

# Keeping of Animals in Residential Areas Policy 2023



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<b>Further Document Information and Relationships</b>	
<b>Related Legislation*</b>	<i>Local Government Act 1993 Companion Animals Act 1998 Environmental Planning and Assessment Act 1979 Protection of the Environment Operations Act 1997 Public Health Act 2010.</i>
<b>Related Policies</b>	Council's Revenue Policy
<b>Related Documents</b>	

*\*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. Background

This Policy is a Local Orders Policy (LOP) prepared and adopted under Chapter 7, Part 3 of the *Local Government Act 1993*.

The purpose of this Policy is to supplement provisions of the *Local Government Act 1993* and Regulation, by specifying matters that Council must take into consideration in determining whether or not to give an Order under Section 124 of the *Local Government Act 1993*.

The Policy recognises the objectives of Schedule 2, Part 5 – Standards for Keeping Birds or Animals of the *Local Government Act (General) Regulation 2021*.

Other legislation informs the provisions of this Policy.

## 2. Purpose

To have a consistent set of guidelines for residents so they are aware of the legislated and Council requirements for keeping animals on their residential properties.

## 3. Commencement

This Policy is effective from the date of resolution by Council and shall remain in force until repealed by resolution of Council.

## 4. Scope

This Policy applies to the keeping of animals in residential areas and requires consideration by owners of the impact of animals on neighbours, particularly in respect of noise and odour.

## 5. Definitions and Interpretation

Term	Definition
Act	<i>Local Government Act 1993</i> <i>Companion Animals Act 1998</i> <i>Environmental Planning and Assessment Act 1979</i> <i>Protection of the Environment Operations Act 1997</i> <i>Public Health Act 2010</i> <i>Public Spaces (Unattended Property) Act 2021</i>
Council	Liverpool Plains Shire Council
Residential Land	As defined in the <i>Local Government Act 1993</i> for rating categorisation

## 6. Background

This Policy is designed to provide animal owners and carers with the requirements for keeping of animals in residential areas to prevent nuisance and to ensure public safety.

## 7. Policy Statement

Animals must be kept in a manner which does not:

- Create unclean or unhealthy conditions for people or animals.
- Attract or provide harbourage for vermin.
- Create offensive odour or noise.
- Create waste disposal or pollution problems.
- Create unreasonable annoyance to neighbouring residents.
- Cause nuisance due to proliferation of flies, lice, fleas or other pests or parasites.
- Cause neighbours to fear for safety.

### **Containment of Animals**

All animals, except cats, are required to be contained within the property that they are kept on at all times. The only exception is where they are under the control of a person in a public place or in respect of dogs that are being exercised in an off-leash area.

Fines are applicable under legislation for the owners of animals that escape containment and are found on public land or land owned by another party.

### **Dogs**

The overwhelming number of complaints are associated with keeping of dogs, particularly in respect to barking, aggressiveness and odour.

While barking is a natural form of communication and is acceptable to a certain degree, it can cause nuisance if it is prolonged and occurs frequently during the night. It is of critical importance that there is someone residing at the site that dogs are being kept, to ensure they can intervene to ensure that the duration of barking at night can be minimised.

Aggressive dogs are a problem where they are not properly contained. Where it is determined that a dog is excessively/overtly aggressive, Council will require it to be kept in the rear of a property and/or with internal self-enclosed areas.

In respect of odour, there is a requirement for dog owners/carers to properly dispose and treat faeces to ensure odour does not impact adjoining residents.

## **Breeding of Animals**

The breeding of animals for a commercial purpose is defined as an “*animal boarding or training establishment*” under the *Liverpool Plains Local Environmental Plan 2011*. If such a use is permissible, then a development application is required to be lodged and approved.

An “*animal boarding or training establishment*” is defined to:

*“means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.”*

Council considers that the breeding of animals that produce more than 2 litters per year constitutes breeding for a “commercial purpose” in terms of the above definition, unless otherwise demonstrated.

Any breeding of dogs and cats should to be undertaken in accordance with the “*Animal Welfare Code of Practice for Breeding of Dogs and Cats*”:

[https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0013/1310431/INT21-114956-Breeding-Code-Document.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0013/1310431/INT21-114956-Breeding-Code-Document.pdf)

## **Animal Welfare**

While it is not within the ambit of this policy, animal owners need to be aware of their responsibility for animal welfare.

The laws that govern animal cruelty in New South Wales are contained in the *Prevention of Cruelty to Animals Act 1979* and the *Crimes Act 1900*. The *Prevention of Cruelty to Animals Act* covers the majority of animals in New South Wales and contains a number of animal cruelty offences.

These offences can be investigated by the NSW Police, the Royal Society of Prevention of Cruelty to Animals (RSPCA) or Animal Welfare League (AWL). The RSPCA has the power to remove animals which are being mistreated and to enter private properties in order to do so when it has a reasonable suspicion that animal cruelty is occurring.

Further information about Animal Cruelty Offences can be obtained via the following link:

<https://www.rspcansw.org.au/blog/rspca-nsw-welcomes-push-for-tougher-penalties-for-animal-cruelty-offences/>

## 8. Recommendations

8.1 Council recommends that the number of animals kept at a residential property to be limited to the following:

- 10 dogs over 6 months of age. No distinction is made between dogs that are companion animals and those that are used as working dogs.
- 2 Cats
- 15 Poultry – includes chickens and ducks (roosters are not recommended)

These limitation on the number of animals that can be kept may be reduced by Council in particular circumstances based on the land size the animals kept on and the ability of animal owners to appropriately manage the animals.

8.2 Special circumstances may exist and particularly in relation to horses, cattle, sheep and goats that makes there keeping in residential areas acceptable. Such circumstances include where there is a sufficient area of land and there is an adequate buffer between the land and adjoining residential properties. In such circumstances the keeping of such animals may have little or no impact on the amenity of the locality.

Such stock animals must be kept at least 9 meters away from **ANY** habitable dwelling, public hall, school, or any premises used for the manufacture, preparation, storage or sale of food.

## 9. Prohibited

Council does not allow the keeping of the following animals in the defined town or village boundaries or on land rated as residential:

- Pigs
- Geese on lots under 4,000m<sup>2</sup>

**NB:** Under clause 18 of the Schedule 2 Standards Enforceable by Orders of the *Local Government (General) Regulation 2021\_Swine* (pigs) are not to be kept within 60 meters of a dwelling, shop, office, factory, church or other place of public worship, workshop, school or public place in a city, town, village, or other urban part of an area.

## 10. Complaints

If Council receives complaints, and upon investigation they are determined to be legitimate, the keeping of animals will be assessed against the Policy and the relevant Acts to determine if a nuisance is being created and may take action to remedy the nuisance.

Investigation of barking dog complaints will be undertaken in accordance with Council's Barking Dog Complaints Procedure, where initial investigation and consultation with the dog owner and the complainant does not result in a satisfactory outcome.

## 11. Enforcement

Where a problem is identified by Council's Ranger with the keeping of animals and it cannot be resolved by consultation, the Council will proceed to issue a 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 which Council believes constitute a serious risk to health or safety, an emergency Order may be issued without prior notice.

Generally, Council's powers to control and regulate the keeping of animals is emanates from Section 124 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*. Under this legislation Council may in appropriate circumstances issue an Order: -

- Prohibiting the keeping of various kinds of animals.
- Restricting the number of various kinds of animals to be kept at a premise.
- Requiring that animals be kept in a specific manner.

Council may also issue Orders requiring: -

- The 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.