



**DATE ADOPTED: 12 DECEMBER 2023**

**VERSION: 2.0**

## 1.0 INTRODUCTION

### 1.1 BACKGROUND

Dogs, cats and other animals are usually kept by residents of Maitland without difficulty. The keeping of animals can be very rewarding for both animals and humans. Occasionally, the keeping of animals causes a nuisance to other residents, which results in complaints being lodged with Maitland City Council ('Council'). To assist residents, Council has developed this Policy for the keeping of animals for domestic purposes under section 159 of the *Local Government Act 1993* ('the Act'). It is not intended to completely regulate the manner in which animals are kept, but rather to specify the criteria that Council must consider in determining whether or not to give an Order regarding the number or manner of keeping animals under section 124 of the Act. This Policy provides residents with appropriate limits on the number of, and circumstances under which, certain animals may be kept in the interests of amenity and public health.

### 1.2 POLICY OBJECTIVES

The objects of this policy are to –

- (a) regulate the keeping of animals –
  - i. to protect the community against risk of injury and damage; and
  - ii. to ensure that animals do not create a nuisance, or a hazard to health or safety; and
  - iii. to prevent pollution and other environmental damage resulting from the keeping of animals and to protect the amenity of the local environment, adjoining and nearby property; and
  - iv. to ensure that animals are kept and used in a way that is consistent with the rights and expectations of the local community.
- (b) inform the community of the main statutory restrictions and acceptable limits which apply to the keeping of certain animals for domestic purposes.
- (c) publicly notify the circumstances that the Council will consider in determining whether to serve an Order under Section 124 or take relevant enforcement action pursuant of the Act to prohibit, restrict or in some other way, require things to be done regarding the keeping of animals.

### **1.3 POLICY SCOPE**

This policy applies all owners of animals within the Maitland Local Government Area in relation to premises on which animals are kept for domestic reasons, including for pets, and other similar interests. This policy does not apply to the keeping of animals for business or commercial purposes where Development Consent is required. The Policy applies to keeping of animals for hobby or companion purposes. Keeping of animals for commercial breeding or racing purposes is beyond the scope of the Policy.

This policy relates to Order Numbers 18 and 21 in the Table to section 124 in Chapter 7 of the Act.

### **1.4 RELATIONSHIP WITH OTHER LAWS AND APPLICATION**

The following NSW Acts provide Council with additional/alternative powers that relate to the control of animals:

- (a) *Companion Animals Act 1998*
- (b) *Protection of the Environment Operations Act 1997*
- (c) *Food Act 2003* (animals not to be kept where food is handled for sale)
- (d) *Public Spaces (Unattended Property) Act 2021*.

The *Companion Animals Act 1998* is an Act for the identification, registration and management of cats and dogs. It does not limit the other functions that may be conferred or imposed on Council by or under any other act. The requirements of this policy are in addition to, and do not derogate from-

- (a) laws regulating the use or development of land; and
- (b) other laws about the keeping, control or welfare of animals, or animals of a particular species.

## **2.0 KEEPING OF ANIMALS**

### **2.1 RESPONSIBILITIES OF COUNCIL**

It is Council's responsibility to ensure the maintenance of a reasonable level of residential amenity and public health, by using Council's legislative powers to control and regulate the keeping of animals.

To achieve this, Council will do the following:

- (a) respond to and investigate complaints made by members of the public;
- (b) carry out inspections, investigations and collect appropriate evidence of alleged breaches in accordance with Council's Regulation and Compliance Policy;
- (c) educate residents and affected parties of the requirements and limitations prescribed by this policy;
- (d) promote responsible pet ownership, educating the community about animal welfare, and fostering partnerships with local animal welfare organisations to provide appropriate support and services; and
- (e) undertake regular review of this policy and associated protocols to ensure effective and modern regulation and compliance activities.



## 2.2 RESPONSIBILITIES OF THE ANIMAL OWNER

It is the responsibility of an animal owner to:

- (a) select an animal that is suitable for the size and nature of the premises at which it is kept. Extra care is needed in selecting an animal for a home unit, multi-residential dwelling and high rise dwelling;
- (b) keep the animal in a way that does not create unreasonable annoyance to neighbours. Ongoing and substantial interference with the enjoyment or use of property could amount to a legal nuisance;
- (c) comply with the animal-specific requirements outlined in Table 1 below.

**TABLE 1: ANIMAL-SPECIFIC REQUIREMENTS**

Kind of animal	Maximum number per premises (excluding offspring to 3 months of age)	Minimum distance between dwelling and enclosure (metres)**	Additional requirements
Dogs	2	N/A	<ul style="list-style-type: none"> <li>Comply with requirements of <i>Companion Animals Act 1998</i> including registration and control of dogs</li> <li>Ensure fencing is adequate</li> <li>Prevent persistent, excessive noise</li> </ul>
Cats	2	N/A	<ul style="list-style-type: none"> <li>Comply with requirements of <i>Companion Animals Act 1998</i> including registration and control of cats</li> <li>Prevent persistent, excessive noise</li> </ul>
Fowls (domestic or guinea fowl)	10	4.5m	<ul style="list-style-type: none"> <li>Keep poultry yards enclosed to prevent escape of poultry</li> <li>Keep poultry yards clean, free of rats and mice, and free from offensive odours.</li> <li>Roosters are prohibited in areas zoned residential under Maitland Local Environmental Plan 2011 (“MLEP”)</li> <li>Fowl and poultry houses must be located at least 3 m from each lot boundary</li> </ul>
Poultry other than fowls, including ducks, geese, turkeys, peafowl and other pheasants	10	30m	
Roosters	Nil (0) in residential areas	N/A	
Pigeons	20	6m	<ul style="list-style-type: none"> <li>Do not use open lofts</li> <li>Ensure lofts are constructed of hard paving with a smooth surface and graded to drain</li> <li>Keep lofts/cages clean, and free of rats and mice</li> <li>Clean up and correctly dispose of manure daily</li> </ul>

Kind of animal	Maximum number per premises (excluding offspring to 3 months of age)	Minimum distance between dwelling and enclosure (metres)**	Additional requirements
			<ul style="list-style-type: none"> <li>Ensure pigeons allowed to fly free do not repeatedly cause damage to, or interfere with the enjoyment of, other property</li> </ul>
Birds other than sulphur crested cockatoo and long-billed corella (eg canary, finch, budgerigar, quail, parrots & the like)	30 30+	3m 10m	<ul style="list-style-type: none"> <li>Use cages and aviaries of appropriate size</li> <li>Keep cages and aviaries clean, and free of rats and mice</li> <li>Prevent persistent, excessive noise</li> <li>Hold National Parks and Wildlife permit (if required)</li> </ul>
Sulphur crested cockatoo and long billed corella	2 if housed in portable cages 4 if housed in aviary	3m 10m	
Rabbits	1	3m	<ul style="list-style-type: none"> <li>Use rabbit-proof enclosure</li> <li>Keep domestic breeds only</li> <li>Do not release into the environment</li> </ul>
Ferrets	0	3m	<ul style="list-style-type: none"> <li>Not permitted, except with the prior written approval of Council</li> </ul>
Pet rats, mice and guinea pigs	12	3m	<ul style="list-style-type: none"> <li>Keep in appropriate cages</li> <li>Do not release into the environment</li> </ul>
Sheep and goats	1 (one) animal per 2000m <sup>2</sup> of land	6m	<ul style="list-style-type: none"> <li>Do not slaughter at premises where animals are kept</li> </ul>
Pigs	1 (one) animal per 2000m <sup>2</sup> of land	60m	<ul style="list-style-type: none"> <li>Prohibited in areas zoned residential under MLEP</li> <li>Do not keep in a place/manner that may pollute water likely to be used by a person for drinking/domestic purposes or in a dairy</li> <li>Do not deposit dung in a place/manner that may pollute water likely to be used by a person for drinking/domestic purposes or in a dairy</li> </ul>

Kind of animal	Maximum number per premises (excluding offspring to 3 months of age)	Minimum distance between dwelling and enclosure (metres)**	Additional requirements
			<ul style="list-style-type: none"> <li>Do not slaughter at premises where animals are kept</li> </ul>
Horses and Cattle	Not permitted on pastured land of 2000m <sup>2</sup> or less. 1 (one) animal per half hectare of pastured land.	9m	<ul style="list-style-type: none"> <li>Prohibited in areas zoned residential under MLEP</li> <li>Keep in enclosed yards to prevent escape</li> <li>Do not slaughter at premises where animals are kept</li> </ul>
Reptiles	As appropriate in the circumstances	As appropriate in the circumstances	<ul style="list-style-type: none"> <li>Hold biodiversity conservation licence granted under the <i>Biodiversity Conservation Act 2016</i></li> <li>Keep in escape-proof enclosure</li> <li>Comply with care standards set out in <i>Code of Practice for the Private Keeping of Reptiles</i>, issued by NSW Department of Planning and Environment</li> </ul>
Fish, aquarium and pond	As appropriate in the circumstances	As appropriate in the circumstances	<ul style="list-style-type: none"> <li>Keep water clean and maintain at sufficient levels</li> <li>Fence ponds in accordance with Council's Pool Fencing Code if more than 300 mm deep</li> <li>Ensure ponds do not provide a breeding ground for mosquitoes and other insects</li> </ul>
Bees	As appropriate in the circumstances	As appropriate in the circumstances	<ul style="list-style-type: none"> <li>For keepers of European honey bees (<i>Apis mellifera</i>), be registered with NSW Department of Primary Industries and comply with the <i>Australian Honey Bee Industry Biosecurity Code of Practice</i></li> </ul>

\*\* The distances indicated in the this column 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.

## **2.3 REQUEST FOR ADDITIONAL ANIMALS**

An animal owner may request Council to permit the keeping of additional animals beyond the maximum number prescribed in Table 1.

A request for additional animals under this policy must be in the prescribed form and accompanied by written evidence. Requests will not be approved unless Council is reasonably satisfied that:

- i. the applicant is compliant with all relevant requirements outlined in Part 2.2 of this policy and has promptly addressed/resolved any previous instances of non-compliance with Part 2.2,
- ii. the applicant has co-operated with Council to promptly address/resolve any complaints received by Council with respect to the keeping of animals,
- iii. the applicant has suitable experience/qualifications to support the keeping of additional animals;
- iv. any necessary development consent(s) for structures relevant to the keeping of the animal(s) have been obtained;
- v. If the applicant is not the owner of the premises on which the animal is to be kept - the applicant has the owner's permission to keep the animals on the premises;
- vi. where the animal is to be kept on multi-residential premises and the keeper of the animal is entitled to make use of an area used in common with others (a common area) for the purpose of keeping the animal – written permission of the person or body which manages or controls the common area to use the common area for the purpose of keeping the animals has been granted,
- vii. for requests relating to dogs - dogs are desexed, microchipped and registered, and the request is supported by the RSPCA,
- viii. for request relating to cats - cats are desexed, microchipped and registered, cats wear identity collars with multiple bells, cats' night-time access to outdoors is restricted, and the request is supported by the RSPCA,
- ix. for requests relating to pigeons - keepers of more than (50) birds are members of official or registered avicultural societies.

If Council approves a request for additional animals, the approval may be granted subject to reasonable conditions.

## **3.0 ENFORCEMENT**

### **3.1 ORDERS**

Under section 124 of the act, Council may give orders requiring premises to be used or not used in specified ways, and orders requiring the preservation of healthy conditions. Council will usually give prior notice that an order may be issued, although in urgent situations, an emergency Order may be issued without prior notice. Order numbers 18 and 21 in the table to section 124 are set out below:

Order	To do what?	In what circumstances?	To whom?
18	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. An Order may: (a) Prohibit the keeping of animals (b) Restrict the number of animals being kept (c) Specify the manner in which animals must be kept (d) Require maintenance to a structure used to house animals	Birds or animals kept on premises are— (a) in the case of any premises (whether or not in a catchment district)—of an <i>inappropriate</i> kind or number or are kept <i>inappropriately</i> , or (b) in the case of premises in a catchment district—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	Occupier of premises
		Failure to comply with the standards for keeping of birds or animals set out in Part 5 of Schedule 2 of <i>Local Government Act (General) Regulation 2021</i> **	
21	To do or refrain from doing such things as are specified in the order to ensure that land is, or premises are, placed or kept in a safe or healthy condition	The land or premises are not in a safe or healthy condition	Owner or occupier of land or premises

\*\*pursuant to sections 91 and 92 of the *Government Act (General) Regulation 2021*. The standards in sections 20 and 21, regarding the keeping of poultry, horses and cattle, will only apply to a person if Council has served an order under section 124 to that effect on a person.

### 3.2 MANDATORY CRITERIA

When considering whether to issue an Order, Council will take the following criteria into consideration:

Circumstances	Decision-making criteria
Whether birds or animals are of an inappropriate kind	<ul style="list-style-type: none"> <li>▪ prohibitions in Table 1 of Part 2.2 of this policy</li> <li>OR</li> <li>▪ relevant characteristics of the animal and suitability to premises (including size of the yard and proximity to neighbouring premises)</li> </ul>
Whether birds or animals are of an inappropriate number	<ul style="list-style-type: none"> <li>▪ maximum number per premises specified in Table 1 of Part 2.2 of this policy</li> <li>▪ outcome of any request for approval to keep additional animals, including compliance with any conditions of an approval</li> </ul>
Whether birds or animals are kept inappropriately	<ul style="list-style-type: none"> <li>▪ evidence that the keeping of animals is creating: <ul style="list-style-type: none"> <li>- adverse odour, noise, run-off or dust impacts,</li> <li>- damage to property, or</li> <li>- material interference with use or enjoyment of property.</li> </ul> </li> </ul>
Whether the land/premises are not in safe or healthy condition	<ul style="list-style-type: none"> <li>▪ evidence that keeping of animals is: <ul style="list-style-type: none"> <li>- attracting or providing a harbourage for vermin,</li> <li>- creating a proliferation of flies, lice, fleas or other insects,</li> <li>- creating unsanitary conditions, or</li> <li>- causing fears for safety.</li> </ul> </li> </ul>



### 3.3 PENALTY

Any person not complying with an Order may be liable to a penalty in accordance with the Act. A Penalty Infringement Notice may be issued for failure to comply with an Order, or Council may pursue enforcement proceedings.

## POLICY ADMINISTRATION

BUSINESS GROUP	Planning & Environment
RESPONSIBLE OFFICER	Coordinator Development & Compliance
COUNCIL REFERENCE	Ordinary Council Meeting 12 December 2023
POLICY REVIEW DATE	Three (3) years from date of adoption
FILE NUMBER	41/7
RELEVANT LEGISLATION	Local Government Act 1993 Companion Animals Act 1998

## POLICY HISTORY

### TABLES

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1.0	8 July 2008	New policy adopted
2.0	12 December 2023	Review to provide clearer guidelines for keeping of animals, and to ensure the policy is transparent and enforceable.