

Policy title	Local Orders Policy – Keeping of Animals
Responsible manager(s)	Divisional Manager, Environmental Services
Contact officer(s)	Divisional Manager, Environmental Services
Directorate	Planning and Sustainability
Approval date	28 February 2017
Focus area	2. Our community is a great place to live
Delivery Program link	L4.1 Conduct regulatory compliance and enforcement activities
Operational Plan link	L4.1.1 Monitor, inspect, enforce and investigate complaints in relation to public safety

Purpose

The purpose of the Local Orders Policy (LOP) – Keeping of Animals is to supplement provisions of Chapter 7, Part 3 of the *Local Government Act 1993* (the Act) and Clause 100 of the *Local Government (General) Regulation 2005* (the Regulation) by specifying Council’s policy in regard to certain Orders under Section 124 of the Act.

Policy aims:

- Promote an integrated framework for dealing with Order 18 – Keeping of Animals.
- Ensure consistency and fairness in the manner in which Council deals with Order 18.
- Assist Council to fully pursue its charter under Section 8 of the Act.
- Make Council's policies and requirements for the keeping of animals readily accessible and understandable to the public.

Policy details

1	Application This policy applies to all land within the Eurobodalla Local Government Area (LGA).
2	Legislation This policy ensures Eurobodalla Shire Council’s compliance with the <i>Local Government Act 1993</i> (the Act) and the <i>Local Government (General) Regulation 2005</i> (the Regulation). Additional information is contained in the Regulation, Schedule 2 Standards enforceable by orders, Part 5 Standards for keeping birds or animals.
3	Procedures for Issuing of Orders Council Officers will ensure that the procedures for the issuing of Orders set out in Chapter 7, Part 2 Division 2 of the Act and Clause 99 of the Regulation are adhered to. Clear reasons will be given as to why the Order is being issued. Orders served in an emergency situation need not be preceded with a notice of intention.
4	Criteria for Consideration There are no restrictions on the number of birds and animals that can be kept on premises in the Eurobodalla Shire in normal circumstances. The standards in this Orders Schedule apply only where a legitimate problem has been identified relating to the numbers and/or types of birds or animals kept upon and where

	<p>an order under the provisions of Section 124 of the Local Government Act is required to rectify the problem.</p> <p>Specific animal criteria are outlined in Appendix 1.</p> <p>The giving of an order is not mandatory and is at the discretion of the Council Authorised Officer whether or not the circumstances meet the applicable criteria for the order.</p>
4.1	<p>Taking of action</p> <p>The issuing of an Order will be considered when birds or animals kept on the premises are:</p> <ul style="list-style-type: none"> • of an inappropriate kind or number or are kept inappropriately, or • in the case of premises— birds or animals (being birds or animals that are suffering from a disease which is communicable to man or to other birds or animals) or pigs.

Implementation

Requirements		Responsibility
1	<p>Order 18 Schedule</p> <p>This policy will be implemented by following the Orders Schedule (see Appendix 1) which specifies in detail the matters to be considered in determining whether to issue an Order. Council's Compliance Policy and Compliance Code of Practice specifies in detail the matters for consideration and procedures to be followed.</p>	Council Officers
2	<p>Fees and charges</p> <p>Current fees and charges associated with Orders are available on council's website at www.esc.nsw.gov.au</p>	Council
3	<p>Staff</p> <p>Under supervision, relevant Council staff will be responsible for ensuring that this policy is implemented appropriately within their work area, after they have received appropriate training to do so.</p>	Council officers
4	<p>Concerns</p> <p>Public concerns communicated to Council in relation to this policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	Council officers
5	<p>Consultation</p> <p>Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this policy are invited for consideration during the exhibition period.</p>	As required

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council revokes it sooner.

Note: Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2020.

This policy may also be reviewed and updated as necessary when legislation requires it; or Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages the keeping of animals.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Number of enforcement actions warranted	Council records
Delivery Program/ Operational Plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Internal or external review	Audit

Definitions

Word/ Acronym/ Phrase	Definition
Orders	A council may order a person to do or to refrain from doing a thing

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Companion Animals Management Plan	www.esc.nsw.gov.au/living-in/about/for-pet-owners/companion-animal-management-plan
Compliance Policy	www.esc.nsw.gov.au/inside-council/council/council-policies
Local Government Act 1993	www.legislation.nsw.gov.au/#/view/act/1993/30
Local Government (General) Regulation 2005	www.legislation.nsw.gov.au/#/view/regulation/2005/487
Companion Animals Act 1998	www.legislation.nsw.gov.au/#/view/act/1998/87
Protection of the Environment Operations Act 1997	www.legislation.nsw.gov.au/#/view/act/1997/156
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	www.legislation.nsw.gov.au/#/view/EPI/2008/572

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au/

NSW Department of Primary Industries	www.dpi.nsw.gov.au/
NSW Environment Protection Authority	www.epa.nsw.gov.au/
NSW Office of Environment and Heritage	www.environment.nsw.gov.au/

Supporting documents

Name	Link
NSW DPI Factsheet: Beekeeping Code of Practice for NSW	www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/270679/Beekeeping-code-of-practice-for-NSW.pdf

Change history

Version	Approval date	Approved by	Minute	File	Change
1	Oct 2006	Council		E06.0381	Policy commenced
2	22 Sep 2009	Council	09/291	E06.0381 E09.3418.B	Policy reviewed and retained
3	10 Sep 2013	Council	13/272	E06.0381 E13.7095	Reviewed and updated (start of new Council term)
4	28 Feb 2017	Council	17/34	E06.0381 E16.0297	Reviewed (start of new Council term). Policy refined to focus on circumstances where an Order may be issued under s.124 of the Act for keeping of animals. This includes the number and conditions of animals permitted to be kept at a premises.

Internal use

Responsible officer		Director, Planning and Sustainability Services		Approved by	Council
Minute No.	17/34	Report No.	PSR17/005	Effective date	28 Feb 2017
File	E06.0381 E16.0297	Review date	Sep 2020	Pages	7

Appendix 1. Specific animal criteria

Orders Schedule SPECIFIC MATTERS FOR CONSIDERATION SECTION 124
<p>Order 18</p> <p>Not to keep birds or animals on premises, other than of such kinds, in such numbers or in such manner as specified in the order.</p>
<p>1. Poultry, Domestic and Guinea Fowl</p> <p>a. Fowl</p> <ul style="list-style-type: none"> i. Roosters are not permitted to be kept where crowing may cause offensive noise; ii. The maximum number of fowl shall be limited to ten (10) per premises. iii. Must not be kept within 4.5 metres of a dwelling, public hall, school or premises used for the manufacture, storage, preparation, or sale of food. <p>b. Poultry other than fowls including ducks, geese and turkeys:</p> <ul style="list-style-type: none"> i. must not be kept within 30 metres of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food. ii. The maximum number of poultry other than fowls shall be limited to 5 per premises.
<p>2. Swine, Goats, Sheep</p> <p>a. Swine, goats or sheep must not be kept (and animal waste products must not be deposited) within 60 metres of a dwelling, shop, office, factory, church, or other place of public worship, school or public place.</p> <p>b. The maximum number of swine, goats or sheep to be kept in urban areas shall be limited to two (2).</p>
<p>3. Birds other than Pigeons, Poultry and Domestic and Guinea Fowls</p> <ul style="list-style-type: none"> a. Aviaries must not be located within 4.5 metres of a dwelling, public hall, school, or premises used for the manufacture, preparation, sale or storage of food. b. Aviaries must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health. c. Aviaries must at all times be kept clean and free from offensive odours. d. The maximum number of birds allowed to be kept in urban areas shall be as appropriate for the species, enclosure size, proximity to neighbours etc.
<p>4. Pigeons</p> <ul style="list-style-type: none"> a. Pigeons must not be kept within 15 metres from a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food. b. Nuisance due to noise and also free flight of pigeons is to be minimised. Lofts must be constructed to Council approval on hard paving of a smooth surface, or with a suspended floor elevated 0.8 metres above the ground. c. Lofts are to be kept clean at all times. Manure is to be cleaned up daily and disposed of correctly. To minimise odours owners must design and manage lofts to prevent manure becoming wet due to rain or cleaning.

- d. Pigeons must be fed within lofts after exercise. All feed must be kept in vermin-proof containers.
- e. Racing pigeon's lofts should have adequate visible landing platforms.
- f. Exercising of birds should not occur between 8.00 am and 3.30 pm.
- g. Birds shall not be allowed to roost on neighbouring buildings. 'Open' lofts are not permitted.

5. Horses and Cattle

- a. Only two (2) horses may be kept on any premises on urban land.
- b. Horses and cattle must be kept no closer than 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food.
- c. The floors of any stables must be paved with concrete or mineral asphalt or equally impervious material and must be properly graded to drain.
- d. Horse yards and cattle yards must be enclosed to prevent the escape of horses and cattle.
- e. Yards must not be kept under such condition as to create a nuisance or to be dangerous or injurious to health.
- f. Yards must at all times be kept clean and free from offensive odours.

6. Dogs

- a. The maximum number of dogs shall be limited to two (2) adults and one (1) litter of pups up to six (6) months old per premise in urban areas.
- b. The maximum number of dogs other than greyhounds shall be limited to four (4) adults and one (1) litter of pups up to six (6) months old per premise in rural areas.
- c. The maximum number of greyhounds shall be limited to four (4) adults and one (1) litter of pups up to thirteen (13) months old in rural areas.
- d. A premises used for the keeping of a dog or dogs must not be kept under such conditions so as to create a nuisance or to be dangerous or injurious to health.
- e. A premises used for the keeping of dog/s must at all times be kept clean and free from offensive odours.
- f. A premises used for the keeping of dog/s should be appropriately fenced to secure the dog/s within the premises in accordance with the requirements of the Companion Animal Act 1998

7. Cats

- a. The maximum number of cats shall be limited to four (4) per premise.
- b. A premises used for the keeping of a cat or cats must not be kept under such conditions so as to create a nuisance or to be dangerous or injurious to health.
- c. A premises used for the keeping of a cat or cats must at all times be kept clean and free from offensive odours.

8. Rabbits

- a. The maximum number of rabbits shall be limited to one (1) per premise.
- b. A premises used for the keeping of a rabbit must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health.
- c. A premises used for the keeping of a rabbit must at all times be kept clean and free from offensive odours.

9. Bees

- a. The keeping of bees in urban areas shall be in accordance with the NSW Department of Primary Industry factsheet [Beekeeping Code of Practice for NSW](#)
- b. An adequate supply of water is to be provided within the premises where the bees are kept.
- c. Hives are to be located so that flight paths do not interfere with surrounding residents.
- d. All hives must be registered with the NSW Department of Primary Industries.
- e. Bee hives must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health.

10. Ferrets

- a. The maximum number of ferrets shall be limited to two (2) per premise.
- b. Ferrets must not be kept within 4.5 metres of a dwelling, public hall, school or premises used for the manufacture, storage, preparation, or sale of food.
- c. A premises used for the keeping of a ferret must at all times be kept clean and free from offensive odours.

11. Miscellaneous

- a. The maximum number of bird(s) or animal(s) permitted to be kept, where the type of bird or animal, or the maximum number has not been specifically noted above, is at the discretion of the investigating Officer, taking into consideration the number and type of bird(s) or animal(s) being kept, the conditions under which they are kept and the impact they are causing.
- b. Such animals would be required to be kept under such conditions as to prevent the creation of a nuisance or not to be dangerous or injurious to health.
- c. The area proposed for the keeping of such animals must at all times be kept clean and free from offensive odours.
- d. Where the keeping of birds or animals on premise is capable of being regulated by the NSW Environment Protection Authority, Council is excluded from making an Order No. 18.

11. Criteria and/or Matters that will not be considered:

- a. Damage caused by wild or native birds or animals;
- b. The trapping of any wild or native birds or animals;
- c. The control of or treatment of termites on private or public land;
- d. The control of or treatment of rabbits, foxes or other feral pests on private or public land.