of strict liability provisions and an increase in fines as a penalty and sole response to support enforcement.

4 Holding of events and busking

We are aware the event application / permit process is related to the By-Laws and the Darwin City Council's oversight of the use of public land within its remit. The 'Event Application' form on the Darwin City Council does not reference a specific By-Law, but refers to By-Laws broadly.

Division 4 of the proposed By-Laws refers to activities on public land.

We are aware of political protests led by young Larrakia leaders in circumstances where they are required to crowdfund in excess of \$5,000 to support these protests. This activity can be an impost on the already busy lives and circumstances of organisers. It is also done on Larrakia land where the acquisition of land by the Darwin City Council was done on the basis of *terra nullius* (meaning land belonging to no-one, although the historical records show recognition of Larrakia ownership from the time David Goyder arrived with fellow surveyors).

NAAJA recommends provisions are made for Larrakia people to organise political protest activities on Larrakia land without costs involved.

Proposed By-Law 94 deals with busking.

Busking and the sale of local products (like artworks and jewellery) are an important part of Darwin's cultural life. For many Aboriginal people experiencing homelessness, these activities can also be a source of income in order to purchase food. It can be done in a spontaneous way where a person has no food and no money and so seeks to busk in order to share their art or song to the public for some small change.

For people in these circumstances, and where there may be language barriers and/or previous negative experiences with people in authority enforcing laws or by-laws and/or homelessness, the process of visiting the Darwin City Council office and filling in and submitting a form may not be accessible.

Darwin City Council officers who engage people who busk and have the authority to issue infringement notices should also have the authority to issue permits on the spot, and should be guided to ensure this occurs in a way that balances the interest of the public (examples might include ensuring the space in public does not unnecessarily interfere with the movement of the public, or other guidance that may already be provided in the permit).

NAAJA recommends By-Law 94 is changed to enable an Officer to issue a permit on the spot and that guidance is provided in this process to ensure the interests of the public are clear.

5 Homelessness and lack of suitable accommodation options

(a) Homelessness in the Northern Territory

People in the Northern Territory experience homelessness at 12 times the national average.¹ In Darwin, the rate of homelessness is the highest of any capital city in Australia.² Aboriginal people make up a disproportionate number of the Northern Territory's homeless population. Despite making up approximately 30 percent of the Northern Territory's population, Aboriginal people represent 88 percent of people experiencing homeless in the Northern Territory.³

Current homelessness services cannot meet the level of need in the Northern Territory community. Homelessness services were unable to assist almost half of the people seeking support in the Northern Territory.⁴

(b) Impact of the by-laws on people experiencing homelessness

A number of the proposed by-laws disproportionately and unfairly affect people in Darwin who are experiencing homelessness.

By-Law 99 reads:

Camping or setting up camp on public land

- (1) A person must not camp or set up camp on public land, without an authorisation or the consent of the owner or occupier of the public land.
- (2) For this by-law, the following activities are taken to be camping or setting up camp:
 - a. occupying, between sunset and sunrise, a vehicle used for sleeping;

¹ NT Shelter, Submission to Parliamentary Inquiry into Homelessness in Australia in Australia, 12 June 2020, p. 4.

² Australian Institute of Health and Welfare, Specialist homelessness services 2019-20, Table CLIENTLOC.1: Clients, by Statistical Area Level 4 (SA4)(locality/suburb in the week before), by client characteristics at first presentation, 2019–20.

(a) ³ Australian Bureau of Statistics, Census of Population and Housing: estimating homelessness, 2016, Table 1.4 STATE AND TERRITORY OF USUAL RESIDENCE, Proportion of homeless persons, by selected characteristics, 2001, 2006, 2011 and 2016.

⁴ NT Shelter, Submission to Parliamentary Inquiry into Homelessness in Australia in Australia, 12 June 2020, p. 18.

- b. erecting a tent or other shelter used for camping;
 - c. setting up bedding, camping gear or other equipment used for camping.
- (3) A person commits an offence if:
- a. the person camps or sets up camp on public land; and
 - b. the person does not have an authorisation or the consent of the owner or occupier of the public land.

Maximum penalty: 20 penalty units. The infringement amount is 1 penalty unit.

- (4) An authorised person may direct a person who fails to comply with clause (1) to do any of the following:
- a. leave the public land;
- remove any vehicle, tent, shelter, gear or equipment to a place specified by the authorised person.

NAAJA welcomes the removal of by-laws adversely impacting people sleeping in a public place between sunset and sunrise. However, NAAJA remains concerned that restrictions on erecting a tent or other shelter will continue to have discriminatory effects on people experiencing homelessness. This is because people who are homeless currently don't have the resources or pathways to suitable and safe accommodation options.

The planned expansion of homelessness services at Marrara is positive development, however it will not address unmet need. Australia, the Northern Territory, and Darwin has sufficient resources to put in place measures to address unmet need.

In some circumstances it will not be culturally appropriate for people experiencing homelessness to be directed towards a single site. It may be suitable for accommodation hubs to be established across different locations including the Darwin CBD and Palmerston. This is because a single site may not be suitable for people to attend to if they are required to interact with others where there may be conflict or for other valid reasons are not suitable.

NAAJA recommends the Darwin City Council utilise its full advocacy and lobbying efforts to ensure pathways for suitable and culturally appropriate accommodation options in Darwin for visitors.

- (c) Abandoned goods

By-Law 96 reads:

- (1) An authorised person may seize any goods abandoned on public land.
- (2) The goods of people experiencing homelessness or people sleeping rough must be respected as not abandoned, but may be considered abandoned if left unattended for more than 24 hours.
- (3) As soon as practicable after seizing the goods, the authorised person must take reasonable steps to give written notice of the seizure to the owner of the goods.
- (4) The notice must include the following information:
 - a. a description of the goods;
 - b. the reason for seizing the goods;
 - c. details of how the goods may be recovered, including any fee for recovery;
 - d. a warning that the goods may be disposed of if the person fails to recover the goods within 14 days of receiving the notice.
- (5) If seized goods are not recovered within 14 days:
 - a. the goods are forfeit; and

the goods are to be sold, destroyed or otherwise disposed of as the CEO sees fit.

NAAJA welcomes the inclusion of measures to prevent the seizing of belongings of people experiencing homelessness. In the event that belongings are seized, NAAJA recommends that all reasonable efforts are made to reunite the owner with their goods. This might include collaboration with homelessness services or other NGO services to ensure a more appropriate pathway for the return of belongings.

Thank you for the opportunity to provide this submission.



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5 May 2021

Angela O'Donnell
Senior Policy Officer
City of Darwin
DARWIN NT 0800

Via Email: Angela.ODonnell@darwin.nt.gov.au(External link)

Dear Madam,

Submission – Darwin City Council Draft By-Laws

The Property Council of Australia is the peak body representing the property industry in the Northern Territory.

The Northern Territory Division collectively represents billions of dollars of commercial investment in the Northern Territory. The value of the property industry to the NT economy is second only to the resources sector.

The Property Council's membership draws together key players from property investment and development including owners of commercial office buildings and shopping centres, financial institutions, and construction companies. Our membership also extends to those engaged in professions, businesses and provision of services directly associated with the property industry (architects, engineers, financiers, legal and other consultants, suppliers etc.).

As an industry, we not only have a keen interest, but also a financial stake in the future development of the Northern Territory. We appreciate and take seriously the opportunity to provide comment on your proposed new By-Laws.

Extract

99 Camping or setting up camp on public land

- (1) A person must not camp or set up camp on public land, without an authorisation or the consent of the owner or occupier of the public land.
- (2) For this by-law, the following activities are taken to be camping or setting up camp:
 - (a) occupying, between sunset and sunrise, a vehicle used for sleeping;
 - (b) erecting a tent or other shelter used for camping;
 - (c) setting up bedding, camping gear or other equipment used for camping.
- (3) A person commits an offence if:
 - (a) the person camps or sets up camp on public land; and
 - (b) the person does not have an authorisation or the consent of the owner or occupier of the public land.

Maximum penalty: 20 penalty units.

Recommendation:

Whilst the Property Council is sympathetic to City of Darwin having to manage with the repercussions of policy decisions by the Northern Territory Government. We believe the current wording for what is defined as camping is too narrow. We recommend, like subclause 2 (a), that occupying, between sunset and sunrise, a public place for sleeping is also expressly included.

We further recommend that an additional provision be included to cover footpaths for both sleeping and occupying (siting) at any time.

Extract

101 Prohibitions relating to vegetation

- (1) A person must not, without an authorisation, remove or damage vegetation on City property or public land.

Examples for clause (1)

- 1 *Driving a vehicle on park land.*
- 2 *Cutting a tree.*
- 3 *Digging up a flowerbed on City property.*
- 4 *Plucking, cutting or taking from a public flowerbed.*

Recommendation:

We recommend further consideration be given for the insertion of a new discrete and narrow category; that cutting is permitted where vegetation is either encroaching onto adjoining private property or is imminently likely to cause damage to an adjoining private property.

Please contact me either by email (rpalmer@propertycouncil.com.au) or on my mobile (0450 428 314) to facilitate and organise a mutually agreeable meeting time and date.

Yours sincerely



Ruth Palmer
NT Executive Director

Appendix 2: Community Submissions

Submission No.	Name	Category	Date Received
1	Details redacted	Community - petition	27 April 2021
2	Details redacted	Community	31 March 2021 21 April 2021
3	Details redacted	Community	6 April 2021
4	Details redacted	Community	7 April 2021
5	Details redacted	Community	6 April 2021 7 April 2021
6	Details redacted	Community	6 April 2021
7	Details redacted	Community	6 April 2021
8	Details redacted	Community	8 April 2021
9	Details redacted	Community	8 April 2021
10	Details redacted	Community	8 April 2021
11	Details redacted	Community	9 April 2021
12	Details redacted	Community	11 April 2021
13	Details redacted	Community	14 April 2021
14	Details redacted	Community	14 April 2021
15	Details redacted	Community	16 April 2021
16	Details redacted	Community	19 April 2021 29 April 2021
17	Details redacted	Community	21 April 2021
18	Details redacted	Community	21 April 2021
19	Details redacted	Community	21 April 2021
20	Details redacted	Community	21 April 2021
21	Details redacted	Community	21 April 2021
22	Details redacted	Community	25 April 2021
23	Details redacted	Community	29 April 2021
24	Details redacted	Community	30 April 2021
25	Details redacted	Community	30 April 2021
26	Details redacted	Community	30 April 2021
27	Details redacted	Community	30 April 2021
28	Details redacted	Community	30 April 2021
29	Details redacted	Community	30 April 2021
30	Details redacted	Community	30 April 2021
31	Details redacted	Community	30 April 2021
32	Details redacted	Community	30 April 2021
33	Details redacted	Community	30 April 2021
34	Details redacted	Community	30 April 2021
35	Details redacted	Community	30 April 2021
36	Details redacted	Community	30 April 2021
37	Details redacted	Community	30 April 2021
38	Details redacted	Community	30 April 2021
39	Details redacted	Community	30 April 2021
40	Details redacted	Community	30 April 2021
41	Details redacted	Community	30 April 2021

Regarding the proposed by law changes on chickens.
To Darwin Council

We the undersigned 70 Darwin residents, strongly oppose the proposed new bylaws to make it illegal to keep a rooster or more than 6 chickens in Darwin suburbs.

We believe that chickens and roosters make great pets. Some of the new bylaws will force residents in the suburban area to give up some or all of their beloved chickens and roosters. As long as people act responsibly and abide by existing laws of keeping poultry housing clean, making sure their roosters are locked up at night so they cant crow before sunrise etc, then we see no reason why people should be banned from keeping roosters or more than 6 hens. The new laws mean the responsible majority will suffer because of an irresponsible minority of bad owners. We believe that is not fair, and that Darwin council already has plenty of rules and regulations in place to enforce responsible poultry keeping and to focus on the things that get complained about, rather than just taking everyones pets off them. We believe chickens and roosters are not the issue that needs council's attention, that attention needs to go to irresponsible owners, especially the ones who dont look after their dogs properly.

This petition is intended to represent the responsible poultry owners who have done the right thing for years and not caused any problems. Asking someone to give up their pets for no clear reason is not good government and we do not support the new bylaws that will affect chickens and roosters. These by laws will also negatively affect some community gardens which keep poultry and provide a place for people to escape and feel connected to the earth. The bylaws will also negatively affect schools which have for many years used chickens and roosters as a part of their school gardens for children to learn and grow things in, and provide a source of eggs.

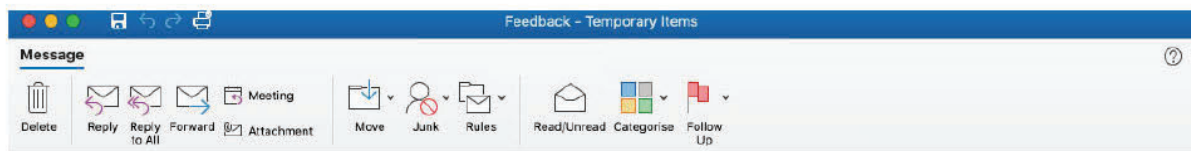
We appreciate the opportunity to share our views and trust that you will treat them respectfully and fairly.

Sincerely

Residents of Darwin Suburbs.

Name	City	State	Postal Code	Country	Signed On
[REDACTED]	Acacia Hills NT		822	Australia	4/9/2021
[REDACTED]	Adelaide		810	Australia	4/8/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Croydon		830	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		812	Australia	4/7/2021
[REDACTED]	Darwin		812	Australia	4/7/2021
[REDACTED]	Darwin		820	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		822	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		820	Australia	4/7/2021
[REDACTED]	Darwin		820	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		820	Australia	4/7/2021
[REDACTED]	Darwin		820	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/7/2021
[REDACTED]	Darwin		820	Australia	4/7/2021
[REDACTED]	Darwin		820	Australia	4/7/2021
[REDACTED]	Darwin		810	Australia	4/8/2021
[REDACTED]	Darwin		810	Australia	4/8/2021
[REDACTED]	Darwin		810	Australia	4/8/2021
[REDACTED]	Darwin		810	Australia	4/8/2021
[REDACTED]	Darwin		832	Australia	4/8/2021
[REDACTED]	Darwin		810	Australia	4/8/2021
[REDACTED]	Darwin		812	Australia	4/9/2021
[REDACTED]	Darwin		822	Australia	4/9/2021
[REDACTED]	Darwin		810	Australia	4/12/2021
[REDACTED]	Darwin		810	Australia	4/12/2021
[REDACTED]	Darwin		810	Australia	4/12/2021
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[REDACTED]	Darwin		812	Australia	4/21/2021
[REDACTED]	Darwin		822	Australia	4/21/2021
[REDACTED]	Darwin		810	Australia	4/24/2021
[REDACTED]	Darwin		810	Australia	4/25/2021
[REDACTED]	Driver		830	Australia	4/7/2021
[REDACTED]	Fannie Bay		820	Australia	4/7/2021
[REDACTED]	Fly Creek		822	Australia	4/21/2021
[REDACTED]	Gunn		832	Australia	4/7/2021
[REDACTED]	gunn		832	Australia	4/7/2021
[REDACTED]	Jingili		810	Australia	4/10/2021
[REDACTED]	Leanyer		812	Australia	4/7/2021

[REDACTED]	Leanyer	812 Australia	4/13/2021
[REDACTED]	MILLNER	810 Australia	4/9/2021
[REDACTED]	Nakara	810 Australia	4/7/2021
[REDACTED]	Northern territory	830 Australia	4/7/2021
[REDACTED]	Palmerson	830 Australia	4/7/2021
[REDACTED]	Palmerston	832 Australia	4/7/2021
[REDACTED]	Palmerston	830 Australia	4/7/2021
[REDACTED]	Palmerston	832 Australia	4/7/2021
[REDACTED]	Palmerston	830 Australia	4/8/2021
[REDACTED]	Stuart Park	820 Australia	4/7/2021
[REDACTED]	Tiwi	810 Australia	4/7/2021
[REDACTED]	Tiwi	810 Australia	4/8/2021
[REDACTED]	Zuccoli	832 Australia	4/7/2021
[REDACTED]	Zuccoli	832 Australia	4/8/2021
[REDACTED]	Darwin	810 Australia	4/7/2021
[REDACTED]	Darwin	832 Australia	4/7/2021
[REDACTED]	darwin	812 Australia	4/7/2021
[REDACTED]	Darwin	810 Australia	4/7/2021
[REDACTED]	Darwin	810 Australia	4/7/2021
[REDACTED]	wulagi	812 Australia	4/8/2021
[REDACTED]	Darwin	812 Australia	4/10/2021
[REDACTED]	Darwin	810 Australia	4/12/2021
[REDACTED]	Darwin	830 Australia	4/17/2021
[REDACTED]	Darwin	830 Australia	4/22/2021



Feedback



To: feedback@truenorthcomm.com.au

Wednesday, 31 March 2021 at 4:08 pm

To whom it may concern

I'm providing feedback on the proposed changes to the by laws regarding chickens & Roosters.

Our family has been keeping purebred chickens including rooster for many years without any having issues from anyone. Infact our neighbours have always encouraged our children. Walkers past always stop and comment how beautiful they are. And this is a favourite yard to walk past. We are members & supporters of the Darwin & Rural Poultry Club. Every year our children take pride in showing there birds. They are at home caring for their much loved pets not out roaming the streets like so many children these days. They regularly clean pens. Roosters are boxed in rooster house every night and let out after 8am weekdays 9am weekends. We take ownership very seriously. The proposed changes would be devastating for my children, fellow poultry enthusiasts and club members. Surely there is a better way then these new changes?
A few suggestions from my family

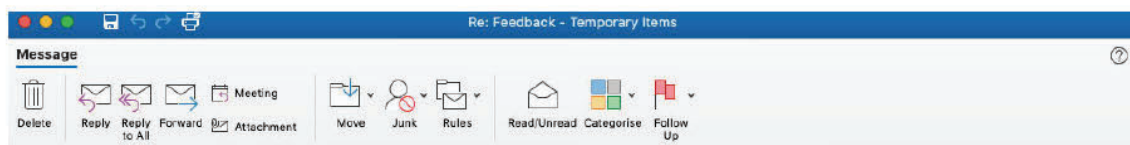
* Purebred poultry breeders & show enthusiasts of Darwin that are poultry club members can be exempt from the by laws

*Roosters can only be kept by club members and must be locked up nightly. Being let out after a certain time.

*Numbers no limits(within reason) providing all birds a well cared for and everything is clean & tidy

My children are already in tears after reading the proposed new changes and helped me write this email.

Kind regards from a poultry loving family



Re: Feedback



To: Feedback

Sunday, 4 April 2021 at 1:12 pm



[Download All](#) [Preview All](#)

Hi here is some additional feedback id like to add

*chickens are good for household waste management by eating food scraps.
Food waste cost the economy around \$20 billion per year
Each year we waste around 7.3 tonnes of food equalling about 300kg per person. Chickens can help reduce this.

*You can then use the chickens waste in your garden or community gardens which the plants love.

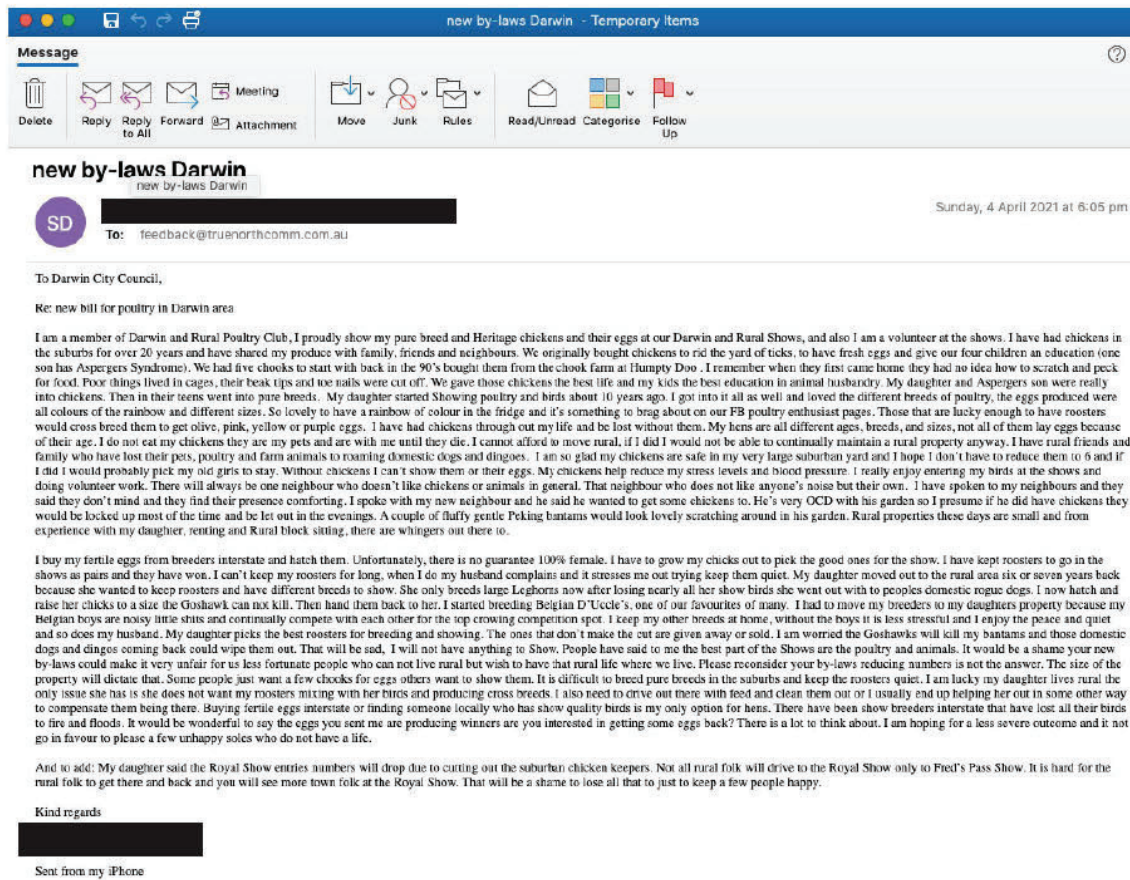
* Schools keep both hens & roosters to educate there students. The new changes will effect there learning

* Chickens are great therapy pets, as a mum of a Autistic son with a intellectual disability ive seen how much they have helped him in all aspects of life including school.

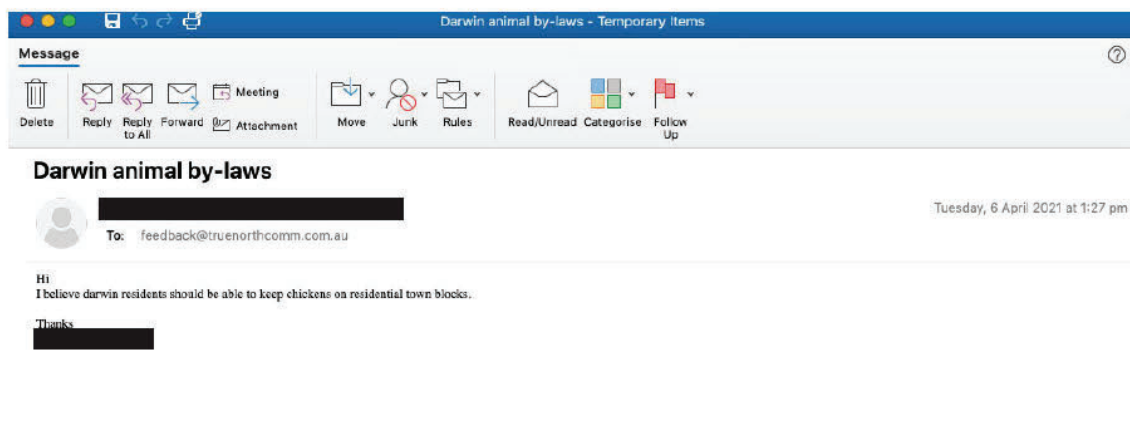
* Most people have more then 6 hens and keep roosters by bringing in the by laws it will cause a influx of surrenders on rescue groups and people dumping animals.

*Darwin has a wonderful chicken community

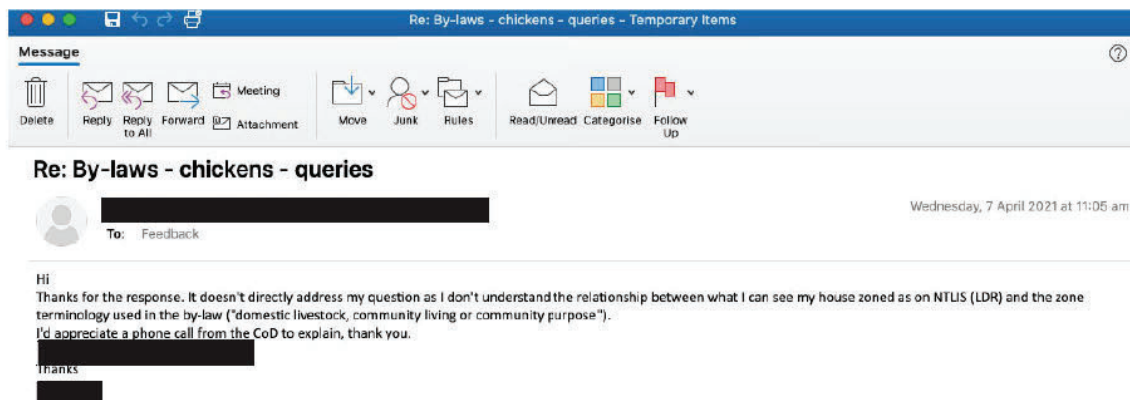
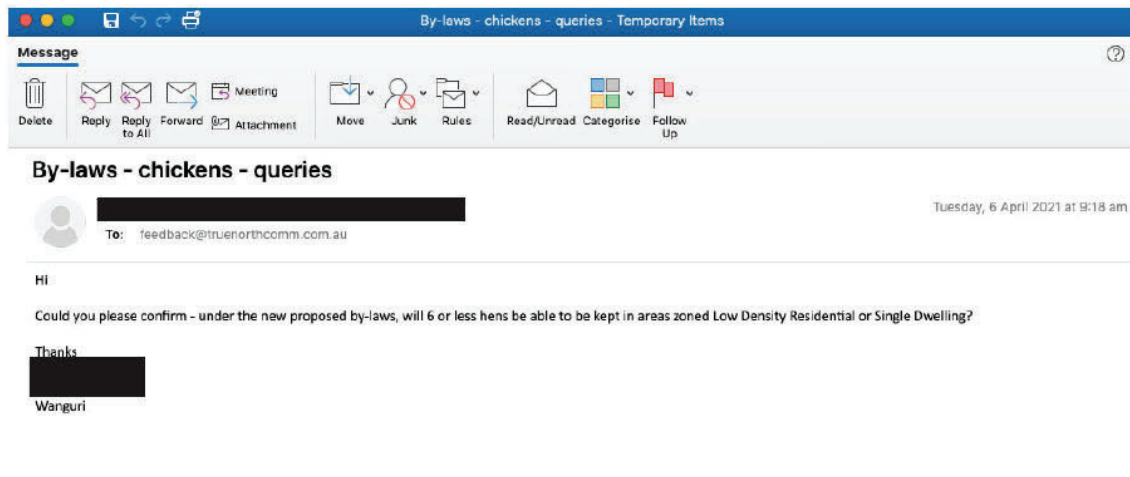
* There are councils in Victoria that are in the process of reversing chicken & Rooster by laws because of the sustainability principles.



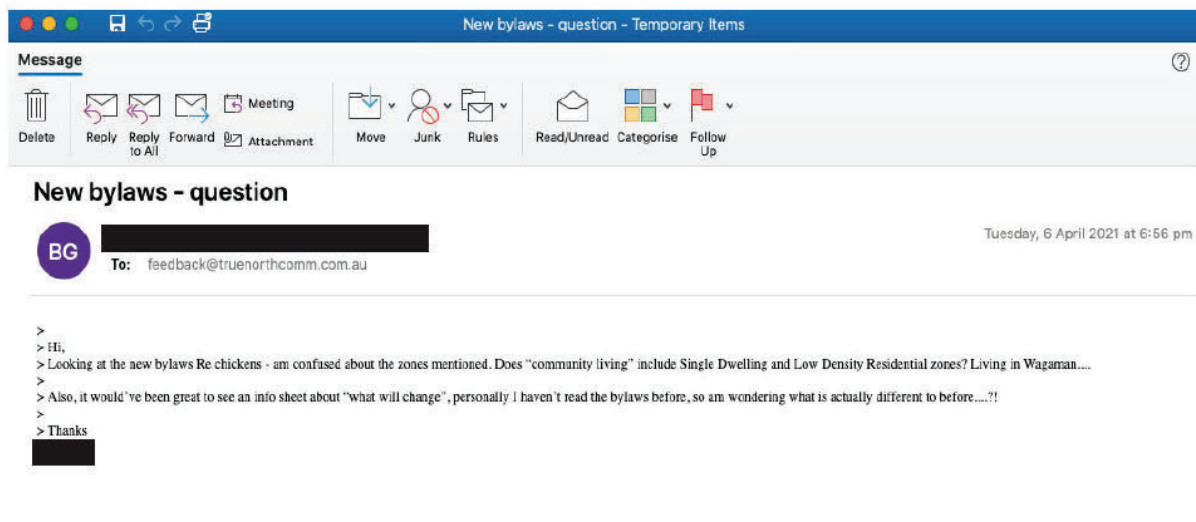
Submission 4



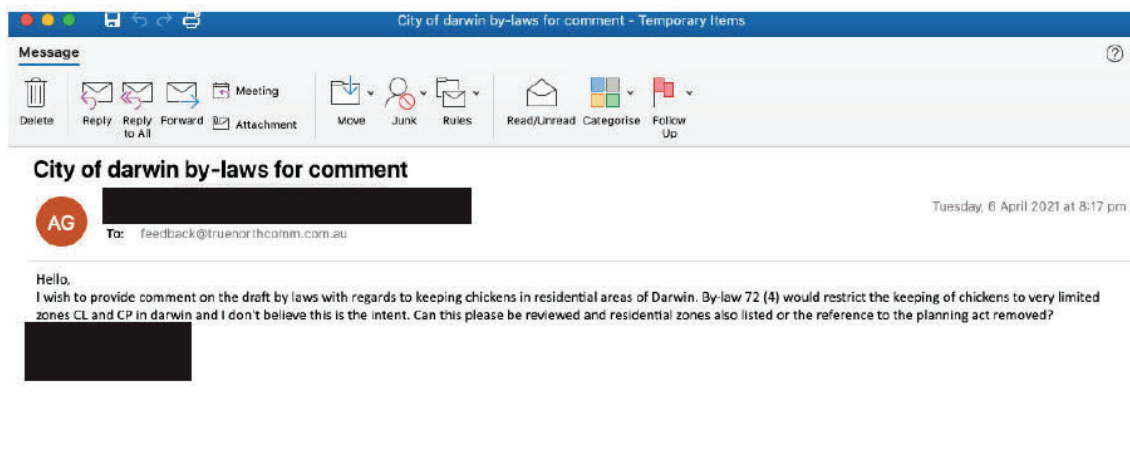
Submission 5



Submission 6



Submission 7



Subject: Chicken by laws

Date: Thursday, 8 April 2021 at 1:33:27 pm Australian Central Standard Time

To: feedback@truenorthcomm.com.au

Attachments: IMG_2581.jpeg

Hello ,

I'm writing about my concern for the proposed by laws .

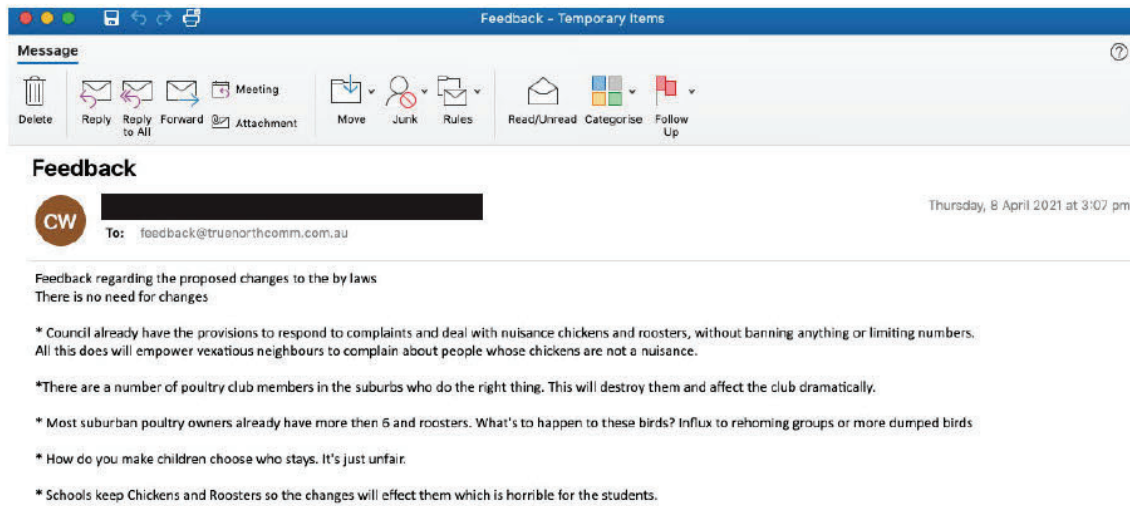
I have owned chickens almost all my life . Originally I was from Victoria but moved to darwin just over a year ago as a military family. As a military family we have very little say where we are allowed to live and therefore have no say on the size of our backyards.

My yard in darwin is smaller but has heaps of room for the 4 chickens that we own. They free range our garden durin the day and get locked into their own coop every night. My 2 year old daughter comes out everyday and collects her chicken eggs and thanks her 'chookies ' for them. We give them leftover food so it's not being wasted or put into landfill. They are quiet and funny and scurry around our yard.

I grew up in Wangaratta ,Victoria and the primary school my children attended had a chicken pen and a veggie patch. They also implemented the Stephanie Alexander kitchen program . This was all connected to teach children about sustainability , healthy eating and caring for animals . Now I'm yet to see that In darwin schools . But I believe parents should have the option and even be encouraged to do this in their own yards. What it's teaching our children is invaluable . Your proposed by laws are impractical and unfair and would upset a lot of people .

Kind regards ,

Submission 9





Feedback regarding by laws

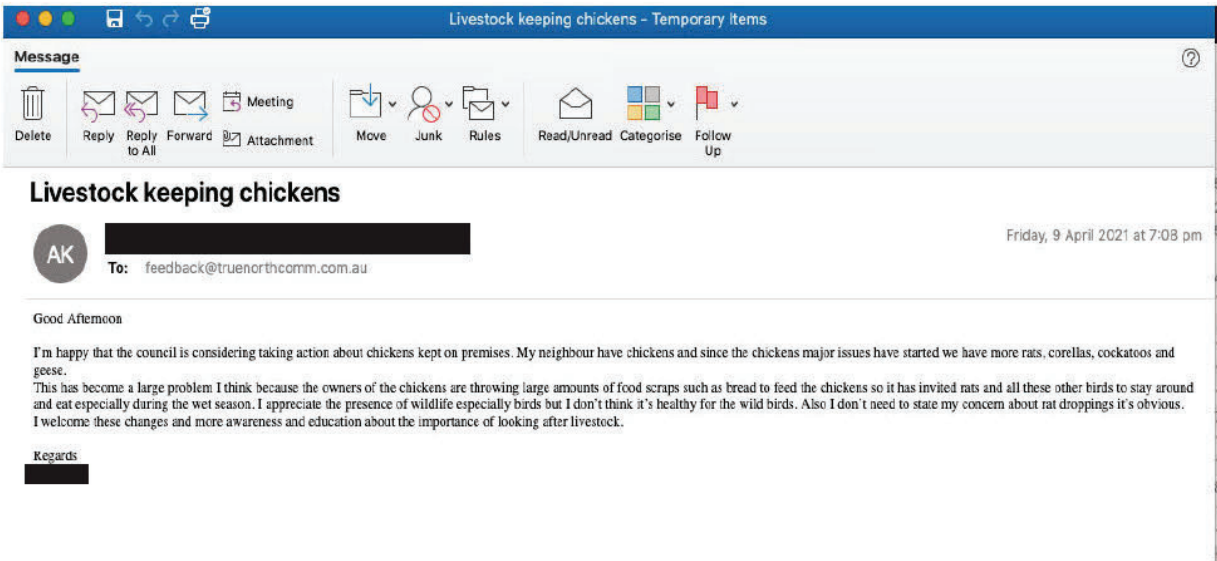


To: feedback@truenorthcomm.com.au

Thursday, 8 April 2021 at 7:16 pm

I'd like to submit my feedback regarding the proposed changes to the by laws regarding chickens

- * The council already can respond to complaints & deal with the issues of nuisance chickens and roosters. So there isn't a need to ban anything or put limits on numbers. They also can deal with hygiene as well.
- * Additionally a limit will force owners to have to choose between keeping chickens for eggs (and replacing them every second year or so with younger birds that still lay enough) and giving a hen a safe home to live out her days. With a limit of 6 we will not be able to have layers & hang onto our old faithfuls
- * Roosters are not a problem to anyone especially if there housed in suitable housing at night & let out at a decent time in the morning. I'd much rather hear them then drunks fighting, cars hooning, youth carrying on like pork chops, dogs barking 24/7 and cats roaming the streets.
- * There are schools within the suburbs who keep both hens & roosters. Teaching our children wonderful life lessons on sustainability and caring for animals. These changes will hugely affect them.
- * There are quite a few members of the poultry club who live in the burbs and have done for years. The changes will destroy them, and the club will lose many members including a proud group of junior exhibitors.
- * Darwin has a fantastic poultry community who loves there birds and take great pride in there care. What's going to happen with all these extra suburban chickens? There is only so many the rural folk can take in. The rest will have to be surrendered to rescue groups or even worse they will end up dumped.
- * Chickens are a wonderful way to help combat the issue of household food waste.



Submission 12

Feedback on proposed by-law changes - Temporary Items

Message

Delete

Reply

Reply to All

Forward

Meeting

Attachment

Move

Junk

Rules

Read/Unread

Categories

Follow Up

Feedback on proposed by-law changes

LM

Sunday, 11 April 2021 at 8:49 pm

To: feedback@truenorthcomm.com.au

To whom it may concern

I am writing in regards to the proposed change in by laws in regards to owning chickens.

I think these changes seem excessively punitive for people who own chickens and disproportionate to the aim of curbing nuisance in suburban areas

Chickens are highly social animals that develop bonds with their flock. Forcing owners to break up flocks if they have more than 6 chickens will negatively impact the well being of these animals.

It also puts owners who use their flock for egg production in a tight spot as chickens only have a high egg production window for only a quarter of their life. This leaves owners with the difficult choice of having to rehome or destroying members that are not efficiently producing eggs if they want to have a flock that will provide them with a consistent source of eggs. Chickens that the owners will have developed bonds with not only as producers but as beloved family pets.

I also find that compared to dogs chickens are not nearly as much of a nuisance as they do not produce as much noise as dogs will and they will only make excessive noise for a small period after laying an egg (known as an egg song/call). There are multiple houses in our neighbourhood that have chickens and they make only a fraction of noise compared to the multiple dog owners who have their dogs producing excessive irritating barking at all hours of the day and night.

The cap on the amount also seems arbitrary if it is for nuisance reasons as I feel like there are already plenty of fail safes built into the council for nuisance complaints and I feel like this arbitrary limit just gives the power to vexatious neighbours to punish their neighbours.

I implore you to seriously reconsider the proposed by-laws regarding chickens especially in regards to the 6 chicken cap.

Regards

Nakera

[REDACTED]
To: Alderman Jimmy Bouhoris
<J.Bouhoris@darwin.nt.gov.au>; g.lambrinidis@darwin.nt.gov.au
<g.lambrinidis@darwin.nt.gov.au> ;
r.wantderowe@darwin.nt.gov.au<r.wantderowe@darwin.nt.gov.au>; Courtney Forsyth
<Courtney.Forsyth@darwin.nt.gov.au>
Subject: Fw: 4 Edinburgh

RE: UNTIDY ALLOTMENT - 4 EDINBURGH CRESCENT BRINKIN NT 0810

Dear Alderman

Re the above matter and the reply from the Darwin City council ranger.

This vacant block has been an issue for 40 years. Jimmy Bouhoris is aware of prior issues. I am advised there are many similar blocks in Darwin where the owner does nothing to maintain the block and only does the minimum when requested by Council. Year after year, the same problem with the same minimal response. A merry go around.

It is very obvious the current By Laws are not working and need an urgent make over.

Currently the Council is a toothless tiger, some noise, little effective action that can be taken.

I urge all three aldermen to request urgent changes to the by-laws.

Suggest severe fines (\$1,000.00 a day) for blocks that are untidy and not remedied after notice by the council. Plus, a standard ongoing fine for repeat offenders, say another \$1,000.00 fine.

In addition, the by law (31) as below needs to be changed so that it is clear cut as to what the standards are.

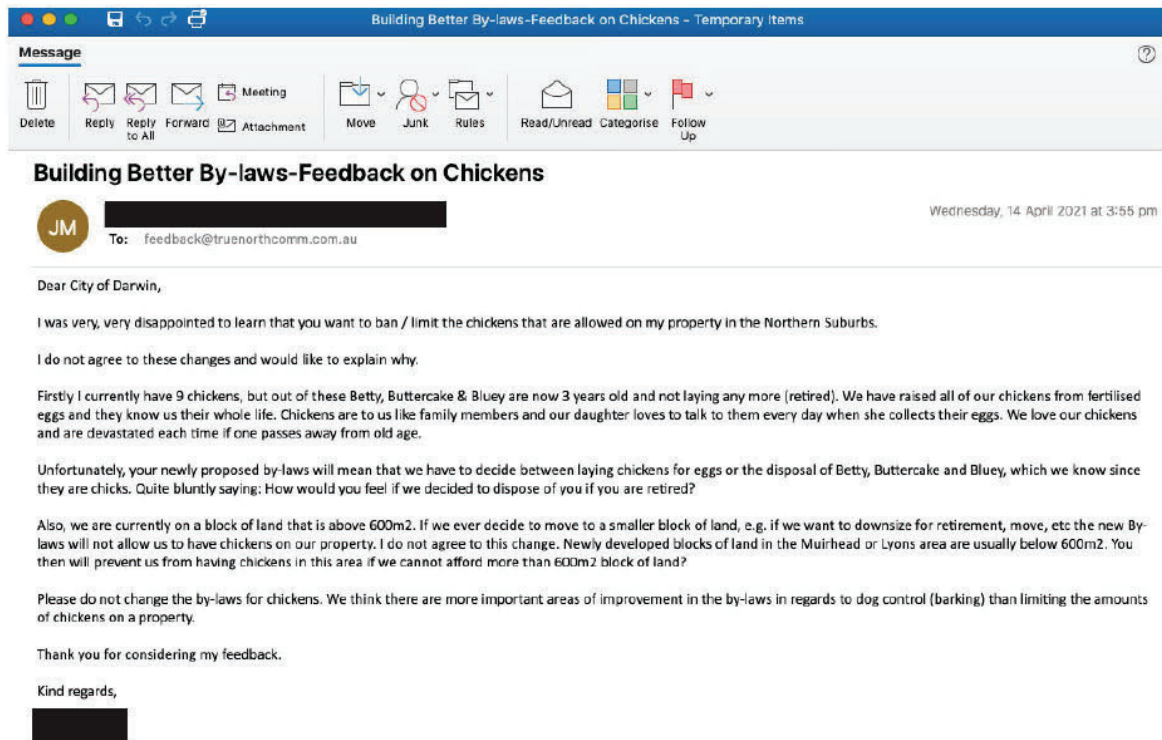
1) For example, A (2) - Remove "that have become unkempt" and replace with "plants/grass/weeds that are longer than 100 mm in height must be cut down to 60 mm and maintained at a height of 60 mm"

2) Plus add A (3) - "All garden waste of any type must be removed from the block and the block to be maintained in the same manner ongoing".

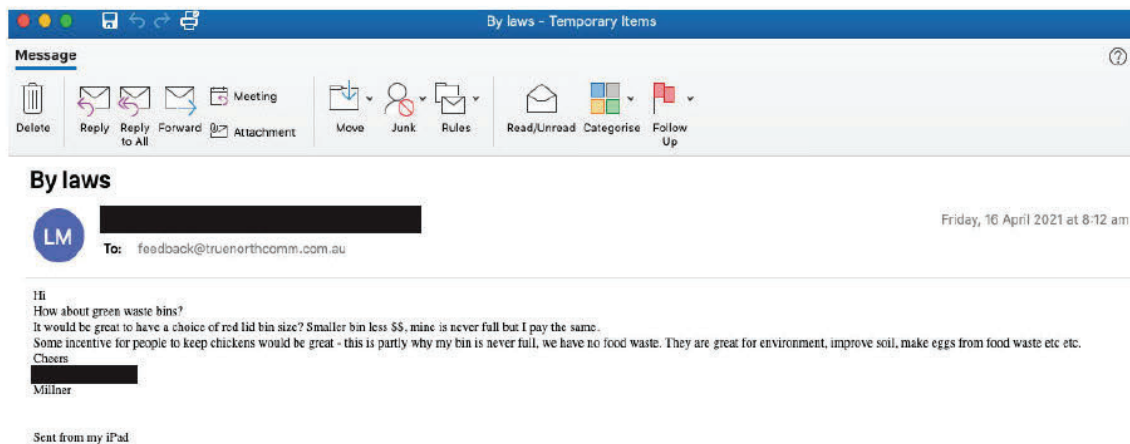
3) Retain (B).

4) The last paragraph " requiring the land.....litter to be placed in a vermin proof receptacle - add "not applicable for un developed vacant blocks - all litter to be removed from the block"

If a bin is allowed on a vacant block, it will soon become full and then the rubbish is again thrown on the ground. So, no bins, just keep the block clean, no litter or garden waste.



Submission 15



Animal Management feedback re consultation - Temporary Items

Message

Delete Reply Reply to All Forward Attachment Meeting Move Junk Rules Read/Unread Categorise Follow Up

Animal Management feedback re consultation

AE [Redacted] Monday, 19 April 2021 at 6:40 am

To: feedback@truenorthcomm.com.au

19.04.2021

As I wake, again, to the early morning call of a Rooster in Rapid Creek, I am writing to support Council's proposed regulations around poultry keeping.

I support the banning of roosters in Darwin.

I support limits (6) on chickens in suburban Darwin and requirements for containment. Further, containment should be appropriate in terms of protection for chickens (eg shade and size), appropriate food and water and distance from neighbouring properties. Chicken pens should not border adjacent properties.

[Redacted]

Feedback re Darwin 2021 By Laws - Temporary Items

Message

Delete Reply Reply to All Forward Attachment Meeting Move Junk Rules Read/Unread Categorise Follow Up

Feedback re Darwin 2021 By Laws

[Redacted] Thursday, 29 April 2021 at 4:58 pm

To: feedback@truenorthcomm.com.au

72 (1), (2), (3), (4) and (5)
76 (1) and (2)

Poultry: A cap on the number of chickens (n=6) that can be kept in suburban areas is important. Plus chicken pens must not adjoin neighbouring properties ie. Share the common fence. Roosters must be banned. Crack-of-dawn crowing roosters in suburban Rapid Creek are a nightmare.

Div 2 responsible ownership of dogs and cats -Support 42, 43 & 44

Div 3 Badly behaved dogs

Support 55,56,57,58,59, & 60

Part 4 Health and Safety

Div 2 Waste and Recycling .

Support especially 33 (2) a,b, & c

Plus Darwin needs Green Waste Bins- as provided in many other Council areas. Nowhere is the need greater than in Darwin.

Part 6 Public Facilities and places

Div 5. Control of Vegetation

Trees: Darwin needs much stronger controls over vegetation that grows in private property and causes damage to neighbouring properties. While trees and shrubs are very attractive and provide welcome shade, when they have huge canopies and/or are on a fence line their intrusion into neighbouring properties can cause considerable damage to property, including solar systems, guttering paving, swimming pool filtration system, fences etc. It is an expensive and stressful process to persuade neighbours to cut/prune trees that are causing damage and loss of amenity- and there is no assistance from Council. There should be.

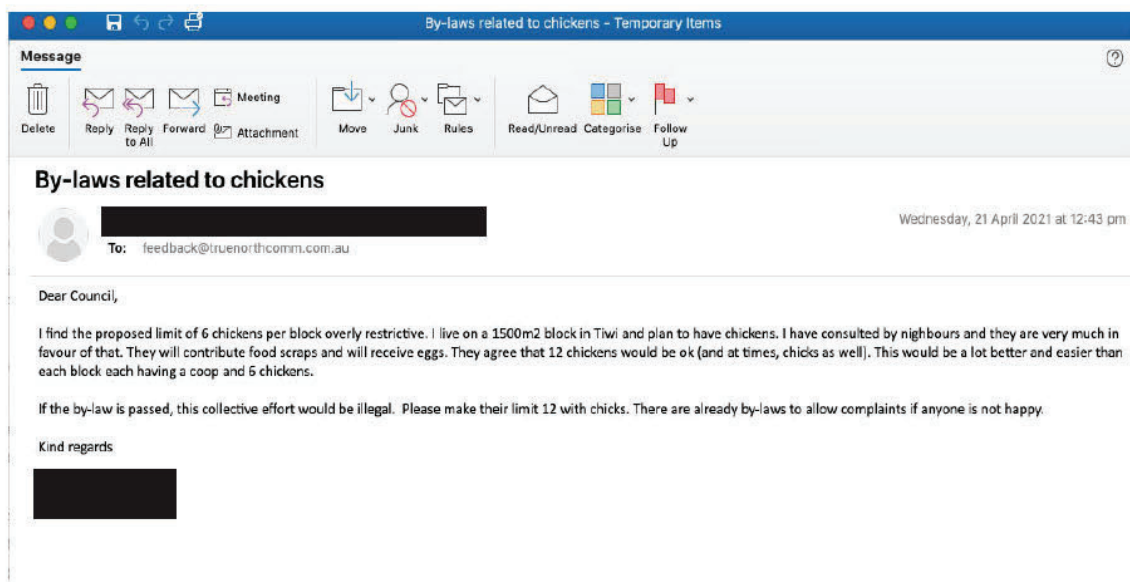
Verges: I could not see any mention Council maintaining grass verges or pruning trees growing on the verges. In the Nightcliff/Rapid Creek area, overgrown grass verges are a constant source of obstruction to pedestrians. Given the number of rental properties, units and social housing in the area there needs to be regular Council maintenance of grass verges and other overhanging/hazardous vegetation.

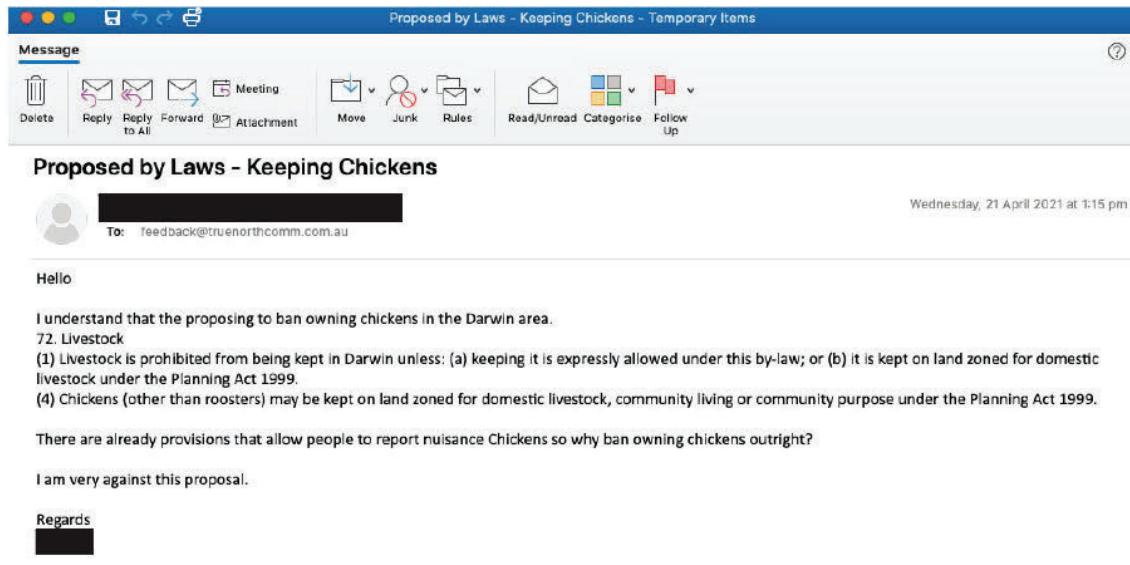
Part 6 Public Facilities and Places

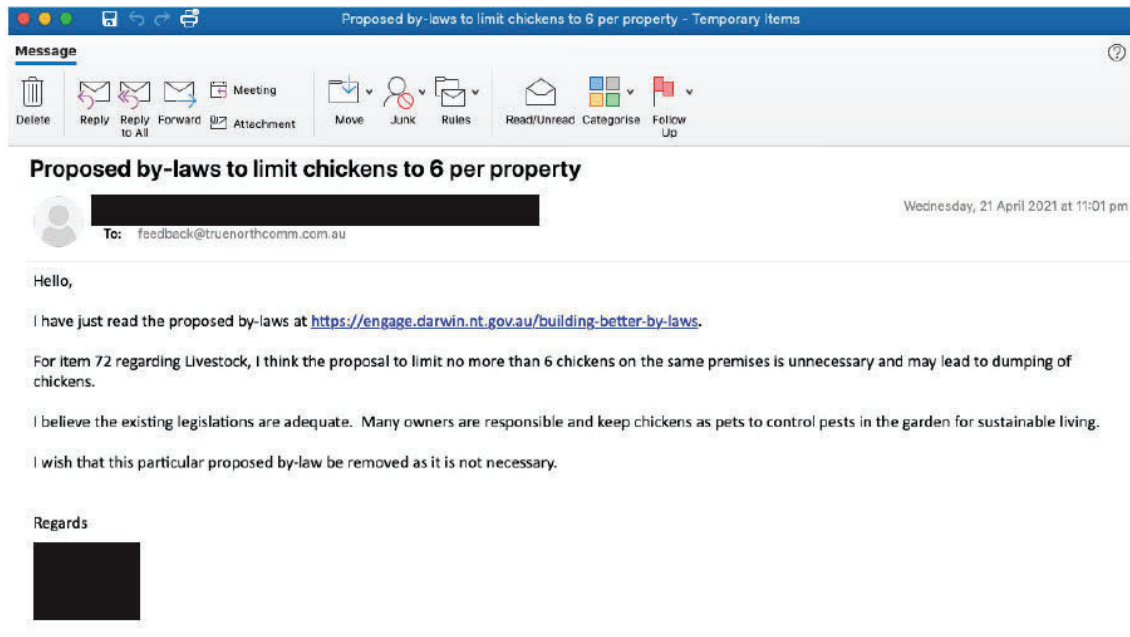
Div 2 Control of vehicles and boats

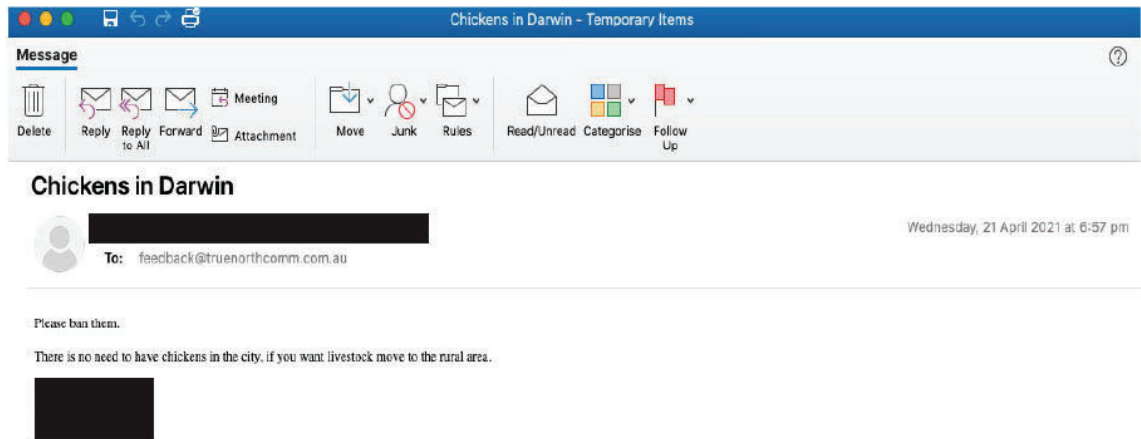
84 Cars are commonly parked across driveways and footpaths- forcing pedestrians to walk on the road. This has to be stopped and car owners penalized.

[Redacted]









Submitted on Wednesday, 21 April 2021 - 2:37pm Submitted by anonymous user:
58.174.64.86 Submitted values are:

[REDACTED]

Subject: Chooks as pets

How would you like us to contact you? Email Phone number:

[REDACTED]

Message:

Hi - I understand the council is considering new rules about people keeping poultry in their yards. I don't have any myself, but I have neighbours who keep chooks and they have not been a problem to me, except when one of the young ones became a rooster and began crowing. (My neighbours quickly got rid of it, I'm pleased to say). Generally, I think they make great pets. Unlike many other animals kept as pets, chooks of course are useful - controlling pests and producing chook manure for the garden and eggs for consumption.

Consequently, I think keeping chooks as pets should be encouraged and I'd be very sorry to see restrictions imposed, particularly for families with children.

[REDACTED]

Monday, May 10, 2021 at 14:49:24 Australian Central Standard Time

Subject: animal management by laws
Date: Monday, 26 April 2021 at 12:31:45 pm Australian Central Standard Time
From: [REDACTED]
To: feedback@truenorthcomm.com.au
Attachments: roosteringarden.April2021.jpg

Hi,

[REDACTED]
[REDACTED]

Last year my neighbour decided to get chickens. Since then, we have had three roosters residing in the property behind us and have been woken up between 3am-6am every day for the last year. These roosters aren't at the same time. My neighbour gets a new batch of baby chickens and then one of them always turns out to be a rooster. I have contacted her previously about removing the roosters and this has only happened on one occasion. The second rooster got eaten by the neighbours dog when it went into the yard and the third rooster is still there. Been woken up and having my child woken up every morning by a rooster that continually crows is unacceptable in such a high density suburban area. The current rooster and some of his chicken friends also regularly escape their yard and wander around my place. I have attached a picture of the rooster in my yard.

I am writing to highlight my support of the banning of roosters in the Darwin area and the limiting of chickens (6) in suburban Darwin and requirements for containment. Further, containment should be appropriate in terms of protection for chickens (eg shade and size), appropriate food and water and distance from neighbouring properties. Chicken pens should not border adjacent properties.

Kind regards [REDACTED]



Subject: council by laws - parking
Date: Monday, 26 April 2021 at 1:05:27 pm Australian Central Standard Time
From: [REDACTED]
To: feedback@truenorthcomm.com.au
Attachments: IMG_2227.JPG, IMG_2228.JPG, IMG_2231.JPG, IMG_3479.JPG

Hi,

[REDACTED]

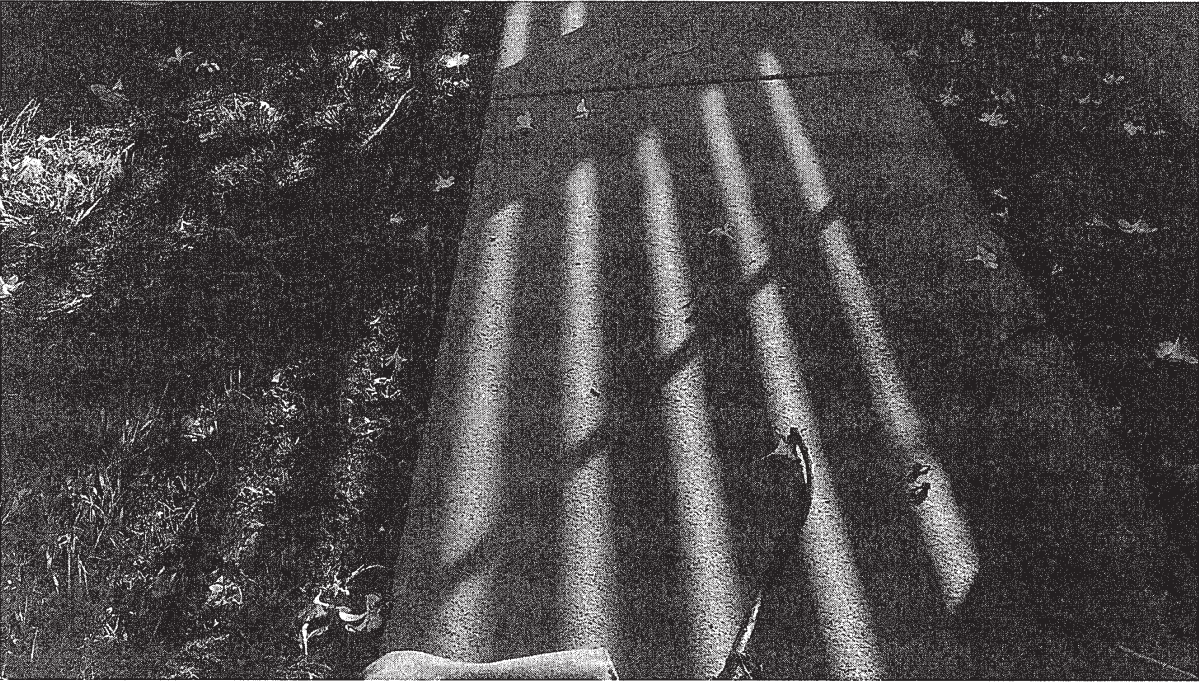
I am writing in support of the council by laws and the changes to be made towards parking and driving on public park - public lawn or verge (1) A person must not drive or park a motor vehicle on a public park, a public lawn or the verge of a road, other than in an allocated parking area.

Nearly everyday I walk on the streets around Rapid Creek and Nightcliff with my daughter (on her bike or in a pram) and the dog. Nearly every time we have to walk on the road due to cars parking across the footpath, on the verge, or along their driveway making it impossible for us to walk safely on the foot path.

Please see the attached pictures from a recent walk.

Regards, [REDACTED]









Giulia

Building Better By-laws - feedback - Message (HTML)

File Message Help Tell me what you want to do

Delete Archive Reply Reply All Forward Create New Move Assign Policy Categorize Follow Up Editing Speech Zoom

Building Better By-laws - feedback

To Feedback Thu 29/04/2021 1:11 PM

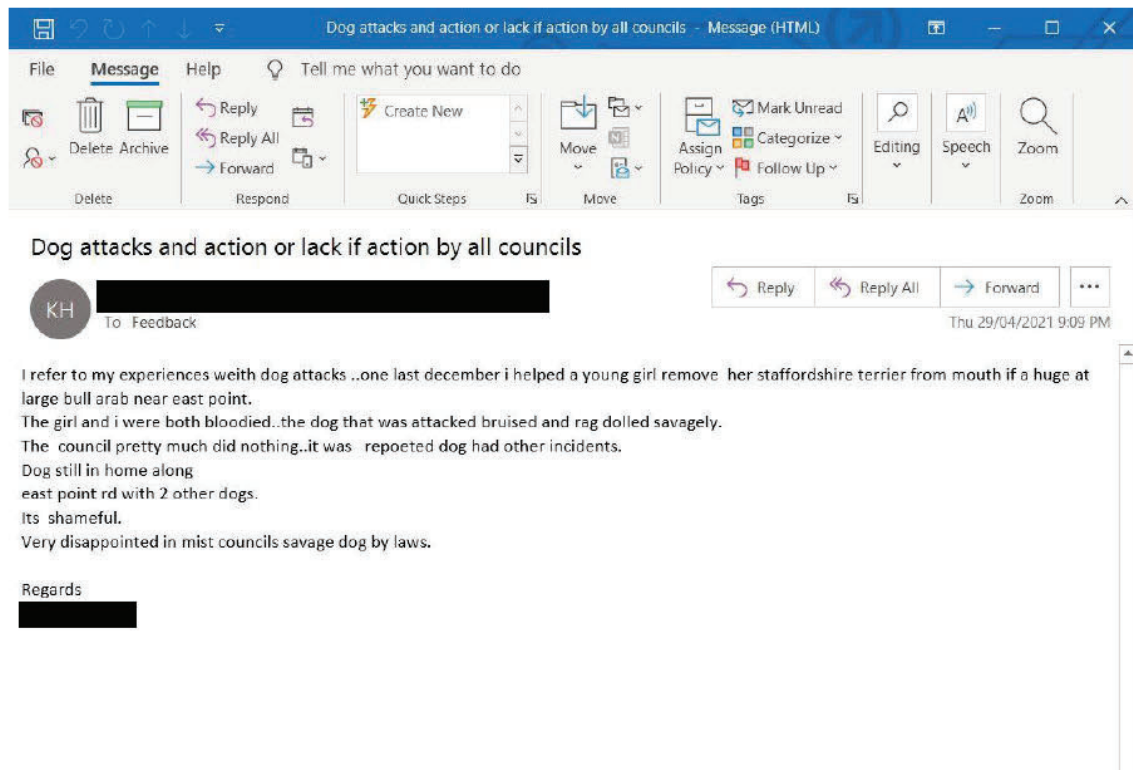
Dear Darwin City Council

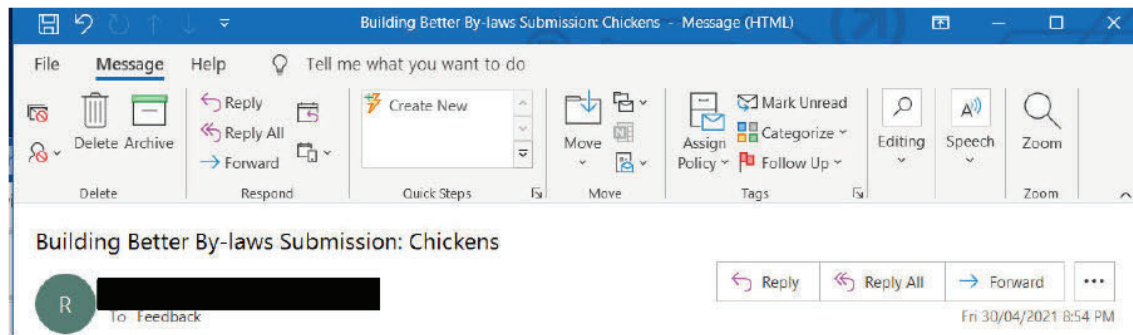
I write to object to sections 72(1), 72(4) and 72(5) of the proposed Council by-laws relating to the keeping of chickens in residential areas. The combined effect of these sections are such that chickens will not be able to be kept unless the land is zoned for domestic use, community living or community purpose under the Planning Act 1999 (NT). This means that properties that are zoned as single dwelling (SD), such as mine, will not be permitted to keep chickens in the backyard. Further, no more than 6 chickens will be allowed to be kept in any one flock. I am a long-term resident of Darwin and have kept chickens in my backyard for more than 10 years. I have never received a complaint in relation to my chickens. I strongly object to the proposed sections because:

- The Council already has provisions to respond to and deal with nuisance poultry such as in relation to odour and noise;
- The proposed by-laws will create an additional layer of regulation that is unnecessary in all the circumstances and will empower vexatious complaints by neighbours in relation to matters that are already well-covered by existing legislation;
- Many owners of chickens, such as myself, will choose to keep older chickens who no longer lay eggs as valued family pets. Further, many owners may hatch a clutch of eggs from time to time. The arbitrary limitation of the flock to a maximum of 6 chickens would mean that owners would have to continually dispose of chickens to keep under the limit when there is no real reason to do so;
- Enforcement of the proposed by-laws would be untenable. This is particularly the case given that, anecdotally, many households purchased chickens to keep in their backyards during the COVID-19 pandemic
- The proposed by-laws would have a negative impact upon the local economy and local community.

Thank you for taking my submission into consideration.

I look forward to receiving confirmation that sections 72(1), 72(4) and 72(5) shall be significantly amended to allow for the keeping of chickens in single dwelling properties such as mine or otherwise omitted entirely from the proposed legislation.





I would like to make a submission in relation to the proposed by-laws regarding the keeping of chickens.

Inherent problems with the proposed by-laws:

- The proposed by-laws prohibit the keeping of chickens on residential properties on Darwin.

After feedback and questions from the Darwin chicken community, the FAQs now note that the "intent" of the by-laws are people are meant to be able to keep up to 6 chickens on blocks of certain sizes but not apartments or unit.

But this is not what the proposed by-laws still state.

How are residents meant to provide accurate and timely feedback on by-laws when the proposed bylaws have not been written accurately?

There remains an ongoing lack of clarity and confusion on what the proposed by-laws actually state and mean.

Questions not addressed in the proposed by-laws or the FAQs

Q. Will residents have to cull their excess chickens and roosters? Or is there meant to be a grandfather clause that residents would be allowed to keep their current numbers of chickens until, by natural attrition, they number 6 or under?

Q: There is no mention of quails. Is there a limit to the number of quails residents can keep? Quails are not chickens.

Q: No statistics regarding the number of nuisance rooster/chicken complaints made to the Council were provided to Darwin residents to support the Council's proposed rooster prohibition and chicken keeping restrictions.

Suggested amendments to the proposed bylaws

* Please provide residents with the revised by-laws so we can provide feedback before the intended by-laws are further considered by council.

* Scrap the proposed by-law limiting the number of chickens and roosters allowed to be kept: residents can keep more than 6 chickens and can also keep roosters.

* A more appropriate proposed by-laws could have followed the regulations of Greater Dandenong Council which allows for 20 chickens per property, and a "maximum of 10 birds is allowed on land that is less than 400 square metres in size". Source: <https://www.greaterdandenong.vic.gov.au/laws-animal-owners/residential-animal-restrictions>

* Allow roosters to be kept. Why? Due to Darwin's remoteness residents are reliant upon local chickens breeders breeding different types of chickens and maintaining eggs and chicks for sale to the chicken community and to support chicken biodiversity.

Local breeders need to keep multiple roosters to preserve heritage chicken breeds. Without keeping roosters, specialty chicken breeds could die out in the Top End or be significantly harder to procure.

* No permit system for keeping roosters. A permit system for keeping roosters would create excessive and onerous regulation and red tape, so roosters should be allowed to be kept on a permit free basis. Issues of nuisance roosters can be addressed through the existing nuisance animal mechanisms on a case by case basis.

* As above, there are already mechanisms in place for residents to make complaints and raise issues about "nuisance" animals, these could be utilised instead of the council restricting residents to 6 chickens only. Residents haven't been provided with statistics on the number of nuisance rooster/chicken complaints to support the Council's proposed chicken regulations.

* Create a focus group to discuss these proposed by-laws with relevant stakeholders including the Darwin & Rural Poultry Club.

There is a thriving and enthusiastic chicken community in Darwin who are extremely concerned about these proposed by-laws and the impact on their ability to keep and enjoy chickens.

Thank you for the opportunity to provide a submission.



30 April 2021

Dear City of Darwin,

I'd be grateful if you can ensure that chickens are exempted from the proposed prohibition on keeping livestock in Darwin suburbs.

Chickens are harmless, productive, low-maintenance pets who enhance the lives of children growing up in Darwin.

Thank you.

Yours sincerely,

[Redacted signature block]

[REDACTED]
[REDACTED]
[REDACTED]

30th April 2021

City of Darwin

Via engage Darwin

Re: By-laws

I submit the following regards proposed changes to Bylaws in Darwin.

The proposal lacks clarity regards keeping poultry in suburbia. The proposed bylaws defer to the Planning Act 1999. However, I cannot find any express approval for keeping poultry under the Planning Scheme residential zones, including LR, LMR, MR and HR. In addition “All other uses defined in Schedule 2 (Definitions) are Prohibited” and “Undefined Uses Any use not defined in Schedule 2 (Definitions) are Prohibited”.

I strongly support the existing practice in suburban Darwin of residents being allowed to keep poultry. Our chooks contribute to the emotional wellbeing of our family, they all have names and they contribute to the sustainability of our lifestyle. The bylaws should be constructed so as to allow this to continue across the range of residential zones in Darwin.

While roof-top gardens are not a big thing in Darwin at present, a future where roof-top gardens, perhaps even incorporating a chicken coop atop a high density residential building is something we as a society should be encouraging rather than prohibiting. If there are nuisance or animal welfare considerations, address these thought other means than saying no to a more sustainable lifestyle arising from keeping poultry.

[REDACTED]

[REDACTED]

[REDACTED]

CONSULTATION DRAFT - CITY OF DARWIN BY-LAWS 2021

Comments from [REDACTED]

Thank you for providing the opportunity to comment on the draft changes to the City of Darwin By-laws.

While my focus has been on animal management, specifically cat containment, I will also comment on other issues.

1. Matters that do not appear to have been addressed in the Draft By-laws.

It may be that expectations of standards of behaviour, and consequences for members of misbehaviour, are covered by legislation or elsewhere. But if not, a Members' Code of Conduct, Council's compliance with its approved Policies, management of conflicts of interest and related procedural matters ought be included in the By-laws, just as 'disorderly conduct' by members looks like it will be.

The By-laws do not appear to include the need for Council's decision-making to be transparent and for members to be accountable for their decisions – for example by having reports of meetings record deliberations of members (not just decisions) and how each individual member voted on an issue, or by televising Council meetings.

Again, in the interests of transparency there ought be clear and specific criteria in the By-laws detailing those times when deliberations can be in camera. The default should be transparency of processes other than in those circumstances where there is a demonstrably compelling reason for secrecy. There are currently too many 'secret' processes and decisions which undermine the community's confidence in Council.

2. Comments on matters within the Draft By-law

12 Disorderly conduct during meeting of members

If a member causes disorder during a meeting of members and the Lord Mayor or the person presiding at the meeting rules that conduct to be disorderly, the member must:

- (a) apologise, without reservation, to the other members present; or*
- (b) leave the meeting for the remainder of the meeting*

Comment: 'Disorder' is not defined in the By-laws and this section could be misused by the Chair to silence questions or respectful criticism of an issue or proposal etc or to stifle robust debate amongst members.

33 Offence of depositing waste

(1) A person commits an offence if the person deposits waste on land or allows waste to remain on land.

Maximum penalty: 20 penalty units.

Note for clause (1) The infringement amount is 1 penalty unit.

(2) An owner or occupier of land commits an offence if:

(a) the owner or occupier deposits waste, or keeps or allows waste to remain, on the land; and

(b) the waste is likely to attract vermin to the land or to form a harbourage for vermin; and

(c) the waste is not kept in a bin that is vermin-proof.

Maximum penalty: 20 penalty units. *Note for clause (2) The infringement amount is 1 penalty unit.*

(3) An offence against clause (1) or (2) is an offence of strict liability

Comment: Where this deposit of waste is on a large scale, or allowed by the land-owner for commercial reasons there ought be provision for significantly larger penalties – and an infringement notice (which attracts 1 Penalty Point), and the maximum penalty of \$3,160, would be grossly inadequate to deter such behaviour or motivate the landowner to remove the waste. Should at least match the penalty applied in S34 – 100 Penalty Units

How would repeat / ongoing offences be handled by Council?

38 Breaking glass or other material

(1) A person commits an offence if:

(a) the person breaks glass or other material; and

(b) the pieces of the glass or other material are on public land; and

(c) the pieces of the glass or other material are likely to cause injury to a person or animal.

Maximum penalty: 50 penalty units. *Note for clause (1) The infringement amount is 1 penalty unit.*

(2) An offence against clause (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against clause (1) if the defendant proves on the balance of probabilities that:

(a) the breakage was accidental; and

(b) the broken pieces were collected and disposed of safely and without delay

Comment: suggest remove (1)(c) as it isn't relevant.

Part 5 – Animal management

41 Purpose

The purpose of this Part is to ensure:

(a) the socially responsible ownership of animals; and

(b) the protection of the environment and the community

Comment: Seems reasonable

44 Identification device

(1) A registered dog and cat must wear a tag issued by the City when outside the premises where the dog or cat is usually kept.

(2) In addition to wearing a tag, a dog or cat may be required by the City to be implanted with a microchip

Comment: Cats should be on a leash or otherwise contained when not at 'home'. Microchips are preferred to tags as a way to keep tabs on the ownership etc of cats and dogs.

(4) The owner of a registered dog or cat must ensure that it:

(a) wears the tag issued for it when outside the premises where it is usually kept; and

(b) is implanted with a microchip if required under clause (2).

Comment: 44(4) seems to repeat what is covered under 44(1)&(2) – is it necessary?

48 Proper containment of dogs and cats

(1) The owner of a dog or cat must properly contain the dog or cat when it is on the premises where it is usually kept.

(2) A person commits an offence if:

(a) the person is the owner of a dog or cat; and

(b) the dog or cat is not properly contained when it is on the premises where it is usually kept

Comment: 'The owner of a dog or cat must properly contain the dog or cat when it is on the premises where it is usually kept.' is ambiguous. Does it mean that the cat or dog needs to be properly/securely contained within the boundary of the premises where it is usually kept **OR** it is to be separately contained in some sort of enclosure while on the premises where it is usually kept? If it's the former then maybe just say that.

49 Keeping dogs and cats under control

(1) The owner of a dog or cat must keep it under effective control if the dog or cat is at large.

(2) For this Part, a dog or cat is taken to be under effective control if the dog or cat is:

(a) restrained by a leash or similar device that:

(i) is no longer than 3 m; and

(ii) is held by a person who is over the age of 12 years and competent to restrain the dog or cat; or

(b) enclosed in a vehicle, or in or on the back of a flat-topped, tray-backed or well-bodied vehicle, in such a manner that no part of the dog or cat is projecting from the vehicle.

(3) For this Part, a dog or cat is taken to be at large if it is in an outdoor place other than:

(a) the premises where the dog or cat is usually kept; or

(b) a dog or cat exercise area.

(4) A person commits an offence if:

(a) the person is the owner of a dog or cat; and

(b) the dog or cat is at large and not under effective control.

Comment: Suggest that for both cats and dogs being contained within a secure cat-box or dog-box while being transported should be deemed to be under effective control as well....Lot more practical and these seem to be the option of choice when transporting cats outside the home such as for veterinary care.

So suggest add a new 2(c) along the lines of: *“enclosed in a secure container for transportation”*
Note for clause 2(c) suitable enclosures include purpose-built cat-boxes and dog-boxes.

53 *Special cat control area*

(1) This by-law applies to any area that the City declares to be a special cat control area to protect biodiversity or wildlife vulnerable to predation by cats.

Note for clause (1) The special cat control area may include or be adjacent to an area of biodiversity or vulnerable wildlife.

(2) Despite by-law 48, the owner of a cat in a special cat control area must keep the cat inside a building, enclosed cat run or other structure on the premises from which the animal is unable to escape.

Comment: Suggest that (1) be amended to: *“This by-law applies to any area that the City declares to be a special cat control area.”* No need for a justification of this By-law to be included in the wording.

This is excellent, and provides an option to declare areas other than at Lee Point as Special Cat Control Areas in the future as warranted.

I agree with the maximum penalty of 50 Penalty Units or an infringement amount of 2 Penalty Units (\$316) – and this being a strict liability offence.

Suggest that for those times when a cat ‘escapes’ from a Special Cat Control Area on multiple occasions within a set period there be provisions similar to those for dangerous dogs as per **S63** where the owner is required to undergo training or the animal is surrendered to the pound.

64 *Seizure and impounding*

(1) An authorised person may seize:

- (a) a dog or cat that appears to be diseased, injured, savage, destructive, stray or unregistered; or*
- (b) a dog or cat that an authorised person believes on reasonable grounds has attacked a person; or*
- (c) a dog or cat that is at large and not under control; or*
- (d) a dangerous dog whose owner is not complying with Division 3.*

(2) As soon as practicable after seizing a dog or cat, the authorised person must:

- (a) impound the dog or cat in a pound; or*
- (b) return the dog or cat to its owner.*

65 *Notice of impounding*

(1) The CEO must ensure that reasonable steps are taken to notify the owner of an impounded dog or cat that:

- (a) the dog or cat is impounded; and*
- (b) subject to by-laws 67 and 68, the owner must collect it.*

(2) The owner of an impounded dog or cat who receives notice under clause (1) must collect the dog or cat within the time specified in the notice.

(3) A person commits an offence if the person:

- (a) owns a dog or cat; and*
- (b) receives a notice under clause (1); and*
- (c) fails to collect the dog or cat within the time specified in the notice.*

Maximum penalty: 50 penalty units. Note for clause (3) The infringement amount is 2 penalty units

Comment: It is hoped that a separate penalty would also be applied to the owner for allowing the cat or dog to be uncontrolled at large as per the other provisions of the draft By-laws. Then there are the daily charges for caring for the animal while in the Pound.

66 Release from pound

- (1) When collecting a dog or cat from a pound, a person must provide evidence that the person is the owner of the dog or cat or is authorised to act on behalf of the owner.*
- (2) The City may charge the owner a fee for:

 - (a) the costs incurred by the City in relation to the impounded dog or cat; and*
 - (b) delivering the dog or cat from the pound.**
- (3) Subject to by-law 67(1), an impounded dog or cat must not be released from a pound unless:

 - (a) it is registered and implanted with a microchip in accordance with by-law 44; and*
 - (b) it is released to its owner or to a person authorised to act on behalf of the owner; and*
 - (c) the City receives any fees payable in relation to it.**

Comment: Strongly agree with mandatory registering & micro-chipping and cost recovery for the Pound.

68 Destruction of dog or cat

The CEO may arrange for a dog or cat to be destroyed if:

- (a) the dog or cat is in the pound or is abandoned or is found on public land; and*
- (b) the dog or cat is diseased, injured, savage, destructive, unclaimed, unregistered or unwanted; and*
- (c) it is humane to destroy the dog or cat in the circumstances.*

Comment: Agree with the need to be able to destroy animals in particular circumstances but need to be sure that the animal does meet the criteria under 68 (b) and is not destroyed prematurely.... does experience with impounded animals demonstrate that 72 hours is long enough?

69 Disposal or destruction of impounded dogs and cats

- (1) Subject to this by-law, the CEO may, after a dog or cat is impounded for 72 hours:

 - (a) transfer the dog or cat to an entity that provides animal welfare services; or*
 - (b) arrange for its destruction.**
 - (2) The CEO may make arrangements for the transfer of dogs and cats from a pound to a person or entity that provides animal welfare services.*
- Example for clause (2) Arrangements could be made with the RSPCA and other organisations that provide care for unwanted and stray animals*

Comment: Suggest that for the humane treatment and welfare of any animals transferred to an entity that provides animal welfare services there be a maximum time period for holding these animals by that service – after which the animals are destroyed.

72 Livestock

(1) *Livestock is prohibited from being kept in Darwin unless:*

(a) keeping it is expressly allowed under this by-law; or

(b) it is kept on land zoned for domestic livestock under the Planning Act 1999.

Examples for clause (1) Livestock includes crocodiles, cattle, buffalo, camels, sheep, goats, pigs, deer, poultry, llamas and alpacas.

(2) *Honey bees may be kept in Darwin.*

(3) *Horses may be kept on land zoned for organised recreational or domestic livestock under the Planning Act 1999.*

(4) *Chickens (other than roosters) may be kept on land zoned for domestic livestock, community living or community purpose under the Planning Act 1999.*

(5) *A person keeping chickens must ensure that:*

(a) they are properly contained on the premises; and

(b) no more than 6 chickens are kept on the same premises.

Note for by-law 72 The Livestock Act 2008 provides for other measures for livestock in Darwin

Comment: The wording of 72(4) relating to the keeping of chickens is unclear. It's noted that the FAQ's for this consultation state that: "City of Darwin's intent is to allow chickens to be kept on land used or developed for single dwellings on lots greater than 600 square metres or at community gardens, schools or within rural living zones. Roosters may be kept in Darwin only on land zoned for rural living under the NT Planning Scheme 2020."

In the interests of keeping the language of these By-laws plain & simple it's suggested that wording of (4) be changed to something along the lines of: "*Chickens, other than roosters, may be kept on land used or developed for single dwellings on lots greater than 600 square metres, at community gardens or schools.*"

Then **add a (6)** along the lines of: "*Roosters may be kept in Darwin only on land zoned for rural living under the NT Planning Scheme 2020*".

74 Injuring or killing animals on public land

(1) *A person must not, without an authorisation, engage in conduct that causes, or is likely to cause, injury or death to an animal on public land.*

(2) *A person commits an offence if:*

(a) the person intentionally engages in conduct; and

(b) the conduct results, or is likely to result, in injury or death to an animal on public land; and

(c) the person is reckless in relation to that result.

Maximum penalty: 50 penalty units

Comment: Is (2)(c) relevant and necessary?

78 Control of vehicles

(1) *The City must take reasonable steps to post signs warning the public of any restriction or prohibition established by the City in relation to vehicles on a footpath, road or public land.*

Examples for clause (1)

1 No bicycles on a footpath.

2 No skateboards in a pedestrian mall.

3 No heavy vehicles on a road or bridge.

(2) A person must not ride, drive or propel a vehicle contrary to any restriction or prohibition established by the City

Comment: Include as examples use of e-scooters (helmets, speed, parking etc) and speed and other risky behaviours of bicycle riders, esp. on shared pathways.

Re bikes on footpaths, does this align with NT legislation re riding on footpaths?

105 Selling food and beverages on public land

(1) A person may apply to the City for an authorisation to sell food and beverages to the public on public land.

(2) A person must not, without an authorisation, sell food or beverages to the public on public land.

Comment: This may be covered by policy and in the approvals process for public events such as markets, but I didn't see any mention of a prohibition on the sale/use of disposable/single-use, non biodegradable/compostable crockery & cutlery etc at these events.

140 Continuing offence

A court that finds a person guilty of an offence against these By-laws may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 1 penalty unit for each day during which the offence continues after the day the offence is first committed

Comment: Good that this is covered although in some circumstances a maximum 1 Penalty Unit per day may not stop the breach. So court ought have discretion to increase the penalty should Council's or the Court's decisions continue to be ignored.

143 Exception to show cause process

(1) Despite by-law 142, the CEO may issue an enforcement notice without first giving a show cause notice under that by-law if the CEO believes on reasonable grounds that it is necessary to prevent an immediate risk of harm to a person or property

Comment: Yes, it is imperative that Council can very quickly respond to suspected breaches.

██████████
██████████

30 April 2021

From [REDACTED]
Sent: Friday, 30 April 2021 2:59 PM
To: City of Darwin <darwin@darwin.nt.gov.au>
Subject: RE: I oppose the proposed by-laws

Good afternoon

I oppose the proposed by-laws to ban roosters and flocks of more than six chickens from Darwin suburbs. These proposals will affect a lot of people who responsibly participate in a range of different poultry-related activities, which are positive, harmless, hurt no-one and don't result in complaints to Council. The proposed by laws will effectively ban these activities and that is not fair or equitable. Council should address complaints about poultry smell and noise, by using its By-laws that are designed for nuisance smell and nuisance noise.

Regards

[REDACTED]
[REDACTED]

LIVESTOCK AND OTHER ANIMALS PROHIBITIONS AND LIMITS

Roosters are prohibited from being kept in Darwin.

Chickens (other than roosters) are prohibited from being kept in Darwin except on land zoned for domestic livestock, community living or community purpose under the *Planning Act 1999*.

A person who keeps chickens cannot have more than six, and must ensure that they are properly contained. It is an offence if a person keeps an animal that is not allowed by the By-laws.

Why is the council adding this when there are many households with chickens in the back yard or chickens at schools? There are already provision for chickens and land use in other regulations such a planning. The addition of this bylaw is restrictive and outside the scope of the councils

Section

The owner of a registered dog or cat must ensure that the animal wears a **City of Darwin-issued tag** when the animal is away from where they are usually kept. The owner must also have the animal implanted with a microchip if required by Council. A microchip must meet City of Darwin specifications, store information electronically and be able to be read without physical contact (e.g. by a scanner).

It is an offence if the owner of a registered dog or cat allows it to be on public land **without a tag** and, if required, a microchip.

It is an offence if a person allows a dog or cat to be outside where the animal is usually kept without its **City of Darwin-issued tag**, or if they remove a microchip.

Submission

The use of the plastic tags on collars should be placed in the antiquated bin and left there.

It is a requirement for dogs and cats to have a microchip so why isn't this used as part of the registration process? There is absolutely no need these days for the issue of cheap plastic tags when all the animals have a microchip with a unique number which can and is scanned by animal or council staff

[REDACTED]
[REDACTED]

City of Darwin

30 April 2021

Thank you for inviting submissions regarding the proposed changes to By-laws.

I am concerned about the internal inconsistency of the documents available to the public. It is not clear what the proposal is for chickens. In the By-laws document it says:

Livestock is prohibited from being kept in Darwin unless:

1. (a) keeping it is expressly allowed under this by-law; or
2. (b) it is kept on land zoned for domestic livestock under the *Planning Act 1999*.

Examples for clause (1)

Livestock includes crocodiles, cattle, buffalo, camels, sheep, goats, pigs, deer, poultry, llamas and alpacas.

Honey bees may be kept in Darwin.

Horses may be kept on land zoned for organised recreational or domestic livestock under the *Planning Act 1999*.

Chickens (other than roosters) may be kept on land zoned for domestic livestock, community living or community purpose under the *Planning Act 1999*.

A person keeping chickens must ensure that:

1. (a) they are properly contained on the premises; and
2. (b) no more than 6 chickens are kept on the same premises.

This suggests to me that backyard chickens will not be allowed, as most residential blocks will not be on land zoned for domestic livestock.

I feel that this change has not been well publicised and that there are a lot of owners of chickens who will be surprised that they were not consulted. I feel that small numbers of chickens on a standard block are not problematic for neighbours: they are quieter than the average dog.

Thank you for please considering further consultation with the community before restricting chicken ownership to those in areas zoned specifically for livestock.

Kind regards

[REDACTED]

Hello,

I have never made a submission before, so sorry if this is not what you are looking for.

I am not a fan of the by-law on keeping only 6 chooks and 0 roosters in the burbs. In fact, I think that that would be a very bad and unfair decision if it was put in place. I have about thirty chickens, but this law would not affect me as I live rural. Even though I would not be affected, I feel disappointed that this kind of law would even be considered. Maybe if the chickens are a nuisance, then the problem may be solved with a cut down in numbers, but if the birds are not causing any trouble or bothering anyone then it would be very silly to just take them away.

Thankyou.

Hi [REDACTED]

Thank you for calling me back.

I'm just resubmitting for the Chicken by law that DCC want to put in place.

As far as I'm aware there are no problems regarding backyard chooks and there are many other matters that the council should be concerned about like the next door neighbour and his attack dogs that so many people have complained about but DCC have no or very little record of.

I just checked up on what the lady had said and she thinks that there may be a bug in the system and therefore her submissions didn't make it through.

Thank you again for calling back. Have a good weekend.

Kind regards,

[REDACTED]
[REDACTED]

Submission 35

I do not think it is necessary for council to impose rules regarding the keeping of backyard chickens.

What is the purpose on restricting the number to 6 chickens? I am unsure of any benefit to the community of there being less chickens and the cost to try and enforce this type of restriction will be a waste of funds that could be better spent on other priorities.

I also question the reason for a ban on roosters. There are existing avenues for people to have noise issues addressed - there is no need for a council ban on roosters.

Finally, if council does choose to go ahead with the ban on roosters and limiting the number of chickens I strongly advocate for a transition period and also for council to facilitate humane options to manage roosters and hens that will need to find new homes.

Thanks


Malak

Dear City of Darwin

I submit the following comments on the consultative draft for City of Darwin By-laws 2021.

S.55(2) NEEDS WORK

This section needs a bit more definition round what a reasonable apprehension of fear is. Some people might be terrified because a friendly dog approached (rushed?) them and bounced around them playfully (harassed? Menaced?). Who gets to define if the fear is reasonable? This needs to be pinned down more clearly.

My little dog is nervous and never off the lead and will lunge aggressively at off-lead dogs that approach in a friendly way and get in her face excitedly. The section does not make clear who is at fault in this common situation.

S.56 (2)(c) NEEDS WORK

This section could reasonably result in a 'dog attack' and its attendant penalties, from an on-lead dog leaving a wet nose mark or a small smear of dirt on the clothes of a passer-by who happens to interpret friendly behaviour as 'aggression'.

Similarly, under this clause, a couple of dogs in an off-lead area, who attempt to play in a growly assertive manner with another unsocialised dog that fears their friendliness and ends up with a broken collar, are guilty of a dog attack.

The clause is vulnerable to fear-based interpretations of non-aggressive dog behaviour. As a strict liability offence, this doesn't leave any room for solutions of compromise.

S.60(5)(b). NEEDS WORK

Council should ensure owners affected by this clause use muzzles that are suitable in the tropics. I see too many dogs out walking with their mouths held shut by cheap soft muzzles. This is cruel and potentially deadly as dogs easily overheat if they can't pant. A cage style muzzle that allows a dog to pant and drink but not bite is the only humane muzzle for the tropics.

S.64 (1)(a). OPPOSE

This section allows a ranger to seize a dog that is not stray or at large, but 'appears' to be unregistered. It appears to sanction a ranger to enter someone's property and seize their dog because it's not displaying its tag. That would be outrageous! The section is not clear on the limits here. I hope.

Also outrageous is the fact that the dog that is seized for 'appearing to be unregistered' can then be impounded and killed after 72 hours, if the CEO's 'reasonable steps' to contact owners aren't successful (does 'reasonable' include tracking them down on their overseas holiday?), or the owner can't pay the fees (too bad for the poor people!)

This whole section looks like an over-reach by by-law drafters.

To improve it, Council should:

- delete references to seizing or destroying dogs for being unregistered (S.64(1)(a) S.68(b) and S.(69((3))),
- increase the holding time in the pound from 72 hours to a week,
- Strengthen the provisions in S.69(1) and (2) for rangers to work with community based rescue groups to place dogs in permanent homes rather than destroying them.
- Run a workshop with Darwin's Rescue groups to get ideas on how to help them help council not kill pets.
- Authorise officers to apply compassionate discretion to ensure people hit with fines have every reasonable chance to get their pet back alive.

It is understandable that Council is seeking to strengthen its powers around dogs, given the current community mobilization against aggressive dogs. However, this is a community prone to 'mobilized outrage' and the clauses addressed above will likely also attract outrage if implemented.

S.72(4) OPPOSE

this section will force people who happen to have a rooster as a pet, and who keep it quiet and cause no problems, to get rid of their pet. Most likely this will result in the rooster's death, as pet homes for roosters are pretty hard to find. It is not fair to punish everyone for the actions of a few people. It would be much better to use the provisions related to nuisance noise (beef them up if you need to!) than take peoples harmless and much loved pets.

S.72(5)(b). OPPOSE

Same as the above. This will mean taking a lot of pets away. Pets that have caused no-one any harm. It will also make it hard for people to keep productive numbers of pet chickens for 'sustainability', even though they are much better for the environment than dogs or cats, and cause less nuisance. Chicken-keeping should be encouraged, not discouraged. This rule does not reflect the Darwin suburban vibe – it seems more suited to a Gold Coast retirement precinct.

For poultry-related powers, its better to address the WAY people keep poultry, including specific nuisance behaviours, rather than apply blanket restrictions on pets people are attached to, and which are not of themselves a nuisance.

I hope this submission helps Council put together a set of by-laws that best serves the community.

Yours sincerely

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Submission for By-Law review

Public places

Regulation 40 – Throwing stone or object – (a) intentionally throws, or uses a device to throw, a stone or other object on or from public land;

I would suggest “into” is included

Animal Management

I am concerned with the Animal management Purpose of Part.

Previously the purpose stated “manner compatible with the enjoyment by residents of a congenial living environment.” This appears to limit jurisdiction to residential areas and is appropriate given the nature of industrial areas regarding noise and jurisdiction of NTG.

Does this new wording therefore extend Council jurisdiction/responsibility into the industrial area with respect to animal nuisance issues [dog barking in particular]?

43 Offence of unregistered dog or cat

(1) A person commits an offence if the person keeps an unregistered dog or cat in Darwin for a continuous period of 3 months or longer

Obtaining proof will create problems for enforcement and reasonable time frames thereof. This will allow the defence of “my dog has not been here for a continuous 3 months”

48 Proper containment of dogs and cats

(1) The owner of a dog or cat must properly contain the dog or cat when it is on the premises where it is usually kept.

(2) A person commits an offence if:

(a) the person is the owner of a dog or cat; and

(b) the dog or cat is not properly contained when it is on the premises where it is usually kept.

[properly contained, in relation to an animal, means the animal:

(a) is kept within a fenced or enclosed area on the premises from which the animal is unable to escape; or

(b) is leashed or restrained and unable to escape the premises; or

(c) is inside a building or other structure on the premises from which the animal is unable to escape].

“Vehicle” has been removed from containment and moved into Regulation 49 [see below]. I do not see any benefit to this change and it adds further clumsiness to Regulation 49.

49 Keeping dogs and cats under control

(1) The owner of a dog or cat must keep it under effective control if the dog or cat is at large.

(2) For this Part, a dog or cat is taken to be under effective control if the dog or cat is:

(a) restrained by a leash or similar device that:

(i) is no longer than 3 m; and

(ii) is held by a person who is over the age of 12 years and competent to restrain the dog or cat; or

(b) enclosed in a vehicle, or in or on the back of a flat-topped, tray-backed or well-bodied vehicle, in such a manner that no part of the dog or cat is projecting from the vehicle

Regulation 49 reads better as currently stands. The above is confusing with respect to being at large. If a dog/cat is under effective control, it is not at large. Additionally, a 3 metre leash is too long for effective control.

Division 3 Badly-behaved dogs

Seriously, this is the proposed heading?

Darwin By-Laws

NT Chicken Community Hub submission to City of Council

1. Overview

1. NT Chicken Community Hub opposes CoD's proposed by-laws to make unlawful the keeping of roosters and more than six chickens in Darwin's suburbs.

2. The Group considers these bylaws will negatively and inequitably impact on the activities of many of our members by rendering unlawful, activities which deliver positive community benefits, hurt no-one, cause no nuisance and do not result in any complaints to council.

3. The Group considers that keeping roosters and chicken is overwhelmingly a positive activity and, like dogs and cats, it is the way some people manage them, not simply the fact that people have them, that can cause problems in some instances.

4. The Group believes Council should address nuisance rooster and chicken matters directly, using provisions that target nuisance behaviours such as noise and smell, directly.

2. Introduction

NT Chicken Community Hub is has the largest membership of any poultry related community group in the NT. A facebook Group with membership limited to NT Residents, the Hub currently has just under 2000 members, which it has gained in just nine months of existence. Member numbers are growing consistently. The previous incarnation of the Group had accumulated about 9000 members in its 5 year lifespan, which is an accurate indication of the interest in poultry keeping, in the NT. Our membership is drawn from the whole of the NT, but Darwin suburban residents are the largest proportion.

This submission was compiled through consultation with our members and represents their collective views.

The reasons our members keep poultry are varied. Having a supply of free range eggs is a common priority. Also environmentally sustainable productive gardens also commonly feature chickens. However in recent years, fancy heritage poultry breeds which don't lay as well but are available in many more aesthetically pleasing varieties, have risen in popularity to become the top priority of our membership. Many of our suburban members are active in the local poultry clubs and exhibit their birds at the Darwin Show.

The group believes that two of the proposed by-law changes which impact on the numbers and sexes of chickens that can lawfully be kept, are unnecessarily heavy-handed for what they seek to achieve, which we understand to be a reduction in poultry-related nuisance (including noise and smell) in the suburbs.

The two proposed by-laws the group is most concerned about are:

S.72 (4) – which, by omission, appears to ban the keeping of roosters; and
S.72 (5) (b) – which limits suburban flocks to six individual chickens.

Members of the Group are overwhelmingly opposed to these by-laws.

The fact that the proposed changes are strict liability offences feeds a perception of an arbitrary heavy-handedness by Council. The lack of discretion on the part of enforcers, to limit the impacts on activities creating no nuisance or complaints, further supports the view of arbitrary heavy-handedness.

The Group believes that the proposed by-laws will effectively render unlawful, many harmless activities people undertake with poultry, or make it just too difficult to continue, within the new restrictions.

The Group is strongly of the view that:

1. the proposed restrictions on poultry keeping serve a minority of complainants, at the expense of the majority of responsible poultry enthusiasts;
2. the proposed restrictions are likely to be unworkable and vulnerable to legal challenge, given the technical realities of poultry keeping;
3. the proposed by-laws are unlikely to resolve issues of poultry-related nuisance related to noise or hygiene/smell; and
4. Council should address issues of nuisance using powers specifically related to the particular form of nuisance.

Council's published list of community organizations who were consulted in the formulation of the proposed bylaws, does not include any organizations with poultry expertise. This perhaps explains the poor fit of the proposed changes, to Darwin's suburban population and the scope of poultry keeping lifestyle enjoyed by residents.

It is reasonable to assume Council is acutely aware of poultry related complaints it receives, and naturally bases its understanding of suburban poultry-keeping practices on this knowledge. However Council may have limited or no visibility on all the poultry-keeping activities in the suburbs which generate few or no complaints.

3. Discussion of the proposed by-laws

3.1 S.72(4) – Chickens (other than roosters) may be kept...etc (strict liability offence)

If intended for poultry-related noise control in the suburbs, the proposal to ban roosters is flawed.

It is not hard to keep roosters in the suburbs without their crowing being a nuisance. Many of our Group's suburban members currently keep their roosters quiet in the early morning, by locking them up overnight. Council currently gets no valid complaints about these roosters and would

therefore not have visibility on the significant numbers of suburban roosters currently living peacefully in Darwin's suburbs and being managed so their crowing doesn't bother anyone.

Ironically, a ban on roosters, may well result in more complaints to council as it re-defines a relatively common and inoffensive activity (responsibly keeping a rooster) as an offence.

Reasons a ban on roosters is NOT a reliable approach to reducing nuisance noise by poultry:

*Hens sometimes crow. In the absence of a rooster, or even when a rooster is present, hens will often take on the job of crowing. They do it early, and throughout the day, just like a rooster. *This is not uncommon.*

*Hens are relatively quiet, but when they lay an egg, they often 'celebrate' by cackling loudly, and often for an extended period of time. Other members of the flock will often join in. This happens regardless of the presence or absence of a rooster.

For these reason, a ban on roosters is NOT a reliable approach to reducing poultry noise.

In practice, a ban on roosters (as opposed to a ban on unreasonable rooster noise) will be difficult for rangers to enforce for the following reasons:

*It is difficult to tell the difference between the sexes in some chicken breeds. Some roosters have 'hen feathering' and facial features making them appear similar to hens.

*All immature roosters look like hens.

*Some adult hens develop large wattles and combs, making them appear like roosters.

*Some cockerels (young roosters) crow well before they develop a typical rooster appearance, which will make it very difficult for a ranger to visually pick the crower out from a group of hens.

These factors will reduce a ranger's ability to visually pick a rooster out of a group of chickens. This will make the by-law vulnerable to misadministration and therefore legal challenge.

Many roosters are currently kept as pets in the suburbs, and generate no complaints due to the way they are managed. Older roosters also tend to crow a lot less or not at all. They are also more likely to be beloved pets, by virtue of having been in the family a long time. Many people feel as attached to their roosters as they do their dogs and cats.

If a rooster doesn't make any nuisance noise, it seems unnecessarily heavy-handed to ban it, simply for being a rooster. ***Banning roosters is not a fair or balanced way of serving competing community priorities.***

By introducing a strict liability offence for keeping a rooster, regardless of whether the animal causes a nuisance, Council will negatively affect numerous suburban dwellers who previously

attracted no complaints for their quiet roosters. The new provision may create more work for council, and more dysfunctional neighbour relationships than previously existed, as it gives legitimacy to arbitrary complaints. The proposed ban risks creating the circumstances for MORE not less complaints to Council.

Council would surely achieve greater success in the quest to minimize noise complaints related to roosters, by educating poultry owners on how to appropriately control rooster noise, at least in the first instance. Council's practical and fair approach of educating owners of barking dogs in the first instance, and only introducing punitive measures in cases where other measures fail, would be a fairer and more practical way to deal with poultry than simply banning roosters.

In discussing the proposal with a council officer, Group members were informed that a problem with the current by-law which only targets rooster noise, is that often the noise can't be pinpointed to a particular back yard. This problem is not solved by the proposed by-law, it just makes it easier to find someone to blame, regardless of their culpability.

3.2 S.72(5)(b) – no more than six chickens to be kept... (strict liability offence)

It's difficult to understand what aspect of suburban life the six chicken limit seeks to serve, and why council settled on that particular number. In discussing the consultative draft with Council representatives, members of this group were informed that the six chicken limit seeks to resolve complaints about noise and smell, from suburban poultry while still allowing poultry keeping.

Whether the proposed limit can deliver a solution to problems of noise and smell is a matter of conjecture. Smell is a result of poor hygiene, which is due more to the way people manage their chickens, than how many chickens they have.

Indeed, where households put their food scraps out for their chickens to eat (a very common practice) downsizing the flock may lead to greater smell problems as the usual volume of scraps is left uneaten, to rot and attract vermin, including where no problem previously existed. These problems would better be addressed directly, using powers related to nuisance noise and sanitation, such as in S.33 (2), and S.76 (a)(b) and (c).

Similarly, reducing flock size won't necessarily result in a reduction in noise-related complaints. For the following reasons:

- *Chickens often 'celebrate' when they lay an egg, by cackling. This is quite loud, can go on for a while, and any other chickens will often join in.
- *Some chicken breeds make a lot of noise, some breeds are quiet.
- *Some hens like to crow like a rooster.
- *Six young vigorous egg laying hens, could easily make more noise than 15 senior hens and a well-managed rooster.

Thus a six chicken limit is not necessarily going to placate a neighbour who just doesn't want to hear chicken noise.

3.2.1 Chickens as livestock

The listing of chickens under 'livestock' in the consultative draft, suggests an assumption by Council, that suburban people keep poultry for productive purposes, such as eggs and meat. Considering chickens in utilitarian terms is no longer the most prevalent attitude towards suburban chickens. Assumptions that a flock of six chickens can perform a livestock role as well as a bigger flock, lacks understanding of the productive capacity of chickens in the tropics.

Egg and meat production is a high priority for some suburban chicken owners. Chickens can provide a source of protein as well as an ethical alternative for people who do not wish to support intensive/industrial animal farming.

Only young hens lay eggs consistently so if a steady supply of eggs is your primary goal in keeping chickens, you are best with chickens no older than 2 years. Six young hens are likely to provide sufficient eggs for a small family as long as the family disposes of and replaces the hens regularly with young birds, and only keeps commercial hens bred specially for egg laying.

The family will still find that during Darwin's hotter and more humid months, six hens don't lay much. This is the case even for commercial chickens that are specially bred for egg laying.

For eco/sustainability projects in back yards, chickens provide the following services:

- *Their poop adds nitrogen to the soil, which restores its fertility
- *They eat pest insects and weeds – they are an environmentally friendly alternative to pesticides, herbicides and fertilizers.
- *They remedy soil compaction, aerate the soil and distribute soil nutrients with their scratching
- *Chickens have the shortest economic cycle and lowest up front investment cost of any agricultural animal
- *Chickens are accessible to back yard farmers and gardeners, and their inclusion in a backyard agricultural project is at an appropriate scale.

Heritage/fancy (non-commercial) chicken breeds while popular, generally lay a lot less than commercial hens, so six fancy chickens are highly unlikely to be sufficient to supply an average sized family with eggs.

All hens can live in excess of ten years if kept well. People who keep larger flocks often do so in order that they can have a steady supply of eggs from young hens, and also offer their old layers a safe home for life. Having a sufficient supply of 'home-grown' eggs at the same time as giving your old girls a safe home for life, is not possible within the six hen limit.

In this way, the proposed by law discourages a compassionate and responsible attitude towards pet hens, and our group considers this a very negative effect of the proposed by-law.

Given that meat chickens are specially bred for the purpose, and egg layers are specially bred for the purpose, one chicken cant do both jobs. So anyone seeking to grow eggs AND meat will not get much output within the six chicken limit.

The number of chickens suited to individual backyard eco/sustainability projects depends on the size of the plot as well as the intensity of the projects. The six chicken limit as a strict liability provision, may be an arbitrarily poor fit for sustainability activities.

3.2.2 Chickens as pets and hobbies

There are many reasons besides eggs and meat, that people keep chickens in Darwin. Most of these reasons fall more accurately under the heading of ‘pets’ than ‘livestock’.

Chickens make great pets. They have personalities and can be affectionate. They productively recycle food scraps and make a garden more interesting and aesthetically pleasing. They don’t kill native wildlife and they don’t roam the streets attacking other people’s dogs.

Given the community conflict and criticism leveled at Councils for their management of aggressive dog issues, Council should be encouraging people to have relatively benign animals like poultry as pets, rather than making it harder to do so.

Introducing limits which presuppose poultry are livestock, ensures the proposed by-law does not accurately reflect current attitudes and practices around chickens. This will result in impacts on a large number of suburban chicken enthusiasts who are currently participating in activities which don’t hurt anyone, and generate no nuisance complaints to council. Many of these people will be negatively impacted in ways that do not seem fair or balanced or necessary for the greater good.

Some more examples of chicken-related activities suburban people engage in, which nominally require more than six chickens, are as follows:

3.2.2.1 Hatching and raising chickens for Education

Families in our facebook Group report how valuable it is for their children to be involved in raising chickens. Watching the process of egg incubation and hatching, watching a mother protect and teach her babies how to forage, and learning how to respect and handle baby animals gently, and help them survive and grow, are considered desirable educative experiences for all children, including those who don’t live rurally. Having some hens and a rooster and watching nature unfold is a defining activity in many early learning institutions in Darwin’s suburbs.

Chickens are ideal animals for children to have these experiences with since they are relatively low maintenance and the offspring are (under existing by-laws) easy to absorb into the home flock or to rehome to chicken-keeping friends. A limit of six chickens will stop such practical family lessons in Darwin’s suburbs as the usual options for housing the new chickens will no longer be lawful if a flock comes to exceed six individuals or if any of the young are male.

Additionally, even before chicks are ready for rehoming, the proposed by-law automatically designates the activity of allowing a hen to hatch a clutch of eggs, as illegal, if it takes the total chickens at a property, over six. In reality this is likely to happen in the majority of hatching events.

3.2.2.2 Exhibiting Poultry

Hatching and raising chicks is a fundamental and essential component of many Poultry club activities, as well as critical to exhibiting poultry at the Royal Darwin Show. Participation in clubs and shows is an important and positive aspect of living in a community like Darwin. Some of the Darwin and Rural Poultry Clubs most active enthusiasts come from the suburbs of Darwin, and anecdotally, Darwin's suburbs produce some of the highest quality show chickens. It would be a real shame to prevent suburban residents from participating in these rewarding aspects of Darwin life. But that will be the unavoidable result of limiting suburban households to just six chickens and no roosters.

If Council remains committed to introducing a six chicken limit with a strict liability, it will effectively ban the hatching and raising of chicks by families and educators, as well as make it impossible for suburban people to actively participate in poultry club events or the Darwin Show. Thus Council will position itself as the fun-police of Darwin's suburban lifestyle as it forces people to comply with by-laws that have limited capacity to control noise and smell from poultry, and which render unlawful a variety of popular suburban activities which are fun, wholesome and don't cause nuisance.

As a simple alternative to effectively banning people from hatching eggs and raising chicks, Council might decide to amend the by-law to exempt chickens below a certain age from the six hen limit.

Making this approach workable however, is far from straightforward.

Questions such as what age a chick becomes a hen require a clear, measurable answer. Can Council's rangers reliably age chickens and what characteristics would they use for the purposes of enforcement? How will they accommodate the fact that different breeds mature at different rates, and the appearance of 'adult' feathers is not a consistent indication of maturity. Even the most experienced poultry people in our group would struggle to name any characteristics that could be used for all breeds as a determinant of age, reliably enough to resist a legal challenge.

In reality very few council rangers will possess the level of expertise needed to enforce the proposed limit beyond simply counting the number of chickens present, which will leave any attempt to accommodate some chick hatching and raising through regulation, vulnerable to legal challenge.

4. Poultry dumping

Currently when someone needs to rehome a chicken, it is not too hard to find someone who will add it their existing flock either locally or in the rural area. Despite this, Darwin and Palmerston already have a poultry dumping problem, whereby owners take their unwanted poultry and leave them somewhere to fend for themselves. Chickens typically get dumped in vacant lots, parks, car parks, and likely out bush, though the latter is an unknown quantity as its difficult to detect.

Dumped chickens typically don't last long, becoming prey to dogs or snakes and getting hit by cars. Some probably last long enough to starve to death or die of dehydration. Group members try to rescue dumped poultry whenever we know about them. Dumping is not limited to roosters (although they make up the majority of dumped poultry).

Even taking into account rural poultry keepers as potential homes for unwanted poultry, the six chicken limit, and the ban on roosters, will create many more 'excess' chickens, and make it harder to rehome them, as it removes a lot of potential homes. Chicken dumping, and all the cruelty and suffering that goes with it, will increase with a six chicken limit, and a ban on roosters.

As well as dumping, some people will inevitably decide to kill their excess chickens.

Beheading, while clearly unacceptable for other species, is still widely considered an acceptable method to dispatch chickens. It is humane only when done deftly by a very skilled and experienced person. For some people, its appealing simply because its cheaper than getting an unwanted chicken put down by a vet. However most people lack the skill to behead a chicken effectively or humanely. It is likely that amateur beheadings will lead to extreme animal cruelty and conflicts between neighbours, much as it would if people started beheading their unwanted cats and dogs in their back yards.

If council remains committed to the six chicken limit and the ban on roosters, it must as a matter of urgency, provide a service to take 'excess' chickens and roosters and deal with them humanely. Additionally Council must urgently educate Darwin residents, and introduce penalties for cruelty to chickens in order to limit the cruelty will inevitably be inflicted on chickens as a result of Council's by-laws.

5. Summary

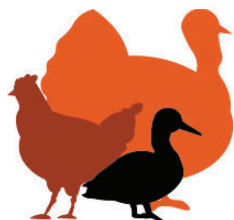
Our facebook Group represents a significant number of Darwin residents. The Group hopes that the matters raised in this submission highlight unintended but inevitable outcomes of proposed by-laws in S72 (4) and 72 (5)(b). It is hoped that Council can understand that the proposed by-laws do not represent a fair or balanced approach to resolving nuisance problems including noise and smell, from suburban poultry, as the vast majority of poultry keeping in Darwin doesn't generate complaints to Council.

Our Group recommends that Council respond to complaints of nuisance directly, using existing provisions related to the particular nuisance, because this remains the most effective and equitable way for Council to mitigate those problems.

Yours sincerely

The members of the NT Chicken Community Hub

For enquiries about this Group or its submission, please contact the Administrators through facebook.



Darwin & Rural Poultry Club

PO Box 2007, Coolalinga NT 0839

E: [REDACTED]

Response to Darwin City Council Review of By-Laws.

The Darwin & Rural Poultry Club draws members from both Darwin urban and rural areas, as well as Katherine. We are the only poultry club in the NT. Two of our eight objectives are:

- (1) To promote breeds of poultry to the general public and to encourage those that keep poultry to consider keeping pure breeds, to assist in maintaining the genetic diversity of domestic poultry for future generations; and*
- (2) To assist poultry fanciers in the Darwin and Rural areas to raise healthy poultry through shared knowledge and experience of keeping poultry in the tropics.*

To use the phrase in your background paper on the need for a review, the Darwin & Rural Poultry Club is all about “implementing best practice”.

We conduct club meetings and an annual club show; and we network and communicate via phone, emails and facebook in order to support/advise our members and implement best practice.

We recognise that there is a need for a review of the Darwin City By-Laws in many areas. By-laws do need to be updated from time-to-time with advice from relevant stakeholders and taking into account “community needs and expectations”.

We do not believe that changes to the by-laws affecting the keeping of poultry are warranted. The specific by-laws that we are concerned about are:

71. (4) Chickens (other than roosters) may be kept on land zoned for domestic livestock, community living or community purpose under the Planning Act 1999.

We believe this means that the City of Darwin’s intent is to allow chickens to be kept on land used or developed for single dwellings on lots greater than 600 square metres or at community gardens, schools or within rural living zones under the NT Planning Scheme. Roosters may be kept in Darwin only on land zoned rural living under the NT Planning Scheme 2020.

Comment:

1. Most poultry keepers in the Darwin City area are well-aware of their responsibilities to keep noise to a minimum, to ensure that their animals are not a nuisance to their neighbours. Many use safe and effective practices with roosters to ensure they do not crow and disturb neighbours too early in the day e.g. rooster collars, shutting away in a dark cage/area overnight.
2. It appears that the new by-laws would prohibit roosters from being kept in community gardens or schools within the Darwin City boundary. This would affect many school

programs that teach students about life cycles through the incubation and hatching of fertile eggs.

3. Wailing/howling/barking dogs and loud music through the day or night are often a far greater disturbance than the occasional crow of a rooster through the day.
4. Surely a conversation between neighbours to attempt to resolve an issue is preferable to a council penalty (50 units).
5. Council can already respond to noise complaints (roosters, ducks etc) through the Environmental Protection Authority. Problems should be dealt with on a case-by-case basis. A warning may be given, and if there is still a problem, action can be taken.

(5) A person keeping chickens must ensure that: (a) they are properly contained on the premises; and (b) no more than 6 chickens are kept on the same premises.

Comment:

1. "Six" chickens is very arbitrary, given the sizes of chickens can vary enormously. Bantams are only about ¼ size of large fowl, where there is a large fowl equivalent in that breed. Some bantam breeds are particularly tiny and not much larger than pigeons. This is especially true of the females of these breeds which are not only small, but also produce very little noise.
2. There should be provision for hatching chicks, then juvenile stock, being on the premises. Juvenile stock should be allowed for the replacement of breeding or exhibition stock or for food purposes. Exemption of juvenile stock in the overall numbers of poultry should be allowed until poultry are of selection age. For breeding stock, the suitable selection age should be less than one year and for food production, less than four months.
3. Enforcing the "six chicken" limit is potentially a time-consuming and difficult response.
4. "properly contained" is difficult to interpret. Best practice for many urban poultry-keepers is to have their poultry "free-ranging" through the day (in the backyard) and locked up at night for their own protection against neighbourhood hunters like cats and snakes. Many poultry-keepers trim one wing of their birds so they cannot fly over fences, and thus remain safe in their own yards.
5. Keeping birds securely locked up ("properly contained") in a small backyard enclosure 24/7 is cruel to the birds, potentially unhygienic and a good recipe for odour build-up which would cause a nuisance to neighbours.

Further comments that support the keeping of an unspecified (reasonable) number of chickens in urban areas:

1. Poultry keeping is an excellent hobby for Darwin's youth, giving them an opportunity to mix with and be mentored by people of all ages, to learn and apply skills in breeding, show preparation and showmanship and to continue in that hobby for the rest of their lives. It is also a hobby that they in turn can eventually share with their children and grandchildren. There are a number of our club members with children. These parents are currently encouraging their children to care for their chickens so that they are healthy and able to be exhibited. It is an enjoyable family activity.
2. Keeping and breeding chickens has proven to contribute to the wellbeing of all people, especially those with mental health issues. As one person writes: Chickens are "anxiety and depression recovery therapists." It is a good thing for urban people to have chickens in their backyards, without council putting a number on how many they can have.

3. One of the considerations mentioned in the Council’s Fact Sheet on the proposed by-laws is that Council is trying to “consider issues that may come up in the future”. We’d like to point out that nobody could foresee the issue that arose last year with Covid-19 lockdowns, and the unprecedented demand for poultry (for eggs and meat) that resulted. There are now many more people in the Darwin City Council area who have experienced the benefits of keeping chickens, and will want to continue to keep chickens in the future.
4. We believe that an issue that is more and more likely to come up in the future is the desire by urban dwellers to have their own patch of sustainability. Already there are suburban home owners with beehives in their backyards. Vegetable and herb gardens have always been popular, and their importance was highlighted last year during lockdown. Keeping and breeding chickens (which necessitates a rooster) is integral to our concept of sustainability. As well as providing meat and eggs, chickens also supply manure for the vegetable and herb gardens. We believe there is a community need and expectation for this to continue.
5. The proposed by-laws relating to the keeping of chickens will severely limit the capacity of Darwin City residents to participate fully in poultry breeding and club activities like exhibitions.

The Darwin & Rural Poultry Club is prepared to work with the Darwin City Council to promote good poultry husbandry so that potential noise and smell issues are “nipped in the bud” through education and mentoring. This is our preferred way forward, rather than imposing arbitrary limits that unfairly and unnecessarily impact urban residents.

Yours sincerely

[Redacted signature block]

Signatures in Support of the Darwin & Rural Poultry Club Letter to Darwin City Council re changes to By-Laws.

[illegible]

Submission to City of Darwin re proposed By-law changes

Chickens (Hens and Roosters)

I would like to add my objections to the proposed by-law relating to the keeping of chickens in suburban yards.

There is no evidence supporting a reason to change existing poultry laws within the Darwin city council, the current rules and regulations in place are working fine. The benefits of keeping chickens are enormous from supplying with delicious fresh, healthy eggs they are wonderful pets they also fertilise the garden and help keep the bugs down, not to mention being part of the drive to local, sustainable food systems. They also play a part in the eradication of cane toads.

By restricting the number of chicken's people will be put in a horrible position of choosing to get new laying hens or keep their pet who is past laying age, knowing if they don't keep them the chances of them living the rest of their lives happily scratching around a yard are very slim. Yes our chickens are loved, and well cared for in our back yards.

There are many reason for my, and many others objections to this proposal, I have listed a few below

- The Council already has provisions to respond to and deal with nuisance poultry such as in relation to odour and noise;
- The proposed by-laws will create an additional layer of regulation that is unnecessary in all the circumstances and will empower vexatious complaints by neighbours in relation to matters that are already well-covered by existing legislation;
- Many owners of chickens, will choose to keep older chickens who no longer lay eggs as valued family pets.
- Further, many owners may hatch a clutch of eggs from time to time. The arbitrary limitation of the flock to a maximum of 6 chickens would mean that owners would have to continually dispose of chickens to keep under the limit when there is no real reason to do so;
- Enforcement of the proposed by-laws would be untenable. This is particularly the case given that, anecdotally, many households purchased chickens to keep in their backyards during the COVID-19 pandemic
- keeping chickens in your backyard is that they can help control pests in your garden.
- The proposed by-laws would have a negative impact upon the local economy and local community.
- Keeping chickens in your backyard can help control pests in the garden, reduces bio waste and is in general classified as sustainable living which is promoted by Darwin City Council.
- Responsible chicken owners keep their flock locked up at night and manage the noise of their roosters. As my neighbours say to me all the time "the noise made by hens and roosters is a lot quieter than the dogs in the neighbourhood and listening to them is quite relaxing"
- Research has shown that keeping chickens also reduces the number of cane toads
- Let's be real chicken and roosters are not an issues feral dogs and irresponsible owners should be the issues here.
- Chickens are amazing for the soul. They are great for children as a chore and also for anxieties and depression

Asking someone to give up their pets for a purposeless reason with no real justification is absurd. Our chickens are like our children, they provide so much love and not to mention entertainment.

Please reconsider this absurd change to a by-law that is not broken.

Thank you

██████████
████████████████████
██████████

CoD Submission Feral and Domestic Cats

Part 5 Animal Management

Feral and Domestic Cats

I noticed there are no by-laws regarding feral cats and not sure what laws there are regarding feral cats.

I would like to express my concerns regarding domestic and feral cats.

I believe domestic and feral cats kill the native wildlife.

I would like to see all suburbs adjacent to any national parks, bush land, Crown Lands ETC. cat free, meaning no cats allowed in residences.

I believe that domestic and feral cats kill native animals for sport and do not kill for food.

Therefore, I believe domestic and feral cats are a threat to the existence of native wildlife.

I would like to request cat traps installed and checked in locations that can protect the native wildlife such as national parks, bush land, Crown Lands ETC.

I believe all residents need to be aware of their responsibilities regarding ownership of domestic cats and the behaviours of their cats at night.

I have discussed domestic and feral cat issues with friends and have realised not all people are aware that cats kill for sport and do not hunt for food. Many people believe cats eat their kills and this is not the case.

Therefore, this is another issue that I believe requires addressing – educating the public on what domestic and feral cats do when roaming the streets at night.

Thank you

1/4/21

NORTHERN TERRITORY OF AUSTRALIA

CITY OF DARWIN BY-LAWS 2021

Subordinate Legislation No. [] of 2021

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. [] of 2021*

City of Darwin By-laws 2021

The City of Darwin, at a meeting held on [*insert date*] 2021 made the following By-laws under the *Local Government Act 2019* and, for section 63(2)(a) of the *Interpretation Act 1978*, authorised [], the Chief Executive Officer, to sign them.

Dated 2021

Chief Executive Officer

The common seal of City of Darwin is affixed under a resolution authorising the seal to be affixed passed on [] 2021.

Dated 2021

Chief Executive Officer

CONSULTATION DRAFT
Ref: City of Darwin By-laws 2021

* Notified in the *Northern Territory Government Gazette* on [] 2021.

Part 1 Preliminary matters

Part 1 Preliminary matters

1 Title

These By-laws may be cited as the *City of Darwin By-laws 2021*.

2 Commencement

These By-laws commence on the commencement of section 275 of the *Local Government Act 2019*.

3 Definitions

In these By-laws:

approved means approved by the City by resolution.

assistance dog means a dog:

- (a) trained or assessed by a training institution recognised by the CEO; and
- (b) used by a person to alleviate the effects of a diagnosed disability, whether physical, sensory or psychological.

authorisation means a form of written or electronic authority issued by the CEO that is required under these By-laws to do something, to have something or to engage in other conduct.

Examples for definition authorisation

1 An outdoor advertising permit.

2 A dog or cat registration.

boat means a floating vessel of any kind.

City means the City of Darwin.

Note for definition City

The Minister for Local Government changed the name of the council for the City of Darwin local government area to the "City of Darwin" by notice in Gazette S48 of 9 August 2012.

Darwin means the City of Darwin local government area.

dog exercise area means an area declared by the City, by resolution, to be a dog exercise area.

emergency vehicle, see regulation 3 of the *Traffic Regulations 1999*.

Part 1 Preliminary matters

enforcement notice means a notice issued under by-law 141.

fees includes charges, dues, fares and rents payable to the City.

goods includes food, beverages, wares, merchandise, raffle tickets, tokens, badges and vehicles.

handbill means a printed announcement or advertisement, including a poster, placard, notice, ticket, pamphlet and card.

identification device means a tag or a microchip that complies with by-law 44.

infringement amount, see by-law 148(2).

infringement notice, see by-law 149(1).

infringement notice offence, see by-law 148.

library material means anything that is part of a public library's collection, whether or not it is the property of the City or the Territory.

library officer means a person appointed by the CEO to be an officer for a public library.

livestock, see section 5 of the *Livestock Act 2008*.

market means an area in which 2 or more stalls are located or intended to be located.

market licence means a licence issued by the CEO under by-law 107.

meeting of members means any meeting of members of the City, including a meeting of an audit committee or a council committee.

motor vehicle, see section 5 of the *Motor Vehicles Act 1949*.

owner, see by-law 4.

pound means a place established by the City as a pound.

premises include the follow:

- (a) a building or other structure;
- (b) a part of a building or other structure;
- (c) land where a building or other structure is situated.

Part 1 Preliminary matters

properly contained, in relation to an animal, means the animal:

- (a) is kept within a fenced or enclosed area on the premises from which the animal is unable to escape; or
- (b) is leashed or restrained and unable to escape the premises; or
- (c) is inside a building or other structure on the premises from which the animal is unable to escape.

public land means a road, a reserve or land within Darwin that is owned, controlled or maintained by the City.

public library means any premises of, or used in conjunction with, a public library administered by the City.

sell, in relation to goods, means offering or exposing goods for sale or hire or displaying or publishing an advertisement describing or promoting the sale of goods, from a stall.

service vehicle means a motor vehicle under the control of and used by the following:

- (a) an employee of the City;
- (b) an employee of an Agency responsible for highways, the construction and maintenance of government works or planning and urban development;
- (c) an employee of the Power and Water Corporation;
- (d) an employee of a body providing telecommunications services in Australia.

stall means an outdoor structure in or from which goods or services are offered for sale and includes a tent, motor vehicle, caravan, trailer and table.

Examples for definition stall

A stall at an outdoor market selling beverages or food, offering massages or selling handicrafts.

stallholder means a person who sells or offers for sale goods from a stall.

stallholders' association means a body corporate that holds a market licence under by-law 107.

tag means a tag issued for a dog or cat under by-law 44(1).

Part 1 Preliminary matters

vehicle means any conveyance that runs on wheels.

Examples for definition vehicle

Cars, trucks, trailers, motorcycles, bicycles, scooters, skateboards and inline skates.

waste means garbage, litter, rubbish, refuse and other organic or inorganic waste matter.

Note for by-law 3

The Act also defines terms that are used in these By-laws.

4 Meaning of owner

- (1) In relation to an animal, **owner** means any of the following:
 - (a) for a registered dog or cat – the person who is registered as the owner of the dog or cat;
 - (b) the person for the time being in control or possession of the animal;
 - (c) the occupier of the premises, or a part of the premises, where the animal is usually kept.
- (2) If an owner under clause (1) is a person under the age of 18 years, the owner is taken to be any parent or guardian of that person.
- (3) In relation to a motor vehicle, **owner** means the person in whose name the motor vehicle is registered under the following:
 - (a) the *Motor Vehicles Act 1949*;
 - (b) a law of a State or other Territory that provides for the registration of vehicles.
- (4) In relation to anything other than an animal or a motor vehicle, **owner** includes the person for the time being in control or possession of the thing.

5 Acknowledgement of Larrakia

- (1) Darwin is on Larrakia country and the City acknowledges the Larrakia people as the Traditional Owners of the Darwin region and pays its respects to Larrakia elders past, present and emerging.

Part 2 **Meeting of members**
Division 1 **Purpose of Part**

- (2) The City is committed to a positive and cooperative relationship with the Larrakia People based on respect for the history and values of the Larrakia People and their important role in the community.

Note for by-law 5

Under section 5 of the Act, the rights and interests of Aboriginal traditional owners are to be recognised.

6 **Application within Darwin**

These By-laws apply to and have effect within Darwin.

Note for by-law 6

Under section 275(4) of the Local Government Act 2019, a by-law binds the Territory and all its instrumentalities.

7 **Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against these By-laws.

Note for by-law 7

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 **Meeting of members**

Division 1 **Purpose of Part**

8 **Purpose**

The purpose of this Part is to:

- (a) allow the City the flexibility to determine procedures for meetings of members by resolution; and
- (b) complement the provisions of the Act regarding meetings of members.

Notes for by-law 8

- 1 *Part 6.1 of the Act provides many of the important rules for meetings of the members.*
- 2 *Part 7.4 of the Act provides for a code of conduct for the members of an audit committee, a council and a council committee.*

Part 2 Meeting of members
Division 3 Public participation

Division 2 Procedural matters

9 Procedures for meetings of members

- (1) Subject to the Act, the procedures for the conduct of the business of the City and its members may be determined by the City, by resolution.
- (2) Meetings of members must be conducted in accordance with any procedures determined by the City.

10 Attendance of public and reporters at meetings

- (1) The City must make available an area for the public, including reporters, to attend the meetings of members.
- (2) The area must accommodate as many persons as can reasonably attend a meeting of members.

11 Petitions

A petition may not be presented to the City unless the petition clearly shows that each person signing the petition agreed with the petition.

Note for by-law 11

In the case of an electronic petition, there must be evidence that each electronic signature could not be affixed unless the person signing it agreed with the petition.

12 Disorderly conduct during meeting of members

If a member causes disorder during a meeting of members and the Lord Mayor or the person presiding at the meeting rules that conduct to be disorderly, the member must:

- (a) apologise, without reservation, to the other members present;
or
- (b) leave the meeting for the remainder of the meeting.

Division 3 Public participation

13 Public participation at meeting of members

- (1) A person who is not a member must not take part in a meeting of members unless allowed by the Lord Mayor or other person presiding at the meeting.

Part 3 **Administrative matters**
Division 2 **Information**

- (2) A body or group of persons may apply in writing, to the Lord Mayor or other person presiding, to speak at a meeting of members.

14 **Person interrupting orderly meeting**

- (1) If a person, other than a member, causes disorder during a meeting of members, the person must leave the place where the meeting is taking place if requested to leave by the Lord Mayor or the person presiding at the meeting.
- (2) An authorised person may remove the person if the person does not leave in accordance with clause (1).

Part 3 **Administrative matters**

Division 1 **Purpose of Part**

15 **Purpose**

The purpose of this Part is to provide standard rules for the following:

- (a) keeping records of the City;
- (b) publishing information by the City;
- (c) charging fees by the City;
- (d) issuing, varying and revoking authorisations.

Division 2 **Information**

16 **Records**

- (1) The CEO must keep records of the following:
- (a) all dogs and cats registered under these By-laws;
 - (b) all authorisations issued under these By-laws;
 - (c) any other matter required by these By-laws or by the City.
- (2) The records may be kept in any form, including electronic form.

Note for by-law 16

The City has obligations as a public sector organisation under the Information Act 2002.

Part 3 Administrative matters
Division 3 Fees

17 Written notices

To avoid doubt, a written notice required under these By-laws may be in electronic form.

Example for by-law 17

An email sent to a permit holder.

18 Publishing information

Any notice, document or other information that must be published under these By-laws must be published in a timely manner on the website of the City.

Note for by-law 18

The Act provides for the publication of determinations, notices and minutes of the City and the protection of confidential information. Publishing includes publishing or broadcasting by radio, television, Internet, telephone or other means.

Division 3 Fees

19 Determining fees

- (1) The City must, by resolution, determine matters related to fees for the following:

- (a) authorisations;
- (b) property, things or services provided by the City or an entity owned or controlled by the City.

Examples for clause (1)

- 1 *Supplying a service, product or commodity.*
- 2 *Receiving applications and issuing a licence or permit.*
- 3 *Registering an animal or thing.*
- 4 *Waiving fees during a time of crisis.*
- 5 *Admitting a person to a building and allowing the use of real or personal property.*

- (2) To avoid doubt, the amount of fees may vary according to relevant circumstances and conditions.

Examples for clause (2)

- 1 *Lower registration fee for a sterilised dog or cat.*
- 2 *Lower fee for a pensioner.*

Part 3 Administrative matters
Division 4 Authorisations

20 Other matters related to fees

- (1) Notice of the determination of a fee must be published as soon as practicable.
- (2) The City must not demand or receive any fee determined under by-law 19 unless notice of the fee was published.
- (3) Any fee that is not paid when it is due may be recovered as a debt due to the City.

21 Access to payment methods

The methods provided by the City for the payment of fees to the City must include methods accessible to:

- (a) people with a wide range of literacy, language and skills; and
- (b) people lacking the means or ability to use automated or purely electronic payment systems.

Division 4 Authorisations

22 Issuing authorisations

- (1) The CEO may issue, or refuse to issue, an authorisation.
- (2) An authorisation remains in force for:
 - (a) the period, if any, specified in the authorisation; or
 - (b) if no period is specified in the authorisation – the period of 12 months after the date of its issue.
- (3) An authorisation is subject to the conditions specified by the CEO.
- (4) An authorisation is not transferable, unless these By-laws expressly provide otherwise.

Examples for by-law 22

Authorisations include event permits, dog and cat registrations and outdoor advertising permits.

23 Application for authorisation

- (1) An application for the issue of an authorisation may be made to the CEO.
- (2) The application must be in the approved form and accompanied by:
 - (a) the appropriate fee, if any; and

Part 3 Administrative matters
Division 4 Authorisations

- (b) any documents, specifications or particulars that the CEO may require.

24 Revoking or varying on request

- (1) The CEO may, on the written request of the holder of an authorisation:
 - (a) revoke the authorisation; or
 - (b) vary the conditions of the authorisation.
- (2) The CEO must give the holder written notice of the revocation or variation.

25 Revoking, suspending or varying for cause

- (1) The CEO may, in accordance with this by-law, revoke, suspend or vary the conditions of an authorisation if the holder of the authorisation:
 - (a) obtained the authorisation improperly; or
 - (b) failed to comply with these By-laws or a condition of the authorisation; or
 - (c) is not eligible or a fit and proper person to hold the authorisation.
- (2) Before making a decision under clause (1), the CEO must give the holder a written notice:
 - (a) stating that the CEO proposes to revoke, suspend or vary the authorisation; and
 - (b) stating the grounds for the intended revocation, suspension or variation; and
 - (c) inviting the holder to show cause, in accordance with clause (3), why the revocation, suspension or variation should not be made.
- (3) Within 7 days of receiving the notice, the holder of the authorisation may make written representations to the CEO on why the revocation, suspension or variation should not be made.
- (4) After considering any representations made by the holder in accordance with clause (3), the CEO may:
 - (a) take no further action in relation to the authorisation; or

Part 4 **Health and safety**
Division 1 **Purpose of Part**

(b) revoke, suspend or vary the authorisation.

(5) The CEO must give written notice to the holder of the authorisation of the decision under clause (4).

(6) If the CEO decides to revoke, suspend or vary the conditions of an authorisation, the notice to the holder must include the following information:

(a) the date that the revocation, suspension or variation takes effect;

(b) in the case of a suspension:

(i) the steps that the holder must take before the suspension will be lifted and the consequences for not completing those steps; and

(ii) the period that the suspension will remain in force;

(c) in the case of a variation – how the conditions are being varied.

Division 5 **Review of decisions**

26 **Reviewable decisions**

For Part 18.1 of the Act, the following decisions are designated as reviewable:

(a) a decision to revoke, suspend or vary the conditions of an authorisation under by-law 25;

(b) a decision to issue an enforcement notice under by-law 141.

Note for by-law 26

Part 18.1 of the Act provides the details of the process for the review of these decisions.

Part 4 **Health and safety**

Division 1 **Purpose of Part**

27 **Purpose**

The purpose of this Part is to:

(a) reduce waste and to reuse and recycle materials in Darwin; and

Part 4 Health and safety
Division 2 Waste and recycling

- (b) sustainably manage waste and minimise the environmental impact of waste in Darwin; and
- (c) minimise the risks of fire and unsafe behaviour to the community.

Division 2 Waste and recycling

28 Collection service

- (1) The City must provide a regular service to collect waste and materials and other substances for recycling from residents and others in Darwin whose rates include a charge for this service.
- (2) Subject to direction from the City, the CEO must determine the conditions and other particulars of the service under this Division.

Examples for clause (2)

Collection times, the types of waste and recyclable materials allowed in bins and keeping the bins free of vermin.

- (3) The service may be provided by employees or by contractors engaged by the City.
- (4) The service consists of the following:
 - (a) providing persons receiving the service with approved bins;
 - (b) providing public land with approved bins;
 - (c) collecting regularly from the approved bins;
 - (d) managing and disposing of whatever is collected.
- (5) The conditions and other particulars of the service must be published.
- (6) The persons who receive the service must comply with the conditions of the service.

29 Alternative collection or waste and recycling

If premises do not receive from the City a regular service to collect waste, the occupier of the premises must ensure that waste and materials for recycling from the premises are collected regularly in another approved manner.

Part 4 Health and safety
Division 2 Waste and recycling

30 Damaging or interfering with approved bins

- (1) A person who damages an approved bin provided by the City is liable to the City for the costs of replacing the bin.
- (2) A person commits an offence if the person:
 - (a) removes or interferes with an approved bin provided by the City; or
 - (b) causes an approved bin provided by the City to become a danger to public health or to interfere with or to affect the comfort of persons occupying or passing through or along neighbouring premises.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (3) An offence against clause (2) is an offence of strict liability.

31 Offences related to waste or recycling materials

- (1) A person must not deposit waste or recycling materials in a place unless:
 - (a) the person is acting under the authority of the City; or
 - (b) the place is an approved bin provided by the City; or
 - (c) the place is provided by an alternative service referred to in by-law 29; or
 - (d) the place is a place or facility for the management and disposal of waste or recycling referred to in by-law 32.
- (2) A person must not deposit, in an approved bin provided by the City, any substance or thing prohibited under the conditions and other particulars of the service determined by the City.
- (3) A person must not deposit or allow to remain on land a substance or thing that is likely to attract vermin, unless it is enclosed in a bin or container that is vermin-proof.
- (4) A person who conducts a business must not dispose of waste from the business in an approved bin provided by the City.

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Division 2 Waste and recycling

- (5) A person commits an offence if the person fails to comply with clause (1), (2), (3) or (4).

Maximum penalty: 50 penalty units.

Note for clause (5)

The infringement amount is 1 penalty unit.

- (6) An offence against clause (5) is an offence of strict liability.

32 Places and facilities

- (1) The location and the conditions of operation and use of the following places and facilities must be published:

- (a) places and facilities established by the City for the management and disposal of waste;
- (b) places and facilities established by the City for the management of materials and substances for reuse and recycling.

Examples for clause (1)

The hours of operation, the classes of materials allowed, removing materials and supervision of children.

Note for clause (1)

The requirements of environmental legislation may also apply to the operation of the place or facility.

- (2) A person using a place or facility referred to in clause (1) must comply with the conditions of operation and use of the place or facility.
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

33 Offence of depositing waste

- (1) A person commits an offence if the person deposits waste on land or allows waste to remain on land.

Maximum penalty: 20 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

- (2) An owner or occupier of land commits an offence if:

- (a) the owner or occupier deposits waste, or keeps or allows waste to remain, on the land; and
- (b) the waste is likely to attract vermin to the land or to form a harbourage for vermin; and
- (c) the waste is not kept in a bin that is vermin-proof.

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (3) An offence against clause (1) or (2) is an offence of strict liability.

34 Offence of discharging liquid waste

- (1) A person commits an offence if:

- (a) the person deposits or causes waste water, liquid waste or hazardous liquid to be deposited onto public land or into a drain on public land; and
- (b) the person has no authorisation for that conduct.

Maximum penalty: 100 penalty units.

Note for clause (1)

The infringement amount is 4 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant took all reasonable steps and exercised due diligence to avoid committing the offence.

Part 4 Health and safety
Division 3 Fires

35 Rubbish and discarded goods on premises

- (1) The owner or occupier of premises must not keep rubbish or discarded goods in open areas on the premises.

Examples for clause (1)

- 1 Rubbish includes yard waste, empty bottles, empty cans and used packaging materials.
- 2 Discarded goods include damaged furniture, old appliances, cast-off vehicle parts and broken equipment.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (3) An offence against clause (2) is an offence of strict liability.

Division 3 Fires

36 Burning offensive substance or thing

A person commits an offence if:

- (a) the person intentionally burns or heats any substance or thing; and
- (b) that conduct results in an odour that is offensive to another person on adjacent land or public land; and
- (c) the person is reckless in relation to that result.

Maximum penalty: 50 penalty units.

Note for by-law 36

The infringement amount is 1 penalty unit.

37 Lighting fires

- (1) A person must not light a fire or keep a fire burning unless:

- (a) the person has an authorisation for the fire; or
- (b) the fire is safely contained and supervised in a barbecue, fireplace or fire pit constructed of fireproof materials; or

Part 4 Health and safety
Division 4 Unsafe behaviour

- (c) the person is operating a crematorium or incinerator licensed under a law of the Territory or approved by the City.

- (2) A person commits an offence if the person lights a fire or keeps a fire burning contrary to clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 4 penalty unit.

- (3) An offence against clause (2) is an offence of strict liability.

Note for by-law 37

The Bushfires Management Act 2016 also provides for the control of fires.

Division 4 Unsafe behaviour

38 Breaking glass or other material

- (1) A person commits an offence if:

- (a) the person breaks glass or other material; and
- (b) the pieces of the glass or other material are on public land; and
- (c) the pieces of the glass or other material are likely to cause injury to a person or animal.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

- (2) An offence against clause (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant proves on the balance of probabilities that:

- (a) the breakage was accidental; and
- (b) the broken pieces were collected and disposed of safely and without delay.

Part 5 **Animal management**
Division 1 **Purpose of Part**

39 **Unsanitary behaviour**

- (1) A person commits an offence if the person spits, urinates or defecates on public land, other than in a toilet.

Maximum penalty: 20 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

- (2) An offence against clause (1) is an offence of strict liability.

40 **Throwing stone or object**

A person commits an offence if the person:

- (a) intentionally throws, or uses a device to throw, a stone or other object on or from public land; and
- (b) the conduct results in:
 - (i) damage to property; or
 - (ii) hitting or frightening a person or animal; and
- (c) the person is reckless in relation to that result

Maximum penalty: 20 penalty units.

Note for by-law 40

The infringement amount is 1 penalty unit.

Part 5 **Animal management**

Division 1 **Purpose of Part**

41 **Purpose**

The purpose of this Part is to ensure:

- (a) the socially responsible ownership of animals; and
- (b) the protection of the environment and the community.

Note for by-law 41

Owners of animals also owe a duty of care under the Animal Welfare Act 1999.

Part 5 Animal management
Division 2 Responsible ownership of dogs and cats

The *Animal Protection Act 2018* is not yet in force.

Division 2 Responsible ownership of dogs and cats

42 Registration required

- (1) The owner of a dog or cat that is kept in Darwin must register it.
- (2) The City must, by resolution, determine the following:
 - (a) the process for registering dogs and cats;
 - (b) any grounds for refusing to register a dog or cat;
 - (c) any conditions of registration;
 - (d) date of expiry of a registration.

Examples for clause (2)(b)

Unsuitable premises or excessive number of dogs or cats.

43 Offence of unregistered dog or cat

- (1) A person commits an offence if the person keeps an unregistered dog or cat in Darwin for a continuous period of 3 months or longer.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) The following persons are exempt from clause (1):
 - (a) a City employee or contractor who keeps a dog or cat in a pound;
 - (b) a person or entity that provides animal welfare services;
 - (c) a veterinarian who keeps a dog or cat for treatment.
- (3) An offence against clause (1) is an offence of strict liability.

44 Identification device

- (1) A registered dog and cat must wear a tag issued by the City when outside the premises where the dog or cat is usually kept.
- (2) In addition to wearing a tag, a dog or cat may be required by the City to be implanted with a microchip.

Part 5 Animal management
Division 2 Responsible ownership of dogs and cats

(3) The microchip must:

- (a) meet the specifications determined by the City; and
- (b) be designed to store information in a way that can be retrieved electronically without physical contact.

(4) The owner of a registered dog or cat must ensure that it:

- (a) wears the tag issued for it when outside the premises where it is usually kept; and
- (b) is implanted with a microchip if required under clause (2).

45 Offences related to identification device

(1) The owner of a registered dog or cat must not:

- (a) allow it to be outside the premises where it is usually kept without wearing the tag issued for it; or
- (b) remove from it any microchip implanted under by-law 44.

Maximum penalty: 20 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

(2) An offence against clause (1) is an offence of strict liability.

46 Offence for contravention of condition of registration

(1) The owner of a registered dog or cat must comply with any conditions on the registration determined by the City.

(2) A person commits an offence if:

- (a) the person is the owner of a registered dog or cat; and
- (b) the registration of the dog or cat is subject to a condition; and
- (c) the owner fails to comply with the condition.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

(3) An offence against clause (2) is an offence of strict liability.

Part 5 Animal management
Division 2 Responsible ownership of dogs and cats

47 Notice of change in address or owner

- (1) The owner of a registered dog or cat must notify the City of the following events:
- (a) a change in the owner's address;
 - (b) a transfer of the dog or cat to a new owner.
- (2) The notice must be given in the approved form within 14 days after the event.

Note for clause (2)

The notice must include the particulars of the animal and the contact details of the new and former owners.

- (3) A person commits an offence if:
- (a) the person is the owner of a registered dog or cat; and
 - (b) the person fails to comply with clause (1) or (2).

Maximum penalty: 10 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

48 Proper containment of dogs and cats

- (1) The owner of a dog or cat must properly contain the dog or cat when it is on the premises where it is usually kept.
- (2) A person commits an offence if:
- (a) the person is the owner of a dog or cat; and
 - (b) the dog or cat is not properly contained when it is on the premises where it is usually kept.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

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Division 2 Responsible ownership of dogs and cats

(4) To avoid doubt, the following matters are not relevant to an offence against clause (2):

- (a) the time during which the dog or cat was not properly contained;
- (b) the ability of the owner to contain the dog or cat.

49 Keeping dogs and cats under control

(1) The owner of a dog or cat must keep it under effective control if the dog or cat is at large.

(2) For this Part, a dog or cat is taken to be under effective control if the dog or cat is:

- (a) restrained by a leash or similar device that:
 - (i) is no longer than 3 m; and
 - (ii) is held by a person who is over the age of 12 years and competent to restrain the dog or cat; or
- (b) enclosed in a vehicle, or in or on the back of a flat-topped, tray-backed or well-bodied vehicle, in such a manner that no part of the dog or cat is projecting from the vehicle.

(3) For this Part, a dog or cat is taken to be at large if it is in an outdoor place other than:

- (a) the premises where the dog or cat is usually kept; or
- (b) a dog or cat exercise area.

(4) A person commits an offence if:

- (a) the person is the owner of a dog or cat; and
- (b) the dog or cat is at large and not under effective control.

Maximum penalty: 20 penalty units.

Note for clause (4)

The infringement amount is 1 penalty unit.

(5) An offence against clause (4) is an offence of strict liability.

Part 5 Animal management
Division 2 Responsible ownership of dogs and cats

50 Maximum number of dogs and cats

- (1) This by-law applies if the City, by resolution, establishes a limit or condition on the maximum number of dogs or cats that may be kept on premises in Darwin.

Examples for clause (1)

Limits or conditions on the breeding of dogs and cats, the number of dogs and cats, the suitability of the premises and the impact on neighbours.

- (2) The City must publish the limit or condition.
- (3) A person must not, without an authorisation, keep dogs or cats on premises contrary to any limit or condition established by the City on the maximum number of dogs or cats that may be kept on premises in Darwin.
- (4) An occupier of premises commits an offence if the occupier:
- (a) keeps more dogs or cats on the premises than the maximum determined under clause (1); and
 - (b) does not have an authorisation allowing that number of dogs or cats on the premises.

Maximum penalty: 20 penalty units.

Note for clause (4)

The infringement amount is 1 penalty unit.

- (5) An offence against clause (4) is an offence of strict liability.

51 Dog exercise areas

- (1) If the City intends to declare an area to be a dog exercise area, the City must:
- (a) publish notice of the proposed area at least 28 days in advance; and
 - (b) consider any responses to the notice from residents of Darwin.
- (2) The City must publish the location and conditions for using any dog exercise area or class of dog exercise area it declares.

Examples for clause (2)

1 *The times to exercise dogs in the area.*

2 *When female dogs in oestrus are allowed in the area.*

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Division 2 Responsible ownership of dogs and cats

- (3) The owner of a dog using a dog exercise area must comply with the conditions for the area.
- (4) The owner of a dangerous dog must ensure the dog does not enter a dog exercise area.

52 Dog or cat restricted areas

- (1) If the City intends to declare an area to be a dog or cat restricted area, the City must:
 - (a) publish notice of the proposed area at least 28 days in advance; and
 - (b) consider any responses to the notice from residents of Darwin.
- (2) The City must publish the location and restrictions on dogs and cats in any dog or cat restricted area it declares.

Examples for clause (2)

- 1 *Prohibiting taking a dog or cat into a market or festival.*
- 2 *Restricting classes or numbers of dogs or cats in an area.*

- (3) An assistance dog is exempt from this by-law.
- (4) The owner of a dog or cat must comply with the conditions for the dog or cat restricted area.

53 Special cat control area

- (1) This by-law applies to any area that the City declares to be a special cat control area to protect biodiversity or wildlife vulnerable to predation by cats.

Note for clause (1)

The special cat control area may include or be adjacent to an area of biodiversity or vulnerable wildlife.

- (2) Despite by-law 48, the owner of a cat in a special cat control area must keep the cat inside a building, enclosed cat run or other structure on the premises from which the animal is unable to escape.

54 Offences related to dog or cat areas

- (1) A person commits an offence if the person:
 - (a) owns a dog; and

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- (b) fails to comply with the conditions for a dog exercise area or dog restricted area.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) A person commits an offence if the person:

- (a) owns a cat; and

- (b) fails to comply with the conditions for a cat restricted area.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) A person commits an offence if:

- (a) the person owns a cat; and

- (b) the cat is in a special cat control area; and

- (c) the person fails to keep the cat inside a building, enclosed cat run or other structure on the premises from which the animal is unable to escape.

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

- (4) An offence against clause (1), (2) or (3) is an offence of strict liability.

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55 Dog menaces

- (1) An owner of a dog must ensure that it does not menace a person or another animal.
- (2) For these By-laws, a dog is taken to menace a person or animal if it chases, harasses, rushes at or threatens to bite the person or animal in a manner that causes a reasonable apprehension of fear in the person or animal.

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(3) A person commits an offence if the person:

- (a) owns a dog; and
- (b) fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 4 penalty units.

(4) An offence against clause (3) is an offence of strict liability.

56 Dog attacks

(1) The owner of a dog must ensure that it does not attack a person or another animal.

(2) For these By-laws, a dog is taken to attack a person or another animal, as the case may be, if it:

- (a) bites the person or other animal causing a puncture or break to the skin; or
- (b) assaults the person or other animal resulting in bleeding, bone breakage, sprains, scratches or bruising; or
- (c) behaves aggressively resulting in physical contact with the person or animal and damage to anything worn by the person or the animal.

(3) A person commits an offence if the person:

- (a) owns a dog; and
- (b) fails to comply with clause (1).

Maximum penalty: 100 penalty units.

Note for clause (3)

The infringement amount is 9 penalty units.

(4) An offence against clause (3) is an offence of strict liability.

57 Defences

(1) It is a defence to a prosecution for an offence against by-law 55 or 56 if the defendant establishes any of the following:

- (a) another person had, without the defendant's permission, caused the dog to menace or attack the person or animal;

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- (b) if another animal was menaced or attacked – the other animal was on premises owned or occupied by the defendant without consent;
 - (c) if a person was menaced or attacked – the person was on premises owned or occupied by the defendant without consent.
- (2) If a court finds a person guilty of an offence against by-law 55 or 56, the court may make one or both of the following orders in addition to, or instead of, the penalty for the offence:
- (a) if the dog is impounded as a result of the offence – an order that the person pay the costs and expenses of, and incidental to, the impounding;
 - (b) an order that the dog be destroyed.

58 Enticement or incitement

- (1) A person must not entice or incite a dog to:
- (a) menace a person or animal; or
 - (b) engage in behaviour that is prohibited by by-law 76; or
 - (c) attack a person or animal.

Example for clause (1)

A person must not cause a neighbour's dog to start barking excessively in order to make a complaint about the neighbour's dog.

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct causes a dog to:
 - (i) menace a person or animal; or
 - (ii) engage in behaviour that is prohibited by by-law 76; or
 - (iii) attack a person or animal; and
 - (c) the person is reckless in relation to that result.

Maximum penalty: 50 penalty units.

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59 Dangerous dog

- (1) An authorised person may, by written notice, declare a dog to be a dangerous dog if:
 - (a) the dog attacks a person or an animal; or
 - (b) the dog menaces a person or an animal; or
 - (c) the authorised person believes on reasonable grounds that the dog is destructive, dangerous, savage or a threat to the safety of the community.
- (2) The authorised person must give written notice of the declaration to the owner of the dog.
- (3) The written notice of the declaration must be in the approved form and include the following information:
 - (a) the day the declaration is effective;
 - (b) the reasons for the declaration;
 - (c) the identity of the dog and the owner of the dog.
- (4) The City must keep a record of the information in clause (3).

60 Duties of owner of dangerous dog

- (1) This by-law applies to the owner of a dangerous dog.
- (2) The owner must, within 14 days after the day the declaration is effective:
 - (a) desex the dangerous dog, unless it is already desexed; and
 - (b) provide, to an authorised person, evidence from a veterinarian that the dog is desexed; and
 - (c) undergo behavioural or other training with the dog, as specified by the CEO, at the owner's expense.
- (3) The owner must ensure that the containment required under by-law 48(1) is appropriate to the danger posed by the dangerous dog.

Example for clause (3)

Installing higher and stronger fencing for a large dangerous dog.

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- (4) The owner must post signage on the premises where the dangerous dog is usually kept, with the words "Warning Dangerous Dog" clearly visible and legible from the front boundary of the premises.
- (5) When the dangerous dog is outside the premises where it is usually kept, the owner must ensure that:
 - (a) the dog is under the control of a person who is at least 18 years of age and competent to restrain the dog; and
 - (b) the dog is muzzled and controlled by a suitable leash; and
 - (c) the dog does not enter a dog exercise area.
- (6) If the owner intends to keep the dangerous dog for more than 14 days at a place other than the premises where it is usually kept, the owner must notify the City of the address of the place within 24 hours after the dog is relocated.
- (7) The owner must notify the City of any attack, or alleged attack, by the dangerous dog of a person or animal within 24 hours of the earlier of the following:
 - (a) the time of the attack or alleged attack;
 - (b) the time the owner becomes aware of the attack or alleged attack.

61 Notice about loss or transfer of dangerous dog

- (1) The owner of a dangerous dog must notify the City if the dog is missing or dies:
 - (a) within 24 hours after the owner becomes aware the dog is missing; or
 - (b) within 14 days after its death.
- (2) If the owner of a dangerous dog intends to transfer ownership of the dangerous dog, the owner must:
 - (a) inform the prospective owner that the dog is dangerous; and
 - (b) notify the City of the name and address of the new owner within 24 hours after the transfer.

62 Offences related to dangerous dog

(1) A person commits an offence if the person:

- (a) is the owner of a dog that is declared to be a dangerous dog;
and
- (b) fails to comply with by-law 60 or 61.

Maximum penalty: 100 penalty units.

Note for clause (1)

The infringement amount is 9 penalty units.

(2) An offence against clause (1) is an offence of strict liability.

63 Remedial action for dangerous dog

(1) If the owner of a dangerous dog fails to comply with the duties of an owner under by-law 60 more than once in a 12-month period, the CEO may require the owner to take either or both of the following actions:

- (a) undergo further specified behavioural or other training with the dog at the owner's expense;
- (b) surrender the dog to the pound.

(2) If the CEO intends to take action under clause (1), the CEO must give the owner of the dangerous dog, a notice that:

- (a) states what action the CEO is proposing under that clause;
and
- (b) states the grounds for taking that action; and
- (c) invites the owner to show cause, within 14 days, why the action should not be taken.

(3) After considering any response received within 14 days of the day of the notice, the CEO must decide whether to take action under clause (1).

(4) As soon as practicable after making a decision under clause (3), the CEO must give a decision notice to the owner of the dangerous dog.

Part 5 Animal management
Division 4 Seizure and impounding of dogs and cats

Division 4 Seizure and impounding of dogs and cats

64 Seizure and impounding

- (1) An authorised person may seize:
 - (a) a dog or cat that appears to be diseased, injured, savage, destructive, stray or unregistered; or
 - (b) a dog or cat that an authorised person believes on reasonable grounds has attacked a person; or
 - (c) a dog or cat that is at large and not under control; or
 - (d) a dangerous dog whose owner is not complying with Division 3.
- (2) As soon as practicable after seizing a dog or cat, the authorised person must:
 - (a) impound the dog or cat in a pound; or
 - (b) return the dog or cat to its owner.

65 Notice of impounding

- (1) The CEO must ensure that reasonable steps are taken to notify the owner of an impounded dog or cat that:
 - (a) the dog or cat is impounded; and
 - (b) subject to by-laws 67 and 68, the owner must collect it.
- (2) The owner of an impounded dog or cat who receives notice under clause (1) must collect the dog or cat within the time specified in the notice.
- (3) A person commits an offence if the person:
 - (a) owns a dog or cat; and
 - (b) receives a notice under clause (1); and
 - (c) fails to collect the dog or cat within the time specified in the notice.

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

Part 5 Animal management
Division 4 Seizure and impounding of dogs and cats

66 Release from pound

- (1) When collecting a dog or cat from a pound, a person must provide evidence that the person is the owner of the dog or cat or is authorised to act on behalf of the owner.
- (2) The City may charge the owner a fee for:
 - (a) the costs incurred by the City in relation to the impounded dog or cat; and
 - (b) delivering the dog or cat from the pound.
- (3) Subject to by-law 67(1), an impounded dog or cat must not be released from a pound unless:
 - (a) it is registered and implanted with a microchip in accordance with by-law 44; and
 - (b) it is released to its owner or to a person authorised to act on behalf of the owner; and
 - (c) the City receives any fees payable in relation to it.

67 Diseased dog or cat

- (1) The CEO must make arrangements for any impounded dog or cat that is suspected of being infected with a contagious disease to be isolated from other animals in the pound.
- (2) The CEO must take reasonable steps to give the owner of a dog or cat isolated under clause (1) written notice:
 - (a) stating the reasons for isolating it; and
 - (b) warning that it must either undergo a course of treatment specified in the notice or be destroyed.
- (3) The CEO may, in the notice given under clause (2), require the owner of the dog or cat to give the City a report on its condition and the condition of any other animals usually kept at the same premises.
- (4) If required under clause (3), the owner must:
 - (a) have the report prepared by a veterinarian or other person specified in the notice; and
 - (b) give the report to the City within the time specified in the notice.

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Division 4 Seizure and impounding of dogs and cats

- (5) A dog or cat that is isolated under this by-law may be released from the pound in accordance with by-law 66, subject to any conditions the CEO considers appropriate.
- (6) The cost of treatment reasonably provided by the City to a diseased dog or cat, and to any other animal in the pound infected or at risk of being infected by the diseased dog or cat before it could reasonably be isolated, is a debt payable by the owner of the diseased dog or cat to the City.
- (7) An owner of a dog or cat commits an offence if the owner:
 - (a) fails to comply with clause (4); or
 - (b) fails to comply with a condition imposed under clause (5).

Maximum penalty: 50 penalty units.

Note for clause (7)

The infringement amount is 3 penalty units.

- (8) An offence against clause (7) is an offence of strict liability.

68 Destruction of dog or cat

The CEO may arrange for a dog or cat to be destroyed if:

- (a) the dog or cat is in the pound or is abandoned or is found on public land; and
- (b) the dog or cat is diseased, injured, savage, destructive, unclaimed, unregistered or unwanted; and
- (c) it is humane to destroy the dog or cat in the circumstances.

69 Disposal or destruction of impounded dogs and cats

- (1) Subject to this by-law, the CEO may, after a dog or cat is impounded for 72 hours:
 - (a) transfer the dog or cat to an entity that provides animal welfare services; or
 - (b) arrange for its destruction.

Part 5 Animal management
Division 5 Livestock and other animals

- (2) The CEO may make arrangements for the transfer of dogs and cats from a pound to a person or entity that provides animal welfare services.

Example for clause (2)

Arrangements could be made with the RSPCA and other organisations that provide care for unwanted and stray animals.

- (3) The CEO must not destroy or dispose of an impounded dog or cat because it is savage, destructive, unclaimed, unregistered or unwanted until after the later of the following:
- (a) if circumstances related to the destruction are being investigated – the end of that investigation;
 - (b) if the destruction is subject to legal proceedings – 14 days after the end of those legal proceedings.
- (4) If an offence is being investigated in relation to an impounded dog or cat, it must not be destroyed or disposed of until the investigation is complete.

Example for clause (4)

If a dog is alleged to have attacked a person, the dog would not be destroyed unless the investigation is complete.

70 Humane method

A dog or cat may only be destroyed under these By-laws:

- (a) in a manner approved by the Australian Veterinary Association; and
- (b) by a veterinarian or another person who is, in the opinion of the CEO, qualified to destroy it.

Division 5 Livestock and other animals

71 Prohibited animals other than livestock

Unless authorised under a law of the Territory, the following animals are prohibited from being kept in Darwin:

- (a) any wildlife as defined in the *Territory Parks and Wildlife Conservation Act 1976*;
- (b) any animal declared to be a feral animal under the *Territory Parks and Wildlife Conservation Act 1976*;

Part 5 Animal management
Division 5 Livestock and other animals

- (c) any animal declared to be a prohibited entrant under the *Territory Parks and Wildlife Conservation Act 1976*.

72 Livestock

- (1) Livestock is prohibited from being kept in Darwin unless:
- (a) keeping it is expressly allowed under this by-law; or
 - (b) it is kept on land zoned for domestic livestock under the *Planning Act 1999*.

Examples for clause (1)

Livestock includes crocodiles, cattle, buffalo, camels, sheep, goats, pigs, deer, poultry, llamas and alpacas.

- (2) Honey bees may be kept in Darwin.
- (3) Horses may be kept on land zoned for organised recreational or domestic livestock under the *Planning Act 1999*.
- (4) Chickens (other than roosters) may be kept on land zoned for domestic livestock, community living or community purpose under the *Planning Act 1999*.
- (5) A person keeping chickens must ensure that:
 - (a) they are properly contained on the premises; and
 - (b) no more than 6 chickens are kept on the same premises.

Note for by-law 72

The Livestock Act 2008 provides for other measures for livestock in Darwin.

73 Offence related to livestock and prohibited animals

- (1) A person commits an offence if the person keeps an animal contrary to by-law 71 or 72.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

74 Injuring or killing animals on public land

- (1) A person must not, without an authorisation, engage in conduct that causes, or is likely to cause, injury or death to an animal on public land.

Part 5 Animal management
Division 5 Livestock and other animals

(2) A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct results, or is likely to result, in injury or death to an animal on public land; and
- (c) the person is reckless in relation to that result.

Maximum penalty: 50 penalty units.

75 Abandoning animal

A person commits an offence if the person intentionally abandons an animal in Darwin.

Maximum penalty: 50 penalty units.

76 Animal causing nuisance

- (1) The owner of an animal must ensure that the animal is not a nuisance to people or other animals.
- (2) For this Part, an animal is taken to be a nuisance if it:
 - (a) is injurious or dangerous to the health of the community or another person; or
 - (b) behaves repeatedly in a manner contrary to the general interest of the community or specific interests of another person; or
 - (c) creates a noise of a degree or extent that disturbs the reasonable mental, physical or social well-being of a person other than its owner; or
 - (d) defecates to a degree or extent that causes annoyance to a person other than its owner.

Examples for clause (2)(c)

Constant or loud barking, howling or caterwauling, especially when pedestrians walk past the premises.

- (3) The owner of an animal that defecates in public must immediately remove the faeces and dispose of them in a sanitary manner.
- (4) The owner of an animal must ensure it does not aggressively chase a person or vehicle or another animal.
- (5) The owner of an animal must not allow the animal to come within 10 m of a public play structure or public exercise structure.

Part 6 **Public facilities and places**
Division 2 **Control of vehicles and boats**

- (6) A person must not bring an animal into a pedestrian mall unless:
- (a) the animal is an assistance dog; or
 - (b) the person holds an authorisation to do so; or
 - (c) the animal is allowed under an exemption determined by the City, by resolution.
- (7) A person commits an offence if the person fails to comply with clause (1), (3), (4), (5) or (6).

Maximum penalty: 50 penalty units.

Note for clause (7)

The infringement amount is 2 penalty units.

- (8) An offence against clause (7) is an offence of strict liability.

Part 6 **Public facilities and places**

Division 1 **Purpose of Part**

77 **Purpose**

The purpose of this Part is to:

- (a) regulate traffic and vehicles where they are not regulated under other legislation; and
- (b) protect the environment and enhance the enjoyment by residents of Darwin's outdoor lifestyle; and
- (c) protect public land and City property from damage; and
- (d) protect the public from unnecessary inconveniences and nuisances.

Division 2 **Control of vehicles and boats**

78 **Control of vehicles**

- (1) The City must take reasonable steps to post signs warning the public of any restriction or prohibition established by the City in relation to vehicles on a footpath, road or public land.

Examples for clause (1)

1 No bicycles on a footpath.

Part 6 Public facilities and places
Division 2 Control of vehicles and boats

2 *No skateboards in a pedestrian mall.*

3 *No heavy vehicles on a road or bridge.*

(2) A person must not ride, drive or propel a vehicle contrary to any restriction or prohibition established by the City.

(3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

(4) An offence against clause (3) is an offence of strict liability.

Note for by-law 78

The parking infringement scheme in Part 3, Division 3 of the Traffic Regulations 1999 also applies to contraventions under this Division.

79 Control of motor vehicles in pedestrian mall

(1) A person must not drive or park a motor vehicle in a pedestrian mall unless:

(a) it is an emergency vehicle or service vehicle; or

(b) it is in the mall in accordance with an authorisation.

(2) A person must not drive a motor vehicle, other than an emergency vehicle, in a pedestrian mall at a speed in excess of 5 km/h.

(3) An authorised person or a police officer may remove any motor vehicle that is in a pedestrian mall contrary to this by-law to a place either within or outside the mall.

(4) A person commits an offence if the person drives or parks a motor vehicle contrary to clause (1) or (2).

Maximum penalty: 100 penalty units.

Note for clause (4)

The infringement amount is 4 penalty units.

(5) An offence against clause (4) is an offence of strict liability.

80 Speed limit for boats on Lake Alexander

(1) A person must not, without an authorisation, drive, propel, sail or tow a boat at a speed of more than 5 knots on Lake Alexander.

Part 6 Public facilities and places
Division 2 Control of vehicles and boats

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

81 Vehicle or boat maintenance on public land

- (1) A person must not wash or repair a vehicle or boat on public land, other than at a place set aside by the City for this purpose.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (3) An offence against clause (2) is an offence of strict liability.

- (4) It is a defence to a prosecution for an offence against clause (1) for a repair, if the repair was necessary to remove the vehicle or boat from public land.

82 Off-street parking areas

- (1) This by-law applies to any area owned, managed or controlled by the City that is declared by the City to be off-street parking areas.

- (2) A person must not park a vehicle in an off-street parking area:

- (a) contrary to a limit or prohibition on time or day indicated by a sign erected or placed in the parking area; or
- (b) contrary to any markings for parking spaces in the parking area; or
- (c) contrary to any other sign erected or placed in the parking area.

Part 6 Public facilities and places
Division 2 Control of vehicles and boats

- (3) A person commits an offence if the person parks a vehicle in an off-street parking area contrary to clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

83 On-street parking

For the purpose of regulating on-street parking the City must:

- (a) determine the fees for parking on any street; and
- (b) determine the conditions for parking on any street; and
- (c) install equipment for the payment of the parking fees; and
- (d) establish online systems for the payment and collection of parking fees to supplement equipment on the street.

Note for paragraph (d)

By-law 20 provides that payment systems must not discriminate against people without smart devices or the skills needed to use them.

84 Parking and driving on public park, public lawn or verge

- (1) A person must not drive or park a motor vehicle on a public park, a public lawn or the verge of a road, other than in an allocated parking area.
- (2) A person commits an offence if:
 - (a) the person drives or parks a vehicle contrary to clause (1); and
 - (b) the person is not an authorised person or a police officer.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

Division 3 Protecting public land

85 Constructing cross-overs

- (1) An owner or occupier of premises adjoining public land may apply for an authorisation to construct the following:
- (a) a cross-over across the footpath and verge to connect a driveway on the premises to a road or other public land;
 - (b) a cross-over for pedestrians or vehicles to travel between the premises and the public land.

Note for clause (1)

The requirements in this Part are in addition to any other legislative requirements that apply to construction in Darwin, for example development permits and planning standards.

- (2) A person commits an offence if the person constructs a cross-over referred to in clause (1) without an authorisation.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 3 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

86 Safety measures for road works

- (1) A person must take the safety measures required by this by-law if the person engages in work that:
- (a) deposits any material, or erects any structure, on a road; or
 - (b) opens or breaks up the surface of a road.

Note for clause (1)

The safety measures required by this by-law must be taken whether or not the work is authorised by the City.

- (2) The person must prevent harm or inconvenience to the public from the work and materials used for the work by:
- (a) operating safety lights around the work and materials between sunset and sunrise or when visibility is otherwise reduced; and
 - (b) installing appropriate fencing and enclosures around the work and materials.

Part 6 Public facilities and places
Division 3 Protecting public land

- (3) The CEO may give the person directions regarding compliance with the safety measures required by this by-law.
- (4) The cost of the safety measures must be paid by the person who engages in the work.
- (5) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 100 penalty units.

Note for clause (5)

The infringement amount is 4 penalty units.

- (6) An offence against clause (5) is an offence of strict liability.

87 Prohibited excavations on adjoining land

- (1) A person must not, without an authorisation, excavate land adjoining public land.
- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

88 Enclosing land to prevent risk of escaping soil

- (1) The CEO may, by written notice, require the owner or occupier of land to cause the land to be enclosed if:
 - (a) the land adjoins a road, footpath or other public land; and
 - (b) the land is not enclosed in a manner that prevents soil, sand or other material from being carried on to the road, footpath or other public land.
- (2) The owner or occupier of land who receives a notice under clause (1) must cause the land to be enclosed in accordance with the notice at the owner or occupier's own cost.

Part 6 Public facilities and places
Division 3 Protecting public land

- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

- (4) An offence against clause (3) is an offence of strict liability.

89 Limits on barbed wire fence

- (1) The owner or occupier of land must not, without an authorisation, erect or maintain a fence of barbed wire or similar material if:

- (a) the fence is on the boundary of the land or within 0.66 m of a road or land under the control of the City; or
- (b) the barbed wire or similar material is at a height lower than 2.33 m from the ground.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

90 Damage to footpath, road or public land

- (1) A person must not, without an authorisation, cause damage to a footpath, road or other public land.

Examples for clause (1)

- 1 *Removing a road kerb.*
- 2 *Digging up a road.*
- 3 *Spilling wet concrete, motor oil or hydraulic fluid on a road.*

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

Part 6 Public facilities and places
Division 3 Protecting public land

91 Construction on footpath, road or public land

- (1) A person must not, without an authorisation, construct or erect a structure or other thing on a footpath, road or other public land.

Examples for clause (1)

- 1 *Laying a pipe, cable or conduit on public land.*
- 2 *Erecting a stall on public land.*

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

92 Structures on public land

- (1) A person must not, without an authorisation, erect or install on public land a post, rail, fence, pole, tent, booth, furniture, stand, display, exhibition, decoration or structure, whether permanent or temporary.

- (2) A person must not, without an authorisation, remove or displace a barrier, railing, post, seat or other structure on public land.

- (3) A person commits an offence if the person fails to comply with clause (1) or (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

- (4) An offence against clause (3) is an offence of strict liability.

93 Street numbering

- (1) The City may provide, affix or replace a number on premises adjoining a road in accordance with any plan or system established by the City for the numbering of premises or land adjacent to a road.

- (2) The CEO may, by written notice, require the owner or occupier of premises to affix or replace the number on premises within a specified period.

Part 6 Public facilities and places
Division 4 Activities on public land

Division 4 Activities on public land

94 Busking and other activities on public land

- (1) A person may apply to the City for an authorisation to engage in the following activities on public land:
- (a) busking, performing or offering entertainment to the public;
 - (b) painting or drawing portraits for a fee or donation;
 - (c) taking photographs, making a film or recording audio or video for commercial or corporate purposes;
 - (d) fundraising;
 - (e) preaching or proselytising for religious, political or ideological purposes.

Examples for clause (1)

- 1 *Singing or playing guitar for donations in the Smith Street Mall.*
- 2 *Setting up an easel to paint or draw the faces of tourists.*
- 3 *Filming a movie or video on location in Darwin.*
- 4 *Street fundraising also known as "charity mugging".*

- (2) A person must not, without an authorisation, engage in the activities referred to in clause (1)(a) to (e).
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

95 Goods on public land

- (1) A person must not, without an authorisation, place goods in, on or over public land, or outside premises adjoining public land.
- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

Part 6 Public facilities and places
Division 4 Activities on public land

- (3) The following circumstances are not relevant to an offence against clause (2):
 - (a) whether the goods cause an obstruction;
 - (b) whether the goods are for sale.
- (4) An offence against clause (2) is an offence of strict liability.

96 Abandoned goods

- (1) An authorised person may seize any goods abandoned on public land.
- (2) The goods of people experiencing homelessness or people sleeping rough must be respected as not abandoned, but may be considered abandoned if left unattended for more than 24 hours.
- (3) As soon as practicable after seizing the goods, the authorised person must take reasonable steps to give written notice of the seizure to the owner of the goods.
- (4) The notice must include the following information:
 - (a) a description of the goods;
 - (b) the reason for seizing the goods;
 - (c) details of how the goods may be recovered, including any fee for recovery;
 - (d) a warning that the goods may be disposed of if the person fails to recover the goods within 14 days of receiving the notice.
- (5) If seized goods are not recovered within 14 days:
 - (a) the goods are forfeit; and
 - (b) the goods are to be sold, destroyed or otherwise disposed of as the CEO sees fit.

97 Defacing property

- (1) A person must not, without an authorisation, affix a handbill:
 - (a) to a power pole, signpost or fixture in a street; or
 - (b) to or against a structure on land adjoining public land; or
 - (c) to a vehicle on public land.

Part 6 Public facilities and places
Division 4 Activities on public land

(2) A person who affixes a handbill under an authorisation must:

- (a) ensure that the handbill is preserved in a clean and tidy condition; and
- (b) remove the handbill after the information it contains expires or is no longer relevant; and
- (c) properly dispose of any waste arising from the handbills.

Example for clause (2)(b)

Take down a concert handbill after the concert is over.

(3) An authorised person may, by written notice, require the following persons to remove or remediate any handbill that is dirty, untidy, worn, torn or detached:

- (a) any person who was issued the authorisation to post the handbill;
- (b) the owner or occupier of the land where the handbill is posted;
- (c) the person who sponsored or is responsible for the handbill.

(4) A person who receives a notice under clause (3) must comply with the notice.

(5) A person commits an offence if the person fails to comply with clause (1), (2) or (4).

Maximum penalty: 20 penalty units.

Note for clause (5)

The infringement amount is 1 penalty unit.

(6) An offence against clause (5) is an offence of strict liability.

98 Other prohibited activities on public land

(1) A person must not, without an authorisation, discharge a substance into the air over public land that may cause harm or annoyance to another person.

Examples for clause (1)

Moisture from an air conditioner, kitchen fumes, smoke, vapour, dust or other waste products.

(2) A person must not, without an authorisation, climb, walk or remain on a roof, covering or canopy erected over a pedestrian mall.

Part 6 Public facilities and places
Division 4 Activities on public land

- (3) A person must not bring an animal into a pedestrian mall unless:
- (a) the animal is an assistance dog; or
 - (b) the person holds an authorisation to do so; or
 - (c) the animal is allowed under an exemption determined by the City.
- (4) A person commits an offence if the person fails to comply with clause (1), (2) or (3).

Maximum penalty: 20 penalty units.

Note for clause (4)

The infringement amount is 1 penalty unit.

- (5) An offence against clause (4) is an offence of strict liability.

99 Camping or setting up camp on public land

- (1) A person must not camp or set up camp on public land, without an authorisation or the consent of the owner or occupier of the public land.
- (2) For this by-law, the following activities are taken to be camping or setting up camp:
- (a) occupying, between sunset and sunrise, a vehicle used for sleeping;
 - (b) erecting a tent or other shelter used for camping;
 - (c) setting up bedding, camping gear or other equipment used for camping.
- (3) A person commits an offence if:
- (a) the person camps or sets up camp on public land; and
 - (b) the person does not have an authorisation or the consent of the owner or occupier of the public land.

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

Part 6 Public facilities and places
Division 5 Control of vegetation

- (4) An authorised person may direct a person who fails to comply with clause (1) to do any of the following:

- (a) leave the public land;
- (b) remove any vehicle, tent, shelter, gear or equipment to a place specified by the authorised person.

- (5) A person commits an offence if the person fails to comply with a direction given under clause (4).

Maximum penalty: 20 penalty units.

Note for clause (5)

The infringement amount is 1 penalty unit.

- (6) An offence against clause (3) or (5) is an offence of strict liability.

100 Obstruct or hinder use of public facilities

- (1) A person must not obstruct or hinder another person from using a public facility.

Examples for clause (1)

A public shelter, play or exercise structure, public toilet, drinking fountain, water supply, barbecue or fireplace on public land.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

Division 5 Control of vegetation

101 Prohibitions relating to vegetation

- (1) A person must not, without an authorisation, remove or damage vegetation on City property or public land.

Examples for clause (1)

- 1 *Driving a vehicle on park land.*
- 2 *Cutting a tree.*
- 3 *Digging up a flowerbed on City property.*
- 4 *Plucking, cutting or taking from a public flowerbed.*

Part 6 Public facilities and places
Division 6 Public swimming

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

102 Trimming vegetation

- (1) The owner or occupier of land adjoining a footpath, verge or road must trim or otherwise maintain vegetation on the land to prevent the vegetation:

- (a) obstructing or damaging the footpath, verge or road; or
- (b) becoming a hazard to persons or property.

Examples for clause (1)

- 1 *Trimming a tree or shrub that blocks a footpath.*
- 2 *Mowing grass to prevent infestation by snakes or vermin.*

- (2) The CEO may, by written notice, require an owner or occupier of land to trim or otherwise maintain vegetation on the land if the CEO considers that it is obstructing or damaging the footpath, verge or road.
- (3) The owner or occupier of land who receives a notice under clause (2) must trim or otherwise maintain the vegetation in accordance with the notice.
- (4) A person commits an offence if the person fails to comply with clause (1) or (3).

Maximum penalty: 50 penalty units.

Note for clause (4)

The infringement amount is 2 penalty units.

- (5) An offence against clause (4) is an offence of strict liability.

Division 6 Public swimming

103 City's public swimming facilities

- (1) The conditions of use for a public swimming facility provided by the City must be published.

Part 6 Public facilities and places
Division 7 Selling goods and services

- (2) A notice setting out the important conditions for using a public swimming facility must be clearly exhibited in a conspicuous place at the facility.
- (3) A person using a public swimming facility owned by the City or operated by employees of the City must comply with the conditions for using the facility.
- (4) The operator of the public swimming facility or an authorised person may require a person who fails to comply with the conditions for using the facility to leave the facility.
- (5) A person required to leave a public swimming facility under clause (4) must leave it immediately.

104 Swimming in Lake Alexander

- (1) A person must not foul or pollute:
 - (a) the waters of Lake Alexander; or
 - (b) a public dressing room, toilet or shower provided for people swimming in Lake Alexander.
- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (3) An offence against clause (2) is an offence of strict liability.

Division 7 Selling goods and services

105 Selling food and beverages on public land

- (1) A person may apply to the City for an authorisation to sell food and beverages to the public on public land.
- (2) A person must not, without an authorisation, sell food or beverages to the public on public land.

Part 6 Public facilities and places
Division 7 Selling goods and services

- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

106 City markets

Nothing in these By-laws prevents the City from establishing and managing its own markets and issuing stallholder permits for that purpose.

107 Market licence

- (1) A body corporate may apply to the CEO for a market licence if it:

- (a) is in good standing; and
- (b) is incorporated under a law of the Territory or operates from premises in the Territory; and
- (c) is established for the purpose of managing a market.

- (2) Subject to by-law 106, a person must not, without a market licence, establish or manage a market in Darwin.

- (3) A market must be operated only during the days and times determined by the City, by resolution.

- (4) The holder of a market licence may issue stallholder permits for stallholders to conduct business within the market.

- (5) A person commits an offence if the person:

- (a) establishes or manages a market in Darwin; and
- (b) does not hold a market licence for that purpose.

Maximum penalty: 50 penalty units.

Note for clause (5)

The infringement amount is 2 penalty units.

- (6) A person commits an offence if the person:

- (a) holds a market licence; and

Part 6 Public facilities and places
Division 7 Selling goods and services

- (b) fails to comply with the days and times determined by the City for the market.

Maximum penalty: 25 penalty units.

Note for clause (6)

The infringement amount is 1 penalty unit.

- (7) An offence against clause (5) or (6) is an offence of strict liability.

108 CEO directions

- (1) To protect the unique character and role of markets in Darwin, the CEO may give a stallholder association and stallholders reasonable written directions regarding the following:

- (a) the character of the market and the nature of the goods and services offered at the market;
- (b) the location of stalls in the market and the flow of pedestrian and vehicular traffic at the market;
- (c) the environmental impact of the market;
- (d) the health and safety of persons at, or in the vicinity of, the market.

- (2) A stallholder association and each stallholder in a market must comply with the directions given under clause (1).

- (3) A person commits an offence if the person:

- (a) holds a market licence or a stallholder permit; and
- (b) fails to comply with the reasonable written directions referred to in clause (1).

Maximum penalty: 25 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

109 Stallholder permits

- (1) A stallholder permit must specify:

- (a) the type of goods or services that the stallholder is allowed to sell at the market; and

Part 6 Public facilities and places
Division 7 Selling goods and services

- (b) the location of the stall from which the goods or services may be sold at the market; and
 - (c) the term of the permit; and
 - (d) any other conditions the City determines or the stallholder association requires.
- (2) A person must not, without a stallholder permit, sell goods or services or otherwise conduct business at a market.
- (3) A person commits an offence if the person sells goods or services or otherwise conducts business without a stallholder permit at a market.

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

110 Obligations of stallholders

- (1) A stallholder must:
- (a) comply with the conditions of the stallholder permit; and
 - (b) comply with the reasonable directions of an authorised person concerning the location and siting of the stall; and
 - (c) maintain the stall in good order and condition to the satisfaction of an authorised person; and
 - (d) keep the site of the stall clean and free from waste and recycling materials; and
 - (e) display the stallholder's name legibly and conspicuously on the stall.
- (2) A stallholder must not do any of the following:
- (a) sell goods or services or otherwise conduct business at the market contrary to the days and times determined by the City;
 - (b) call out their goods or services, make a noise or cause a disturbance that is likely to be a nuisance or to annoy persons in the vicinity of their stall;
 - (c) deposit or store packaging materials or goods at the market outside the stall;

Part 7 **Public libraries**
Division 1 **Purpose of Part**

(d) obstruct the passage of pedestrians, disabled persons or vehicles at the market;

(e) act in a manner offensive to a person in the vicinity of the stall.

(3) A person commits an offence if the person:

(a) is a stallholder; and

(b) fails to comply with clause (1) or (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

(4) An offence against clause (3) is an offence of strict liability.

111 Selling vehicles and boats on public land

(1) A person must not, without an authorisation, display or expose for sale any vehicle or boat in, on or over public land or outside any premises adjoining public land.

(2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

(3) An offence against clause (2) is an offence of strict liability.

Part 7 Public libraries

Division 1 Purpose of Part

112 Purpose

The purpose of this Part is to provide for a public library system that provides:

(a) free public access to books, reading, visual materials, Internet resources and other information; and

(b) places and activities for community learning; and

(c) other services related to public libraries.

Part 7 Public libraries
Division 2 Public libraries

Division 2 Public libraries

113 Public library system

- (1) The City must establish a public library system and determine the services provided by the system and the conditions for using those services.
- (2) The conditions for using public library services must be published.
- (3) A notice setting out the important conditions for using public library services must be clearly exhibited in a conspicuous place in or about each public library.

114 Registration of borrowers

- (1) A library officer may register persons as borrowers of library material according to one or more classes with the borrowing privileges determined by the City.

Note for clause (1)

There may be different classes of borrowers with different borrowing privileges, for example, temporary or non-resident borrowers.

- (2) A person wishing to be registered as a borrower of library material may be required to provide a library officer with:
 - (a) photo identification of the person; and
 - (b) evidence of the person's place of residence.
- (3) The parent or guardian of a child under 16 years of age may register the child if the parent or guardian accepts responsibility for fees or charges for lost or damaged library materials.
- (4) A person's registration as a borrower of library materials is not transferrable.

115 Borrowing privileges

- (1) Subject to this by-law, a registered borrower may borrow, free of charge for use away from a library, any library material designated by a library officer as available for lending.
- (2) A registered borrower of a class with restricted borrowing privileges may only access library materials allowed under the class.

Example for clause (2)

An online borrower may only access online library materials.

Part 7 Public libraries
Division 2 Public libraries

- (3) Any borrowing of library material is subject to this Part and any terms and conditions determined by the City.
- (4) Library material may be borrowed from a public library for such period as a library officer determines.

116 Identification of registered borrowers

A library officer may issue library identification, including cards, registration numbers or other means to identify registered borrowers, in accordance with the conditions determined by the City.

117 Liability of borrower

- (1) A registered borrower is liable for any loss of, or damage to, library materials borrowed with the borrower's library identification.
- (2) If library identification is lost, the registered borrower is liable under clause (1) until a library officer is notified of the loss of the identification.

118 Notifications by borrower

A registered borrower must notify a library officer if the borrower:

- (a) changes the borrower's name or address; or
- (b) loses, damages or destroys library materials; or
- (c) loses the borrower's library identification.

119 Revocation or suspension of registration

- (1) A registered borrower may revoke the borrower's registration by notifying a library officer.
- (2) A library officer may revoke or suspend a borrower's registration and library identification, if the borrower fails to comply with this Part or gives notice under clause (1).

120 Late library materials

- (1) A library officer may, by written notice, require a person who borrows library material to return library materials that are not returned on time.
- (2) A person who receives a written notice under clause (1) must return the library materials without delay.

Part 7 Public libraries
Division 3 Conduct in public library

- (3) A library officer may refuse to lend library materials to a person who fails to return library materials.

121 Lost or damaged library materials

- (1) A library officer may, by written notice, require a person who borrows library material to pay:
- (a) a fee for failing to return the material; and
 - (b) the cost of replacing or repairing material lost or damaged while on loan to the person.
- (2) Library material that is stolen, lost or damaged remains the property of the City, even if replaced or paid for.
- (3) A person who receives a written notice under clause (1) must pay the fee or cost within 15 days of receipt of the notice.
- (4) A person commits an offence if the person fails to comply with clause (3).

Maximum penalty: 10 penalty units.

Note for clause (4)

The infringement amount is 1 penalty unit.

- (5) An offence against clause (4) is an offence of strict liability.

Division 3 Conduct in public library

122 Code of conduct

- (1) Any code of conduct established by the City for persons using or in public libraries must be published and clearly exhibited in a conspicuous place in each public library.
- (2) A person who is using a public library or inside a public library must comply with the code of conduct.
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 10 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

Part 7 Public libraries
Division 3 Conduct in public library

123 Bringing things into public library

- (1) A person must not bring an animal into a public library other than:
- (a) an assistance dog; or
 - (b) an animal permitted into the library for the purposes of an event organised for the animal.

Example for clause (1)(b)

Pet time in the library.

- (2) A person must not bring a vehicle into a public library, unless:
- (a) it is a wheelchair or other mobility device needed by the person; or
 - (b) it is a skateboard, bicycle or tricycle that is allowed in by a library officer.
- (3) Property left or abandoned in a public library may be disposed of in the same manner as goods seized under by-law 156.

124 Prohibited conduct in libraries

- (1) A person must not engage in any of the following conduct:
- (a) taking library materials or other things without authority from a public library;
 - (b) disturbing, interrupting or annoying another person in a public library;
 - (c) behaving in a disorderly manner or using violent, abusive or offensive language in a public library;
 - (d) entering or remaining in a public library if the person is under the influence of liquor or an intoxicating drug.
- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 10 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (3) An offence against clause (2) is an offence of strict liability.

Part 8 Outdoor advertising
Division 1 Purpose and application of Part

125 Children

A child under 10 years of age may enter a public library if the child is kept under direct supervision at all times by an adult or other person who, in the opinion of the library officer, is capable of supervising the child while the child is in the library.

126 Banning persons

- (1) A library officer may, by written notice, ban a person from entering a public library if the person fails to comply with this Part.
- (2) A person who receives a notice under clause (1) must not enter a public library for the period of time specified in the notice.
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 10 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.

127 Powers of library officers

- (1) A library officer may give the directions and take reasonable action to ensure order in a public library and compliance with this Part.
- (2) An authorised person may remove or exclude a person from a public library to ensure order in a public library and compliance with this Part.

Part 8 Outdoor advertising

Division 1 Purpose and application of Part

128 Purpose

The purpose of this Part is to:

- (a) foster Darwin as a place of cultural diversity that celebrates a tropical outdoor lifestyle; and
- (b) protect Darwin from outdoor advertising that detracts from it being an attractive place for both residents and visitors; and

Part 8 Outdoor advertising
Division 2 General matters

- (c) ensure that outdoor advertising:
 - (i) is compatible with the design and character of the premises, streetscape and locality in which it is located; and
 - (ii) does not cause a loss of amenity or adversely affect the natural or built environment; and
 - (iii) does not adversely affect the safety of the public, including the safety or efficiency of a road or footpath; and
 - (iv) does not cause visual clutter and disorder by the proliferation of signs in any one location and by one sign obscuring another; and
 - (v) does not offend the public because of its design, location or content.

129 Application to outdoor advertising

- (1) This Part applies in relation to outdoor advertising on public land or on premises adjoining or in view of public land.
- (2) For this Part, advertising includes signs, writing, images, pictures, symbols, objects or illumination.

Examples for by-law 129

Banners, signage, billboards, posters, distinctive lighting and bunting.

Division 2 General matters

130 Outdoor advertising code

- (1) The City must establish an outdoor advertising code to prohibit and regulate outdoor advertising:
 - (a) on public land; or
 - (b) on premises adjoining, or visible from, public land.

Note for clause (1)

The Darwin City Council Outdoor Advertising Signs Code was approved by resolution of the Council on 30 March 2004 and amended from time to time.

- (2) The outdoor advertising code may:
 - (a) define expressions used in this Part and not defined in these By-laws; and

Part 8 Outdoor advertising
Division 3 Outdoor advertising permits

- (b) classify advertising and the criteria or conditions applicable to each class; and
 - (c) create exemptions from the requirement for an outdoor advertising permit; and
 - (d) provide for matters necessary or convenient for the purposes of this Part.
- (3) An outdoor advertising code must be published.

131 General standards for advertising signs

A person installing or exhibiting outdoor advertising must ensure that it:

- (a) complies with the outdoor advertising code; and
- (b) does not detract from the quality and architectural character of the premises on which the advertising is installed or exhibited; and
- (c) has no negative effect on the environmental character and amenity of the surrounding area; and
- (d) poses no risk to the health and safety of the public.

Examples for by-law 131

- 1 Advertising must not obstruct, or cause distraction to, vehicular and pedestrian traffic.
- 2 A sign must be built to withstand high winds.

Division 3 Outdoor advertising permits

132 Unauthorised outdoor advertising

- (1) A person must not install or exhibit outdoor advertising unless:
- (a) the person holds an outdoor advertising permit for that purpose; or
 - (b) the outdoor advertising code exempts the advertising from the requirement to hold an outdoor advertising permit; or
 - (c) the outdoor advertising is election signage placed on private property or on the verge of a road in accordance with conditions determined by the City, by resolution.

Part 8 Outdoor advertising
Division 3 Outdoor advertising permits

- (2) A person must not change outdoor advertising unless:
- (a) the change is allowed under the outdoor advertising code without an outdoor advertising permit; or
 - (b) the change is authorised by an outdoor advertising permit.
- (3) For these By-laws, the following are taken to be changes in advertising:
- (a) changing the dimensions, material, colour or appearance of the advertising;
 - (b) changing the content of the advertising;
 - (c) altering the construction or method of exhibiting the advertising;
 - (d) changing the location of the advertising;
 - (e) the direction from which the advertising is visible.
- (4) Nothing in these By-laws prevents the City from exhibiting outdoor advertising without an outdoor advertising permit.

133 Offence for unauthorised outdoor advertising

- (1) A person commits an offence if the person:
- (a) installs, exhibits or changes outdoor advertising; and
 - (b) the advertising is on public land or on premises adjoining or visible from public land; and
 - (c) an outdoor advertising permit is required for the advertising or the change in advertising under the outdoor advertising code; and
 - (d) the person does not have an outdoor advertising permit authorising the advertising or the change in advertising.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

Part 8 Outdoor advertising
Division 3 Outdoor advertising permits

134 Interfering with City advertising

- (1) A person commits an offence if the person removes, changes, defaces or otherwise interferes with any outdoor advertising installed or exhibited by the City.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

135 Transfer of outdoor advertising permit

- (1) A person may apply to the CEO for the transfer of an outdoor advertising permit.

Example for clause (1)

The outdoor advertising is on premises that are being sold or transferred.

- (2) An advertising permit must not be transferred if the outdoor advertising:
- (a) was exhibited contrary to the outdoor advertising permit before the day on which the ownership of the premises or business is transferred; and
 - (b) was changed contrary to these By-laws by either the current holder of the outdoor advertising permit or the proposed transferee.

136 Revoking outdoor advertising permit

- (1) The grounds for revoking an outdoor advertising permit under by-law 25 are as follows:
- (a) the holder of the outdoor advertising permit fails to comply with this Part, the outdoor advertising code or a condition of the permit;
 - (b) the character of the area in which, or in view of which, the outdoor advertising is exhibited changes and the outdoor advertising is no longer consistent with that character;

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Division 2 **General offences**

- (c) the outdoor advertising, either alone or in conjunction with other outdoor advertising, seriously detracts from the character of the public land on which, or in view of which, the outdoor advertising is exhibited.

Example for clause (1)(b)

The character of public land may change as a result of commercial or residential development.

- (2) The CEO may revoke the outdoor advertising permit in conjunction with the making of a regulatory order under section 283 of the Act.

Note for clause (2)

A regulatory order may be made under section 283 of the Act for visual pollution.

Part 9 **Compliance and enforcement**

Division 1 **Purpose of Part**

137 **Purpose**

The purpose of this Part is to provide the City with the means to ensure compliance with, and enforcement of, these By-laws.

Division 2 **General offences**

138 **Offence for conduct without authorisation**

- (1) A person commits an offence if:
- (a) the person engages in conduct in circumstances that require an authorisation; and
 - (b) the conduct does not otherwise constitute an offence against these By-laws; and
 - (c) the person has no authorisation for that conduct in those circumstances.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

Part 9 Compliance and enforcement
Division 3 Enforcement notice

139 Failure to comply with condition of authorisation

(1) A person commits an offence if:

- (a) the person holds an authorisation that is subject to a condition; and
- (b) the person fails to comply with the condition; and
- (c) the contravention does not otherwise constitute an offence against these By-laws.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

(2) An offence against clause (1) is an offence of strict liability.

140 Continuing offence

A court that finds a person guilty of an offence against these By-laws may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 1 penalty unit for each day during which the offence continues after the day the offence is first committed.

Division 3 Enforcement notice

141 Issuing enforcement notice

The CEO may issue an enforcement notice to any person the CEO believes on reasonable grounds has contravened, is contravening or is likely to contravene a provision of these By-laws.

142 Show cause process

- (1) Before issuing an enforcement notice, the CEO must give a written show cause notice to the proposed recipient of the enforcement notice:
 - (a) stating the CEO's intention to issue an enforcement notice; and
 - (b) giving the recipient an opportunity to show cause why the enforcement notice should not be issued.
- (2) The show cause notice must specify the date by which the recipient must show cause.

Part 9 Compliance and enforcement
Division 3 Enforcement notice

- (3) The date specified in the show cause notice must be not less than 20 days after the date of the notice.
- (4) The CEO must consider any response given by the recipient to the show cause notice before issuing an enforcement notice under by-law 141.

143 Exception to show cause process

- (1) Despite by-law 142, the CEO may issue an enforcement notice without first giving a show cause notice under that by-law if the CEO believes on reasonable grounds that it is necessary to prevent an immediate risk of harm to a person or property.
- (2) Without limiting clause (1), the grounds for not first giving a show cause notice include preventing the following:
 - (a) the demolition of a building;
 - (b) an irreversible change to cultural or heritage sites or the landscape;
 - (c) the risk of material environmental harm;
 - (d) the risk of significant adverse effect on amenity or public health.

144 Contents of enforcement notice

- (1) An enforcement notice must be in writing and specify the following:
 - (a) the name and address of the person, if known, to whom it is issued;
 - (b) the provision that the CEO believes was, is being or is likely to be contravened by the person and the grounds for that belief;
 - (c) the action or activity that the person is required to take, or refrain from taking, to remedy the contravention and to comply with the provision;
 - (d) the dates or times associated with any requirement in the notice;
 - (e) the person's right to apply for review of the notice under Part 18.1 of the Act.

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Division 3 Enforcement notice

- (2) An enforcement notice may impose any requirement reasonably required to remedy or prevent the contravention, including one or more of the following:
 - (a) a requirement that the person cease, or not commence, a specified activity;
 - (b) a requirement that the person not undertake or continue a specified activity except at specified times or subject to specified conditions;
 - (c) a requirement that the person undertake a specified activity within a specified period or at specified times or in specified circumstances;
 - (d) any other requirement determined by the Council, by resolution.
- (3) An enforcement notice is binding on each person to whom it is issued.
- (4) An application for review of the enforcement notice under Part 18.1 of the Act does not stay the operation of the notice.

145 Failure to comply with enforcement notice

- (1) A person commits an offence if:
 - (a) the person is issued with an enforcement notice; and
 - (b) the person does not comply with the enforcement notice.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant took all reasonable steps and exercised due diligence to comply with the enforcement notice.
- (4) If a person fails to comply with an enforcement notice, a person authorised by the City may, after reasonable notice to the owner or occupier of the land that is subject to the notice, enter the land and carry out all or part of the work, or take other action, required under the notice.

Part 9 Compliance and enforcement
Division 4 Infringement notice offences

146 Variation or revocation of enforcement notice

The CEO may vary or revoke an enforcement notice by written notice served on each person bound by the enforcement notice.

147 Cost recovery

Any costs properly and reasonably incurred by the City under these By-laws are recoverable as unpaid rates or as a debt due and payable to the City.

Example for by-law 147

The cost of removing a handbill under by-law 97.

Division 4 Infringement notice offences

148 Infringement notice offence and infringement amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in the Schedule 2.
- (2) The ***infringement amount*** for an infringement notice offence is the amount equal to the monetary value of the penalty units specified for the offence in Schedule 2.

149 When infringement notice may be given

An authorised person may give an infringement notice to a person if the officer believes on reasonable grounds that the person has committed an infringement offence.

150 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person to whom it is issued, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date and time of the infringement notice offence and the place at which the infringement notice offence occurred;
 - (d) a description of the offence;
 - (e) the infringement amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to which the infringement amount is payable.

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Division 4 Infringement notice offences

- (2) The infringement notice must include a statement to the effect of the following:
 - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the infringement amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect to have the matter dealt with by a court instead of under that Act by:
 - (i) completing a statement of election and giving it to the specified enforcement agency; and
 - (ii) not paying the infringement amount;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*.
- (3) The infringement notice must include an appropriate form for making the statement of election referred to in clause (2)(b)(i).

151 Effective date of payment methods

- (1) Payment of the infringement amount by electronic means takes effect when the amount is credited to the payee's bank account.
- (2) Payment of the infringement amount by cheque takes effect when the cheque is cleared on first presentation.

152 Expiation of offence

If the infringement amount for the infringement notice offence is paid in accordance with the infringement notice, the alleged offence is expiated and no further proceedings can be taken in relation to the offence.

153 Withdrawal of infringement notice

- (1) An authorised person may withdraw an infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the infringement amount.

Part 9 Compliance and enforcement
Division 5 Other powers

154 Effect of this Division

- (1) This Division does not:
- (a) prejudice or affect the start or continuation of a proceeding for an infringement offence unless the offence is expiated; or
 - (b) limit the penalty that may be imposed by a court for the offence; or
 - (c) prevent more than one infringement notice for the same infringement offence being given to a person; or
 - (d) require an infringement notice to be given; or
 - (e) affect the liability of a person to be prosecuted in a court for an infringement notice offence for which an infringement notice was not given.
- (2) If more than one infringement notice for the same offence was given to a person, the person may expiate the offence by paying the infringement amount in accordance with any of the notices.

Division 5 Other powers

155 Powers of authorised persons and employees

- (1) Subject to clause (2), an authorised person may exercise any reasonable power necessary or required to give effect to these By-laws.
- (2) An authorised person must act in accordance with any conditions imposed on the person by the City, by resolution.
- (3) An authorised person or employee of the City acting in accordance with their duties is exempt from the requirement of an authorisation for that activity.

Example for clause (3)

An employee does not need an authorisation to set-up structures on public land.

156 Sale of seized goods

- (1) Within 14 days after goods are seized under these By-laws, an authorised person must take reasonable steps to give a written notice of the seizure to the owner of the goods.
- (2) If the owner cannot be found or the owner's name cannot be ascertained, an authorised person must certify to the CEO the reason for failure to serve the notice.

Part 10 Repeal and transitional matters for City of Darwin By-laws 2021
Division 2 Transitional matters for City of Darwin By-laws 2021

- (3) The CEO may publish notice of the seizure if the goods are of sufficient value to justify the publication.
- (4) The City may sell or dispose of the goods if the owner does not claim the goods and pay the expenses relating to their seizure and custody within 28 days of the later of the following:
 - (a) the day of service of a notice under clause (1);
 - (b) the last day of publication under clause (3).
- (5) Any proceeds from the sale of the goods must be applied in the following priority:
 - (a) the City's costs incurred by the City in the sale;
 - (b) the City's reasonable costs of seizure and custody before sale or disposal;
 - (c) any balance owing to the owner.
- (6) Any balance owing to the owner must be paid to the owner as soon as practicable or, if unclaimed by the owner after 6 months, paid into the City's general fund.

Part 10 Repeal and transitional matters for City of Darwin By-laws 2021

Division 1 Repeals

157 Repeal of By-laws

The By-laws specified in Schedule 1 are repealed.

Division 2 Transitional matters for City of Darwin By-laws 2021

158 Definitions

In this Division:

commencement means the commencement of by-law 157.

former By-laws means the *Darwin City Council By-laws 1994* as in force immediately before the commencement.

Part 10	Repeal and transitional matters for City of Darwin By-laws 2021
Division 2	Transitional matters for City of Darwin By-laws 2021

159 Former determinations

A charge, due, fare, fee or rent determined under the former By-laws and in force immediately before the commencement continues in effect as if it were determined under these By-laws until amended or revoked under these By-laws.

160 Former authorisations

A licence, permit, registration or other authorisation issued, granted or renewed under the former By-laws and in force immediately before the commencement continues in effect as if it were issued, granted or renewed under these By-laws until amended or revoked under these By-laws.

161 Former licensed premises

Premises licensed for multiple dogs under the former By-laws are taken to be authorised under by-law 50.

162 Outdoor advertising code

The *Darwin City Council Outdoor Advertising Signs Code*, approved by resolution of the City on 30 March 2004 and amended from time to time, continues in effect as if it were an outdoor advertising code under by-law 130 until amended or revoked.

Schedule 1 Repealed By-laws

Schedule 1 Repealed By-laws

by-law 157

<i>Darwin City Council By-laws 1994</i>	SL No. 14 of 1994
<i>Amendments of Darwin City Council By-laws</i>	SL No. 51 of 1996
<i>Amendments of Darwin City Council By-laws</i>	SL No. 1 of 2000
<i>Amendments of Darwin City Council By-laws</i>	SL No. 2 of 2000
<i>Amendments of Darwin City Council By-laws</i>	SL No. 42 of 2000
<i>Amendments of Darwin City Council By-laws</i>	SL No. 28 of 2002
<i>Amendments of Darwin City Council By-laws</i>	SL No. 54 of 2002
<i>Darwin City Council Amendment (Signs, Hoardings and Advertising) By-laws 2005</i>	SL No. 53 of 2005
<i>Darwin City Council Amendment (Animal Management) By-laws 2007</i>	SL No. 44 of 2007
<i>Darwin City Council (Fireworks) Amendment By-laws 2009</i>	SL No. 14 of 2009
<i>Darwin City Council Amendment By-laws 2020</i>	SL No. 21 of 2020

Schedule 2 Infringement notice offences and infringement amounts

Schedule 2 Infringement notice offences and infringement amounts

by-law 148

Provision	Prescribed amount
by-law 30(2)	1 penalty unit
by-law 31(5)	1 penalty unit
by-law 32(2)	1 penalty unit
by-law 33(1) and (2)	1 penalty unit
by-law 34(1)	4 penalty units
by-law 35(2)	1 penalty unit
by-law 36	4 penalty units
by-law 37(2)	1 penalty unit
by-law 38(1)	1 penalty unit
by-law 39(1)	1 penalty unit
by-law 40	1 penalty unit
by-law 43(1)	2 penalty units
by-law 45(2)	1 penalty unit
by-law 46(2)	2 penalty units
by-law 47(3)	1 penalty unit
by-law 48(2)	2 penalty units
by-law 49(4)	1 penalty unit
by-law 50(3)	1 penalty unit
by-law 54(1), (2) and (3)	2 penalty units
by-law 55(3)	4 penalty units
by-law 56(3)	9 penalty units

Schedule 2 Infringement notice offences and infringement amounts

by-law 62(1)	9 penalty units
by-law 65(3)	2 penalty units
by-law 67(7)	3 penalty units
by-law 73(1)	2 penalty units
by-law 76(7)	2 penalty units
by-law 78(3)	1 penalty unit
by-law 79(4)	4 penalty units
by-law 80(2)	2 penalty units
by-law 81(2)	1 penalty unit
by-law 82(3)	1 penalty unit
by-law 84(2)	2 penalty units
by-law 85(2)	3 penalty units
by-law 86(5)	4 penalty units
by-law 87(2)	2 penalty units
by-law 88(3)	2 penalty units
by-law 89(2)	2 penalty units
by-law 90(2)	2 penalty units
by-law 91(2)	2 penalty units
by-law 92(3)	2 penalty units
by-law 94(3)	1 penalty unit
by-law 95(2)	1 penalty unit
by-law 97(5)	1 penalty unit
by-law 98(4)	1 penalty unit
by-law 99(3) and (5)	1 penalty unit
by-law 100(2)	2 penalty units
by-law 101(2)	2 penalty units

Schedule 2 Infringement notice offences and infringement amounts

by-law 102(4)	2 penalty units
by-law 104(2)	1 penalty unit
by-law 105(3)	1 penalty unit
by-law 107(5)	2 penalty units
by-law 107(6)	1 penalty unit
by-law 108(3)	1 penalty unit
by-law 109(3)	1 penalty unit
by-law 110(3)	1 penalty unit
by-law 111(2)	1 penalty unit
by-law 121(4)	1 penalty unit
by-law 122(4)	1 penalty unit
by-law 124(3)	1 penalty unit
by-law 126(3)	1 penalty unit
by-law 133(1)	2 penalty units
by-law 134(1)	2 penalty units
by-law 138(1)	2 penalty units
by-law 139(1)	2 penalty units
by-law 145(1)	2 penalty units