



Policy:

Local Orders for the Keeping of Animals

2022

Information about this document

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Document History

Doc No.	Date Amended	Details/Comments eg Resolution No.
DM733027	07/1/2008	New policy copied from #338453
DM1150279	10/10/2011	Replaced old black and white maps with coloured versions
DM1225050	30/04/2012	Updated to Local Government (General) Regulation 2005 references
E2020/82784	25/02/2021	Addition of map 3; legislative update and correction of restrictions in Wildlife Protection Areas; amendments based on public exhibition. Endorsed by Council 25/02/2021 Res 21-049
E2021/51429	21 April 2021	Minor update to include bee hives at clause 7 per Biosecurity Act and Beekeeping Code of Practice for NSW
	13 October 2021	Updated to reflect new Local Government (General) Regulation 2021
E2021/51429	23 June 2022	Endorsed by Council (resolution 22-253) with no amendments required
	17/01/2023	Administrative change to replace references to Impounding Act 1993 (now repealed) with the Public Spaces (Unattended Property) Act 2021
	07/08/2023	Addition of new map 1 due to new area per resolution 23-209, and new first row in Wildlife Protection Areas table on page 4 to reflect additional area

Further Document Information and Relationships

Related Legislation	<p>Biosecurity Act 2015 Byron Shire Development Control Plan 2014 Companion Animals Act 1998 Conveyancing Act 1919 Food Act 2003 (prohibits animals to be kept where food is handled for sale) Public Spaces (Unattended Property) Act 2021 Local Government Act 1993 Local Government (General) Regulation 2021 Local Land Services Act 2013 National Parks & Wildlife Act 1974 and Fauna Protection regulations Prevention of Cruelty to Animals Act 2013 Protection of the Environment Operations Act 1997 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</p>
Related Policies	
Related Standards, Procedures, Statements, documents	

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.



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1. Objectives

- a. To inform the community of the main statutory restrictions and acceptable limits which apply to the keeping of certain animals for domestic purposes.
- b. To give consistent, accurate guidance and advice to persons enquiring as to the keeping of animals for domestic purposes.
- c. To establish local standards, acceptable to the community, for the keeping of animals.
- d. To publicly notify the circumstances that the Council will consider in determining whether to serve an Order under Section 124 of the Local Government Act 1993 to prohibit, restrict or in some other way, require things to be done regarding the keeping of animals

2. Introduction

- a. This policy seeks to inform the Byron community of Council's regulatory powers concerning the keeping of animals in the Byron Council area. The Orders Policy aims to:
 - i. Minimise the incidence of nuisance being caused to persons
 - ii. Protect the welfare of companion and farm animals
 - iii. Protect the welfare and habitat of wildlife; and
 - iv. Minimise the disturbance of or damage to protected vegetation
 - v. Safeguard the environment
- b. It is well documented that the keeping of companion animals and/or pet animals is usually most beneficial to the well-being of people. Nevertheless, on occasions, complaints are made to Council where animals of an inappropriate kind or number, or of a prohibited species, are being kept or where the animals and their accommodations are not being looked after properly.
- c. It is not intended within this policy to completely regulate the manner in which animals should be kept. It is however necessary that this policy should inform the reasonable limits (both statutory and advisory) which apply concerning the maximum number of animals and the circumstances under which they may be kept on premises.
- d. Responsible ownership is a very important component of nuisance control and this document also contains advice to the animal owner regarding their responsibilities to prevent a nuisance from occurring.

3. Scope

- a. This policy applies to animals kept for domestic purposes, as companion animals, pets or for hobby interests.



- b. The principles contained in the prescriptive requirements will also apply to the keeping of animals for commercial purposes, including boarding, breeding, grooming, caring, treatment, training, racing, exhibiting, trading or selling.
- c. However, where it is intended to keep animals for any commercial purposes (except the keeping of livestock on rural properties), it is necessary that a development application be submitted to Council and planning consent obtained. Consent to the operation of Commercial Animals Management Establishments may not be allowed where Council considers that the proposal would be harmful to the amenity of the locality.
- d. This policy relates to Order Numbers 18 and 21 of Chapter 7 of the Local Government Act 1993.

4. Prescriptive Requirements

- a. The number of animals that may be kept at a premises should not exceed the number shown as appropriate to the kind of animal listed in the table included with this policy.
- b. The kind of animal that is suitable to be kept at any premises will be determined having regard for the size of the available yard area and the distance to the nearest dwelling or other prescribed building. Certain statutory requirements also apply as noted in the table.
- c. It should not be assumed that animals of all kinds may be kept on premises which are part of a multiple dwelling allotment. Where a dwelling is owned within Strata Plan, it will be necessary for the rules of the Body Corporate to be examined for requirements relevant to the keeping of animals. Where a dwelling is within a designated estate where companion animals are prohibited, it will be necessary for the respective title deeds to be examined for restrictions relevant to the keeping of animals.
- d. Animals should be kept in a manner which does not:
 - i. Create unclean or unhealthy conditions for people or for the animals
 - ii. Attract or provide a harbourage for vermin
 - iii. Create offensive noise or odours
 - iv. Cause a drainage nuisance or dust nuisance
 - v. Create waste disposal problems or pollution problems
 - vi. Create an unreasonable annoyance to neighbouring residents or fear for safety
 - vii. Cause nuisance due to proliferation of flies, lice, fleas or other insects.
- e. Suitable shelter(s) should be provided for all animals. Certain kinds of animals are required to be kept in cages to prevent escape or attack by predators. Generally other animals are to be securely enclosed with adequate fencing to prevent escape.
- f. Certain animal shelters should not be erected or located at a premises without the prior approval of Council. Please contact Council's Health & Compliance Services Department for further details.



- g. Design Guidelines for the size, layout and construction of animal shelters are produced by the various animal welfare organisations and the Department of Agriculture. These may be adopted from time to time as supplements to this policy.

5. Council's Powers to Control and Regulate the Keeping of Animals

- a. Generally, Council's powers to control and regulate the keeping of animals are provided under Section 124 of the Local Government Act 1993 and the Local Government (General) Regulation 2021.
- b. The Council may, in the appropriate circumstances, issue an Order to:
 - i. Prohibit the keeping of various kinds of animals
 - ii. Restrict the number of various kinds of animals to be kept at a premises
 - iii. Require that animals be kept in a specific manner.
- c. The Council may also issue Orders requiring:
 - i. Demolition of animal shelters built without the prior approval of Council
 - ii. The occupier to do or refrain from doing such things as are specified so as to ensure that land or premises are placed or kept in a safe or healthy condition.
- d. It is advised that Council can exercise further controls over animals under the following Acts:
 - i. Companion Animals Act 1998
 - ii. Protection of the Environment Operations 1997
 - iii. Public Spaces (Unattended Property) Act 2021
 - iv. Food Act 2003 (prohibits animals to be kept where food is handled for sale).
 - v. Conveyancing Act 1919
 - vi. Byron Shire Development Control Plan 2014

6. Giving of Orders by Council

- a. Generally, where a problem is identified with the keeping of animals and it can not be resolved by consultation, the Council will proceed to issue notice of its intention to serve an Order. Normally a person will be given opportunity to make representations to Council prior to a formal Order being issued. In situations where urgency is required, an emergency Order may be issued without prior notice.

7. Table of Requirements

- a. The following table indicates the essential requirements and relevant considerations regarding the keeping of animals.

**WILDLIFE PROTECTION AREAS**

Kind of Animal	Location	Minimum Distance (from certain buildings) (See Note A)	Applicable Regulations and other Advisory Matters
Dogs	Old New Brighton Road, Ocean Shores	See Map 1	The taking of dogs (controlled or not) into public places within this area is prohibited as this area has been identified as a wildlife protection area.
Dogs	Tread Lightly Estate, Hardy Avenue, North Ocean Shores Lilli Pilli Estate, Byron Bay	See Map 2 See Map 3	The taking of dogs (controlled or not) into public places within these areas is prohibited as these areas have been identified as wildlife protection areas. The keeping of dogs on private properties within these Estates is prohibited by restrictive covenants established at the time the Estates were developed and approved.
Cats	Tread Lightly Estate, Hardy Avenue, North Ocean Shores Lilli Pilli Estate, Byron Bay Fern Beach Estate, Ocean Shores	See Map 2 See Map 3 See Map 4	The taking of cats (controlled or not) into public places within these areas is prohibited as these areas have been identified as wildlife protection areas. The keeping of cats on private properties within these Estates is prohibited by restrictive covenants established at the time the Estates were developed and approved.

Kind of Animal	Maximum Number (Excludes offspring to 3 months of age)	Minimum Distance (from certain buildings) (See Note A)	Applicable Regulations and other Advisory Matters
Bee Hives (a colony of bees headed by a queen bee)	2 – small block 4 – average block (up to 1000 m ²) 8 - larger block (up to 2000 m ²) No limit - rural	-	Department of Primary Industries Beekeeping Code of Practice for NSW Beekeepers must be registered with NSW Department of Primary Industries and must comply with the Biosecurity Act 2015.
Dogs	2	-	The Companion Animals Act 1998 requires lifetime registration, identification, and effective control of



Kind of Animal	Maximum Number (Excludes offspring to 3 months of age)	Minimum Distance (from certain buildings) (See Note A)	Applicable Regulations and other Advisory Matters
	RSPCA recommendation		<p>dogs at all times. Adequate fencing is essential.</p> <p>The Council may approve requests to keep additional dogs where adequate yard size relative to the size and number of dogs, proper care and desexing can be demonstrated.</p>
Cats	2 RSPCA recommendation	-	<p>More than 2 cats will not be appropriate in many situations.</p> <p>Cats should be kept inside the dwelling and/or an enclosure from dusk until dawn.</p> <p>Compliance with desexing, use of identity collars with multiple bells, proper care, restriction of access to outdoors at night and registration under the provisions of the Companion Animals Act 1998 will be relevant factors in determining whether more than two cats may be kept at a premises.</p>
<p>Poultry, domestic and guinea fowl</p> <p>Poultry other than fowls including geese, turkeys, peafowl and other pheasants.</p> <p>Roosters</p>	<p>10</p> <p>10</p> <p>0 (in residential areas or where crowing will cause offensive noise)</p>	<p>4.5m</p> <p>30m</p>	<p>Local Government (General) Regulation 2021, Schedule 2, Part 5 Division 2 Keeping of Poultry, Clauses 19 and 20 applies.</p> <p>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Subdivision 2 Fowl and Poultry Houses applies.</p> <p>Hard paving must be provided under roosts in poultry houses if within 15.2 metres of a dwelling, public hall or school.</p> <p>Poultry yards must be enclosed to prevent escape of poultry and be kept free of rats and mice.</p>



Kind of Animal	Maximum Number (Excludes offspring to 3 months of age)	Minimum Distance (from certain buildings) (See Note A)	Applicable Regulations and other Advisory Matters
Pigeons NOTE: to establish the permissible number of pigeons by locality of premises, it may be necessary for Council Officers to assess the site conditions	As appropriate to species, size of cage, aviary or bird room.	6m	Nuisance due to noise and also free flight of pigeons is to be minimised. Lofts must be constructed of hard paving with a smooth surface and graded to drain. Open lofts are not permitted. Lofts are to be kept clean at all times. Manure is to be cleaned up daily and disposed of correctly. Keepers of more than fifty (50) birds are to be members of official or registered aviculture societies. Upon complaint, Council is to liaise with society representatives/officials to resolve the complaint.
Birds including canaries, budgerigars, quails, finches and parrots Sulphur Crested Cockatoo and Long Billed Corella	30 2 portable cages	3m 3m	Cages and aviaries must be of appropriate size and regularly cleaned. National Parks and Wildlife permit is required to keep many native birds. Exemptions include Budgerigar, Zebra Finch, Galah and Sulphur Crested Cockatoo. Noisy birds should be restricted in number. Sulphur Crested Cockatoo and Long Billed Corella are likely to be noisy if kept as single caged birds.
Rabbits	1	-	Must be domestic breed and kept in cage. Do not release into the environment. Restriction on number is imposed by the NSW Department Of Primary Industries under the Local Land Services Act 2013.



Kind of Animal	Maximum Number (Excludes offspring to 3 months of age)	Minimum Distance (from certain buildings) (See Note A)	Applicable Regulations and other Advisory Matters
Ferrets	1	-	The keeping of ferrets is not recommended, however where proper care (including appropriate secure cages) is available, the keeping of ferrets may be approved.
Pet rats, mice and guinea pigs	12 of each variety	3m	Must be kept in appropriate cages and not released into the environment.
Sheep and goats	1 (one animal per one tenth hectare of land as a general guide) 0 (in residential areas)	6m	Billy goats should not ordinarily be kept on a residential premises. These animals are not to be slaughtered at the premises where they are kept.
Pigs	1 0 (in residential areas)	60m	Local Government (General) Regulation 2021 applies.
Horses and Cattle	1 (one animal per half hectare of pastured land as a general guide) 0 (in residential areas)	9m	Local Government (General) Regulation 2021 applies. A greater separation distance may be required by resolution of Council in each particular case. Fencing must be strong and durable to prevent escape. Stables and sheds must be hard paved and graded to drain.



Kind of Animal	Maximum Number (Excludes offspring to 3 months of age)	Minimum Distance (from certain buildings) (See Note A)	Applicable Regulations and other Advisory Matters
Reptiles	As appropriate in the circumstances	As appropriate in the circumstances	<p>National Parks and Wildlife Act 1974 and Fauna Protection regulations place a general prohibition on the keeping of reptiles. Advice on the keeping of reptiles should be sought from the National parks and Wildlife Service in all cases.</p> <p>All species must be adequately housed to prevent escape. The keeping of snakes may cause concern to neighbours.</p>
Fish, aquarium and pond	As appropriate in the circumstances	As appropriate in the circumstances	<p>Water is to be maintained clean and at sufficient levels.</p> <p>Ponds are to be fenced in accordance with AS 1926.1-2012: Fences and Gates for Private Swimming Pools if more than 300 mm deep.</p> <p>Ponds are not to provide a breeding ground for mosquitoes and other insects.</p>

NOTES:

- (A) The distances indicated in the third column of the above table are to be measured in metres from the animal yard or enclosure to the nearest dwelling, public hall school or premises used for the manufacture, preparation, sale or storage of food.
- (B) Animal includes a mammal, bird, reptile, amphibian or fish. It does not include a human being (as defined by the Prevention of Cruelty to Animals Act 1979).
- (C) Schedule 2 of the Local Government (General) Regulation 2021 specifies minimum standards for the keeping of animals. The distances specified (except in the case of pigs) may be varied at a meeting of the Council and notified in writing to the occupier of premises in a particular case.



8. Map 1: Dogs Prohibited – Old New Brighton Road, Ocean Shores





9. Map 2: Dogs and Cats Prohibited – Tread Lightly Estate, Hardy Avenue, North Ocean Shores





10. Map 3: Dogs and Cats Prohibited – Lilli Pilli Estate, Byron Bay





11. Map 4: Cats Prohibited – Fern Beach Estate, Ocean Shores

