

NORTHERN TERRITORY OF AUSTRALIA

TIWI ISLANDS REGIONAL COUNCIL BY-LAWS

Subordinate Legislation No. [] of 2017

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Tiwi Islands Regional Council By-laws

Tiwi Islands Regional Council, at a meeting held on [] 2017, made the following by-laws under the *Local Government Act* and, for section 63(2)(a) of the *Interpretation Act*, authorised Marion Rose Scrymgour, the Chief Executive Officer, to sign them.

Dated 2017

Chief Executive Officer

The common seal of Tiwi Islands Regional Council is affixed under a resolution authorising the seal to be affixed passed on [] 2017.

Mayor

Chief Executive Officer

**NB: A certificate of a legal practitioner is required under section 190(1)(c) of the *Local Government Act*.
Also, a special resolution of the Council is required for making a by-law under section 190(2) of the *Local Government Act*.**

<p>DRAFT ONLY Prepared by the Office of the Parliamentary Counsel Date: 24 October 2017 15:31 L018R72v6</p>

Part 1 Preliminary matters

1 Citation

These By-laws may be cited as the *Tiwi Islands Regional Council By-laws*.

2 Commencement

- (1) These By-laws (except by-law 18(1)) commence on the day on which they are notified in the *Gazette*.
- (2) By-law 18(1) commences on 1 September 2018.

3 Definitions

In these By-laws:

approved means approved by the Tiwi Islands Regional Council.

authorised person means a person appointed under section 112(1) of the Act to be an authorised person.

commercial waste means waste produced in the course of trade or commerce.

Council means Tiwi Islands Regional Council.

Council area means the Tiwi Islands Regional Council area.

dangerous dog means a dog declared under by-law 20 to be a dangerous dog.

dog means an animal of the genus *Canis*.

dog register means the register kept under by-law 16.

dog-tag means a dog-tag issued under by-law 19.

infringement notice, see by-law 24.

infringement notice offence, see by-law 23(1).

litter, see section 3 of the *Litter Act*.

member means a member of the Council.

owner, in relation to a dog, means:

- (a) the person whose name is listed in the dog register as the owner of the dog; or
- (b) if the dog is not registered – the person who has care or control of the dog.

premises includes land or a building.

prescribed amount, see by-law 23(2).

registered dog means a dog registered under by-law 17.

registered premises means the premises recorded in the register under by-law 16(2)(a).

suitable collar means a collar capable of permanently retaining a dog-tag.

Note for by-law 3

The Interpretation Act contains definitions and other provisions that may be relevant to these by-laws.

4 Purposes

The purposes of these By-laws are:

- (a) to support the orderliness of Tiwi Islands Regional Council meetings; and
- (b) to establish an enforcement scheme for littering in the Tiwi Islands Regional Council area; and
- (c) to regulate the keeping of dogs in the Tiwi Islands Regional Council area.

5 Application

These By-laws apply to, and are in force in, the Tiwi Islands Regional Council area.

6 Powers of authorised persons

- (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 by the Council.

7 Application of Criminal Code

- (1) 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.

- (2) An offence against these By-laws is an offence of strict liability.

Part 2 Council meetings – order

8 Question of order

- (1) A member engages in disorderly conduct if, at a meeting, the member:
 - (a) contravenes the Act or these By-laws; or
 - (b) uses language that, according to common usage, would be considered disorderly; or
 - (c) uses an expression inconsistent with good order; or
 - (d) intentionally engages in conduct that interrupts, obstructs, undermines or hinders a meeting; or
 - (e) says or does any other thing intended to bring the Council into contempt.
- (2) The chair of a meeting may call a member to order if the chair considers the member is engaging in disorderly conduct.
- (3) If the chair calls a member to order more than once under clause (2) the chair may request the member to do either or both of the following:
 - (a) to leave the place where the meeting is taking place for the remainder of the meeting; or
 - (b) to apologise, without reservation, to the other members present.
- (4) A member must not refuse a request under clause (3)(a).

9 Removal of disorderly persons from meetings

- (1) A person, other than a member, who interrupts the orderly conduct of a meeting must immediately leave the place where the meeting is being held on being requested to do so by the chair.
- (2) The chair may identify a person who fails to comply with a request under clause (1) as a person to be removed from the place where the meeting is taking place.

Part 3 Littering**10 Litter**

- (1) A person must not leave, throw, deposit or abandon litter in, onto or from a public place or vacant land other than into a rubbish bin provided for that purpose.

Maximum penalty: 15 penalty units.

- (2) Clause (1) does not apply in a waste management facility.

11 Littering causing injury or endangering health

- (1) A person must not leave, throw, deposit or abandon litter in, onto or from a public place or vacant land and which is likely to cause injury to, or endanger the health of, a person using the public place or vacant land.

Maximum penalty: 25 penalty units.

- (2) A person who is prosecuted, or served an infringement notice, for an offence against clause (1) is not liable to be prosecuted, or served an infringement notice, for an offence against by-law 10 in respect of the same litter.

12 Commercial waste

A person must not leave, throw, deposit or abandon commercial waste other than at a Council waste management facility.

Maximum penalty: 50 penalty units.

13 Waste management facility offences

- (1) A person must not leave, throw, deposit or abandon litter at a Council waste management facility other than on the days and during the hours specified by the Council.

Maximum penalty: 15 penalty units.

- (2) A person must not deposit commercial waste at a Council waste management facility other than on the days and during the hours specified by the Council.

Maximum penalty: 50 penalty units.

- (3) A person must not enter a Council waste management facility other than in accordance with the facility rules approved by the Council.

Maximum penalty: 15 penalty units.

- (4) A person must comply with any direction given at a Council waste management facility relating to the place at which or manner in which commercial waste is to be deposited.

Maximum penalty: 50 penalty units.

- (5) A person must permit an authorised person at a Council waste management facility to inspect a load of waste that the person is proposing to deposit at the facility.

Maximum penalty: 25 penalty units.

14 Removal of litter or commercial waste

- (1) An authorised person, by written notice, may direct a person responsible for litter or commercial waste in a public place or on vacant land to remove the litter or commercial waste within a stated period.

- (2) The authorised person must determine the period under clause (1) by taking into account the nature, quantity and location of the litter or commercial waste.

- (3) If the litter or commercial waste to be removed under clause (1) constitutes a threat or risk to public safety, the authorised person may specify in the notice that the litter or commercial waste must be removed immediately.

- (4) If a person does not comply with a direction under clause (1) by the end of the stated period, an authorised person, with any assistance required, may carry out, or cause to be carried out, the work required to render the place clean and free from litter or commercial waste.

- (5) The costs and expenses reasonably incurred by the Council in carrying out, or causing to be carried out, any work under clause (4) are a debt due and payable to the Council by the person to whom the notice was issued.

Part 4 Control of dogs

15 Keeping of dogs

A person must not keep more than 2 dogs on the same premises for more than 3 months without written authorisation from the Council.

16 Dog register

- (1) The CEO must keep a dog register in the manner determined by the Council.
- (2) The following information must be recorded in the dog register about each registered dog:
 - (a) the name and address of the owner of the dog;
 - (b) the address of the premises where the dog is usually kept;
 - (c) any conditions imposed on the keeping of the dog that are imposed under by-law 20.

17 Registration of dogs

- (1) A person who keeps a dog in the Council area for more than 3 months must apply to the Council to register the dog to an address at which the dog is usually kept.
- (2) An application under clause (1) must give the Council the required details to enable the Council to record the information in the dog register.
- (3) For each registered dog, the Council must issue a numbered dog-tag that corresponds with an entry in the dog register.

18 Offence – keeping unregistered or more than 2 dogs

- (1) The owner of a dog that is not registered under this Part must not keep the dog in the Council area for more than 3 months.

Maximum Penalty: 20 penalty units.

- (2) A person must not keep a dog on premises where there are already 2 dogs unless permission has been obtained from the Council to keep those additional dogs.

Maximum Penalty: 20 penalty units.

19 Identification of dogs

- (1) The owner of a registered dog must ensure that the dog wears:
 - (a) a suitable collar; and
 - (b) the dog-tag issued under by-law 17(3) on that collar.
- (2) The owner of a registered dog must ensure that a replacement dog-tag is obtained for the dog if the tag provided is lost, misplaced or otherwise unavailable to be attached to the suitable collar.

20 Dangerous dogs

- (1) An authorised person may declare a dog to be dangerous if the authorised person is of the opinion that the dog is dangerous to people or to other animals.
- (2) An authorised person may impose any of the following conditions on the keeping of a dangerous dog:
 - (a) that the dog must be contained in a secure enclosure;
 - (b) that the dog must be restrained on a suitable leash, or under the control of a person capable of restraining the dog, when the dog is not on the premises where it is usually kept;
 - (c) any other condition that is reasonable to impose on the keeping of a dangerous dog.
- (3) A person who proposes to transfer ownership of a dangerous dog to another person must, before that transfer, inform that person that the dog is a dangerous dog.

21 Seizure of dogs

- (1) An authorised person may seize any of the following:
 - (a) a diseased, injured, savage or destructive dog;
 - (b) a dog that is an immediate and actual threat to public safety;
 - (c) a dangerous dog, if the owner of the dog has not complied with a condition imposed under by-law 20(2);
 - (d) a dog without a dog-tag attached to its collar;
 - (e) a dog at large.

- (2) After a dog has been seized, an authorised person must do anything that is reasonably necessary to identify and locate the owner of the dog.

22 Destruction of dogs

- (1) An authorised person may arrange for the destruction of a dog if:
- (a) the dog is diseased, savage or destructive; and
 - (b) in the opinion of the authorised person, it is necessary to do so on the basis that the dog is an immediate and actual threat to public safety.
- (2) An authorised person may arrange for the destruction of a dog if:
- (a) the dog is diseased or injured; and
 - (b) in the opinion of the authorised person, it would be cruel to keep it alive.
- (3) Destruction of a dog must be conducted in a manner that causes it to die quickly and without unnecessary suffering.
- (4) Destruction may be carried out by any of the following:
- (a) a veterinarian;
 - (b) a police officer;
 - (c) either of the following who, in the opinion of the CEO, is suitably qualified or trained to carry out the destruction of a dog:
 - (i) an authorised person;
 - (ii) a person who the CEO has instructed in writing to do so.
- (5) After a dog has been destroyed, an authorised person must do anything that is reasonably necessary to:
- (a) identify and locate the owner of the dog; and
 - (b) give written notice to that owner stating the reason for the destruction of the dog.

Part 5 Infringement notice offences

23 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in column 1 of the Schedule.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified in the corresponding entry of column 2 of the Schedule for that offence.

24 When infringement notice may be given

If an authorised person believes on reasonable grounds that a person has committed an infringement notice offence, the authorised person may give a notice (an ***infringement notice***) to the person.

25 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to which the prescribed amount is payable.
- (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 prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;

- (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person contravenes the order.
- (3) The infringement notice must include an appropriate form for making the statement of election mentioned in clause (2)(b).

26 Electronic payment and payment by cheque

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the Council's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

27 Withdrawal of infringement notice

- (1) The Council may withdraw an infringement notice by written notice given to the person.
- (2) The withdrawal notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

28 Application of Part

- (1) This Part does not:
 - (a) require an infringement notice to be given; or

- (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (2) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any one of the notices.

Part 6 Miscellaneous

29 Council may charge fee for service

- (1) The Council may charge a fee for any service provided under these By-laws.

Example for clause (1)

A fee for registering a dog, licensing of premises, inspecting a register, keeping a dog in a pound.

- (2) The Council may waive, reduce or refund a fee charged under clause (1).

Part 7 Transitional arrangements

30 Registration of dogs kept during transitional period

A person does not commit an offence against by-law 18(2) or fail to comply with by-law 15 if the person keeps, on or after 1 September 2018, any dog registered before that date.

Schedule Infringement notice offences and prescribed amounts

by-law 23

Provision	Prescribed amount
by-law 10	0.5 penalty units
by-law 11	1 penalty unit
by-law 12	4 penalty units
by-law 13(1)	0.5 penalty units
by-law 13(2)	4 penalty units
by-law 13(3)	0.5 penalty units
by-law 13(4)	4 penalty units
by-law 13(5)	1 penalty unit
by-law 18(1)	0.5 penalty units
by-law 18(2)	0.5 penalty units

* Notified in the *Northern Territory Government Gazette* on [] 2017.