

K1 KEEPING OF ANIMALS

Department:	Shire Planning
Unit:	Planning – Legal & Policy
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POLICY OBJECTIVES

- 1 To inform the community of the statutory restrictions and acceptable limits which apply to the keeping of certain animals for domestic purposes.
- 2 To give guidance and advice to persons inquiring as to the keeping of animals for domestic purposes.
- 3 To establish standards, acceptable to the community, for the keeping of animals.
- 4 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.
- 5 To identify which animals are prohibited within Wyong Shire and the circumstances in which such animals are prohibited

PREAMBLE

This policy seeks to inform the Wyong community of Council's regulatory powers concerning the keeping of animals in the urban environment. The Policy aims to:

- a Minimise the incidence of nuisance being caused to persons;
- b Protect the welfare of companion and farm animals;
- c Protect the welfare and habitat of wildlife; and
- d Minimise the disturbance of or damage to protected vegetation.

It is well documented that the keeping of companion animals and/or pet animals can be most beneficial to the well-being of people. Nevertheless, on occasions, complaints are made to Council where animals of an inappropriate species or number are being kept or where the animals and their accommodation are not being cared for properly.

It is not intended within this policy to 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.

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.

SCOPE

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

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.

However, where it is intended to keep animals for any commercial purposes, it is necessary that a development application be submitted to Council and planning consent be obtained. Consent to the operation of animal establishments may not be permitted where Council considers that the proposal would be detrimental to the amenity of the locality.

RELATED LEGISLATION

COUNCIL'S POWER TO CONTROL AND REGULATE THE KEEPING OF ANIMALS

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, 2005.

The Council may, in the appropriate circumstances, issue an Order to:

- * prohibit the keeping of various kinds of animals;
- * restrict the number of various kinds of animals to be kept at a premises;
- * require that animals be kept in a specific manner.

The Council may also issue Orders requiring:

- * demolition of animal shelters built without the prior approval of Council;
- * 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.

It is advised that Council can exercise further controls over animals under the following Acts:

- * Protection of the Environment Operations Act 1997
- * The Impounding Act, 1993
- * Companion Animals Act 1998

GIVING OF ORDERS BY COUNCIL

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 a notice of intention to serve an Order. Normally a person will be given opportunity to make representation to Council prior to a formal Order being issued. In situations where urgency is required, an emergency Order may be issued without prior notice.

POLICY REQUIREMENTS

The number of animals that may be kept at a premise should not exceed the number prescribed as appropriate to the kind of animal listed in the table included with this policy.

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.

It should not be assumed that animals of all kinds may be kept on premises that are part of a multiple dwelling development. Where a dwelling is owned within a Strata Plan, it will be necessary for the rules of the Body Corporate to be examined for requirements relevant to the keeping of animals.

Animals should be kept in a manner which does not:

- * Create unclean or unhealthy conditions for people or for the animals.
- * Attract or provide a harbourage for vermin.
- * Create offensive noise or odours.
- * Cause a drainage nuisance or dust nuisance.
- * Create waste disposal problems or pollution problems.
- * Create an unreasonable annoyance to neighbouring residents or fear for safety.
- * Cause nuisance due to proliferation of flies, lice, fleas or other insects.

Animals should not be kept at premises used for the manufacture, preparation, sale or storage of food for human consumption.

Suitable shelter(s) should be provided for all animals. Certain species 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.

Certain animal shelters and facilities should not be erected or located at a premise without the prior approval of Council. Animal owners wishing to erect such structures should consult 'DCP 2005: Chapter 85- Exempt Development' to determine which structures require development approval.

RESIDENTIAL LAND

Residential land referred to under this policy includes land that is located within the 2(a), 2(b), 2(c), 2(d) and 2(e) zones, or any other land that is used for residential purposes, and has an area less than 1200m². Residential land with an area greater than 1200m² may be considered as rural under the provisions of this policy only.

VARIATION TO THIS POLICY

Variations to this policy may be sought, by the occupier of the land, by making written representation to Wyong Shire Council. Any proposal for a variation to this policy will be considered on a case-by-case basis and must provide the following information as a minimum:

- The size of the property;
- A site plan showing the location where the animals will be kept and the distance from any structures on site or on adjoining properties;
- The type of animals to be kept;
- The number of animals to be kept;
- Owners consent from the owner of the property;

- The likely impact of the animals on the environment and the amenity of the area;
- Information addressing any matters raised by Council in any correspondence.

Written support from neighbouring properties will be beneficial in supporting your case for a variation.

TABLE OF REQUIREMENTS

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

ANIMAL SPECIES	MAXIMUM NUMBER PERMITTED	MINIMUM DISTANCE (from certain buildings, including; dwellings, public halls, schools, hospitals or premises used for the manufacture, preparation, sale or storage of food)	APPLICABLE REGULATIONS AND OTHER ADVISORY MATTERS
Poultry, domestic and guinea fowl Poultry, other than fowls, including, peafowl and other pheasants Geese and turkeys	10 10 2 Roosters are not permitted in residential areas.	10 metres from a dwelling on the same site and 15m from any other building 30 metres 30 metres	Keeping of poultry must not create a nuisance or be dangerous or injurious to health. Poultry yards must at all times be kept clean and free from offensive odours. Council may, insist on the keeping of domestic poultry or guinea fowl at a greater distance than 10 metres in particular cases. Poultry yards must be enclosed to prevent escape of poultry. Yards must be kept free of rats and mice. The base of poultry enclosures must be paved with concrete or mineral asphalt unless situated on clean sand.
Pigeons	60 pairs – Registered racing pigeon owners 10 pairs – Non registered owners Keeping of pigeons is not permitted in medium and high density residential developments	9 metres	Compliance with the Code of Conduct for the Keeping of Pigeons (Attachment 1, Appendix 1).

ANIMAL SPECIES	MAXIMUM NUMBER	MINIMUM DISTANCE (from certain buildings)	APPLICABLE REGULATIONS AND OTHER ADVISORY MATTERS
Birds including canaries, budgerigars, quails, finches and parrots	Appropriate to location and breed	Appropriate distance to avoid nuisance to adjoining premises	Compliance with the Code of Conduct for the Keeping of Birds, including canaries, budgerigars, quails, finches and parrots. (Attachment 1, Appendix 2).
Cockatoos	1	Appropriate distance to avoid nuisance to adjoining premises	Cockatoos are generally not appropriate as domestic pets as they often present a significant noise nuisance.
Rabbits	Appropriate to location and breed. Care should be taken to prevent excessive breeding.	3 metres	<p>Must be domestic breed and kept in a cage.</p> <p>Must not be released into the environment.</p> <p>It is illegal to administer the fibroma (myxomatosis) vaccine in rabbits.</p>
Ferrets	-	Appropriate distance to avoid nuisance to adjoining premises	The keeping of ferrets is not recommended; however, where proper care (including appropriate secure cages) is available, the keeping of ferrets may be undertaken provided no nuisance is created. Cages should be adequate to prevent escape.
Reptiles	As appropriate in the circumstances with the appropriate licences.	Appropriate distance to avoid nuisance to adjoining premises	<p>National Parks and Wildlife Act, 1974 requires a Reptile Keeper's Licence to be held for anyone who keeps captive-bred reptiles. It is against the law to take reptiles from the wild. 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>
Pet rats, mice and guinea pigs	4 of each variety	3 metres	Rats and mice are to be kept indoors only in appropriate cages which are to be kept odour free. Care should be taken to prevent excessive breeding and release into the environment.

ANIMAL SPECIES	MAXIMUM NUMBER	MINIMUM DISTANCE (from certain buildings)	APPLICABLE REGULATIONS AND OTHER ADVISORY MATTERS
Dogs	<p>Residential properties:</p> <p>Dogs in excess of 25 kilograms – maximum of 2 dogs</p> <p>Dogs between 11 and 25 kilograms – maximum of 3 dogs</p> <p>Dogs less than 11 kilograms – maximum of 4 dogs</p> <p>Units and Townhouses: maximum 1 dog with the written permission of the body corporate</p> <p>Rural properties:- As appropriate to size of property.</p>	Appropriate distance to avoid nuisance to adjoining premises	<p>Dogs should be kept in numbers and breeds appropriate to the size of the property.</p> <p>Dog owners must be responsible for ensuring that yards are kept in a healthy condition and faeces is suitably disposed of when exercising dogs in public areas.</p> <p>Owners should remain aware of any noise nuisance created by barking dogs as they are subject to noise restrictions under Protection of the Environment Operations Act 1997.</p> <p>The Companion Animals Act 1998 requires that dogs must be registered from 6 months of age and must wear a collar with a name tag displaying the dogs name and the address and/or phone number of the owner. They must also be microchipped from 12 weeks of age.</p>
Cats	3	Appropriate distance to avoid nuisance to adjoining premises	<p>Cats should be kept in numbers and breeds appropriate to the size of the property and should be kept indoors at night.</p> <p>Cats should wear collars with a tag displaying their name and owners address and/or phone number with a bell attached.</p> <p>Trees in properties housing cats should have chicken wire wrapped around the trunk 1.5m from the ground with the top 200mm bent outwards to protect native wildlife.</p> <p>The Companion Animals Act 1998 requires that cats must be registered from 6 months of age and must wear a collar with a name tag displaying the dogs name and the address and/or phone number of the owner. They must also be microchipped from 12 weeks of age unless born before 1 July 1999.</p>

ANIMAL SPECIES	MAXIMUM NUMBER	MINIMUM DISTANCE (from certain buildings)	APPLICABLE REGULATIONS AND OTHER ADVISORY MATTERS
Sheep and Goats	Residential premises- 1 Rural properties- As appropriate to size of property.	10 metres	Goats and rams are not permitted to be kept on residential properties. These animals are not to be slaughtered at the properties where they are kept. Consideration should be given to any noise created by sheep as they are subject to noise restrictions under Protection of the Environment Operations Act 1997.
Pigs	Rural Properties – 1 Not permitted in suburban areas	Pigs or their manure must not be within 60 metres of certain buildings	Local Government (General) Regulation, 2005 applies to pigs. The keeping of pigs is not permitted in residential areas. This applies to all breeds of pigs, including miniature pigs.
Horses and Cattle	Rural properties - As appropriate to size of property Not permitted in Residential areas	10 metres	Local Government (General) Regulation, 2005 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. The keeping of horses and cattle on residential properties is not permitted.
Bees	Maximum 2 hives in suburban areas Rural Properties – As appropriate to the size of property	Hives should not be located within the vicinity of schools, childcare centres, hospitals or other public facilities.	Regulated by the NSW Apiaries Act 1985. Beekeepers must be registered in NSW and applications are available from the NSW Department of Primary Industries (DPI). Beekeepers should refer to the Beekeeping Code of Practice on the NSW DPI website. Bee flight paths to and from the hive should be kept distant from outdoor areas frequently used by people. Screens may be necessary to raise flight paths. An ample supply of water near the hive is required in summer months.

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, hospital, premises used for the manufacture, preparation, sale or storage of food or any other building listed.
- 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).
- C The distance specified above may be varied by resolution of the Council and notified in writing to the occupier of the premises in specific cases.

Animals Prohibited within the Residential Area

The following animals are not permitted to be kept in residential areas due to the likely impacts on health and amenity;

- Roosters;
- Goats;
- Rams;
- Horses;
- Cattle; and
- Pigs.

CODE OF CONDUCT FOR THE KEEPING OF BIRDS, INCLUDING CANARIES, BUDGERIGARS, QUAILS, FINCHES AND PARROTS WITHIN WYONG SHIRE

The Code of Conduct for the practice of aviculture, the keeping and breeding of birds, identifies criteria for Council to take into account in determining application for the building and operation of an aviary or associated structure.

The aim of the criteria is to provide clear guidelines in relation to the care, control and management of birds, so as to ensure the activity of aviculture does not create any nuisance including health or environmental problems.

The Code of Conduct does not incorporate poultry, fowl, sulphur crested cockatoo or long billed corella. A separate Code of Conduct has been formulated for the keeping of pigeons.

GENERAL REQUIREMENTS

- a Prior to the construction of an aviary or associated structure for the keeping and/or breeding of birds, a development application must be submitted to Council for consideration. An application is exempt in certain circumstances where the maximum area is ten square metres and the maximum height is 2.7 metres, with a minimum setback of 900mm from property boundaries. To ensure that the development is permitted as exempt development without an application the provisions of DCP 2005: Chapter 85 – Exempt Development must be complied with.
- b Plans and specification accompanying the submission of a development application must show details of ventilation and waterproofing of the aviary. Individual bird species require accommodation appropriate to their needs, including:
 - i protection from the extremes of climate;
 - ii safety from predators;
 - iii exposure to a suitable light source;
 - iv ample fresh air.

Conditions

- a All birds are to be kept in accordance with the NSW Animal Welfare Code of Practice No 4 – Keeping and Trading of Birds prepared by the Department of Primary Industries as well as comply with the provisions outlined in this policy.
- b The aviary or site works indicated on the submitted plans or required under the terms of any consent must be completed to Council's satisfaction prior to occupation.

- c All roof and concentrated surface waters are to be collected and disposed of into an approved drainage system to Council's satisfaction. Note: Full details of drainage are to be submitted with the development application.
- d The aviary or associated structure is to be constructed in a workmanlike manner to Council's satisfaction. External cladding materials are to be finished in an unobtrusive colour, so as to blend in with the surrounding environment.
- e The flooring of the aviary or associated structure is to be rodent proof, i.e. hard stand base.

Health and Environmental Conditions

- a No interference with the amenity of the area by reason of the emission of unreasonable noise, smell, feathers or otherwise is to be the result of the keeping and/or breeding of birds.
- b The aviary and its use must not create any offensive noise, within the meaning of the Protection of the Environment Operations Act 1997. Soundproofing measures may be required, depending upon the noise potential, due to the numbers of birds, species type, aviary location and surrounding environment.
- c Aviaries and cages are to be kept clean and free of offensive odours at all times. Aviary management requires removal of waste food daily and the removal of excess build up of faeces weekly. Smaller aviaries or cages require daily cleaning, daily to weekly removal of cage floor substrate and immediate removal of wet material.
- d No feathers or droppings are permitted to escape from the subject land. Waste is to be regularly collected and disposed of.
- e Waste water associated with the cleaning of the aviary should be disposed of to the sewer in accordance with Council regulations.
- f All food is to be stored in sealed vermin proof containers. Any spillage is to be collected and disposed of or returned to the storage containers. Note: Details of storage containers and location should be submitted to Council with the development application.
- g Vermin and other pests should be rigidly controlled to prevent entry to cages, aviaries or food storage areas. If vermin is observed, prompt action should be taken to eradicate them.

Bird Keeping and Breeding Management Advice

Correct management practices are essential for the welfare of the birds and ensuring that the surrounding amenity and adjoining property owners are not adversely affected. Expert information on best keeping practices and the appropriate caring and housing facilities for birds is available from the Department of Primary Industries, Budgerigar Society of New South Wales, or an appropriate bird society.

Native Birds

Separate to Council Policy the keeping of native birds requires the holding of an Animal Keepers Licence which can be obtained from the National Parks and Wildlife Service. Exemptions include budgerigar, zebra finch, galah and sulphur crested cockatoo.

Policy Variation

Provisions exist under the Local Government Act 1993 to restrict bird numbers whereby Council is of the opinion that they are kept in inappropriate numbers, manner or kind.

CODE OF CONDUCT FOR THE KEEPING OF PIGEONS WITHIN WYONG SHIRE

OBJECTIVE

The Code of Conduct for the keeping of pigeons identifies criteria for Council to take into account in determining application for the building and operation of a loft or other structure for a pigeon/s.

The aim of the criteria is to provide clear guidelines to assist persons keeping pigeons, so as to ensure that the activity does not create any health or environmental problems.

REQUIREMENTS

- a Prior to the construction of a pigeon loft, for the keeping of racing or show pigeons, a development application must be submitted to Council for approval.
- b Plans and specifications accompanying the submission of a development application must show details of ventilation and waterproofing of the loft. (The loft must be positioned to obtain the maximum sunlight and ventilation).
- c The maximum number of pigeons that may be kept on any premises is outlined in the table within this policy.

It should be noted that in residential areas where the minimum distance only is observed to neighbouring residences, the number of birds permitted may be reduced.

- d The minimum distance a loft may be erected from any residence or certain buildings is 9 metres.

NOTE: The Pigeon Fanciers Association will assist Council in resolving disputes between pigeon keepers and aggrieved parties, where considered appropriate.

Conditions

- a The loft or site works indicated on the submitted plans or required under the terms of any consent shall be completed to Council's satisfaction prior to occupation.
- b All roof and concentrated surface water are to be collected and disposed of into an approved drainage system to Council's satisfaction. Note:- Full details of drainage are to be submitted with the development application.
- c The loft is to be constructed in a workmanlike manner to Council's satisfaction. External cladding materials are to be finished in an unobtrusive colour, so as to blend in with the surrounding environment.

Health and Environmental Conditions

- a No interference with the amenity of the area by reason of the emission of unreasonable noise, smell, feathers or otherwise is to be the result of the keeping of pigeons.
- b Pigeons are not to be released or exercised during the hours of 8.00am and 4.00pm of any day of the week, except during the one hour period before dusk during winter.

- c Any pigeon released from the loft must not be fed within the ten hour period prior to that release, for the purpose of reducing the natural inclination for the pigeons to defecate while in flight.
- d The free lofting of pigeons is not permitted. (Practice of leaving loft doors or gates open to allow the pigeons access to and from the loft or locking the pigeons out of the loft).
- e The pigeon loft and its use must not create any offensive noise, within the meaning of the Protection of the Environment Operations Act 1997 or substantiating legislation. Light control, such as through the use of shades or blinds may be required in the early morning to restrict noise.
- f The pigeon loft and associated areas are to be kept clean and free of offensive odours at all times and action taken to minimise the emission of dust from the loft area. Minimum cleaning of loft is to be undertaken one per week and the floor and perches are to be sprayed with an appropriate insecticide on a regular basis.
- g No pigeon feathers or droppings are permitted to escape from the subject land. Waste is to be regularly collected and disposed of by the keepers of pigeons.
- h Waste water associated with the cleaning of the loft should be disposed of to the sewer in accordance with Council regulations.
- i All food is to be stored in sealed vermin proof containers. Any spillage is to be collected and disposed of or returned to the storage containers. Note:- Details of storage containers and location should be submitted to Council with the building application.

Policy Variation

Provisions exist under the Local Government Act 1993 to restrict bird numbers where Council is of the opinion that they are kept in inappropriate numbers, manner or kind.

LEGISLATION: **LOCAL GOVERNMENT ACT 1993 - SECTION 124, PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997, COMPANION ANIMALS ACT 1998**

DEPARTMENT: **Shire Planning**