

MURRAY RIVER COUNCIL  
COUNCIL POLICY

**COMPANION  
ANIMAL  
BREEDING  
POLICY**

POL-406.V#1



murray river  
council

## 1. INTRODUCTION

This Policy provides consistency and transparency to the assessment and compliance of Development Applications (DAs) for companion animal breeding establishments within the Murray River Council Local Government Area (LGA).

This Policy provides the relevant authorities an ability to effectively monitor and enforce relevant consent conditions and any breaches.

In addition, this Policy provides clear advice to applicants and the broader community of new breeding establishments and clarifies Council's expectations of any existing approved establishments which apply to modify their development consent.

## 2. OBJECTIVES

The objectives of the Policy are:

- ▶ Provide consistent and transparent assessments of Development Applications and modification applications to existing DAs;
- ▶ Clarify the requirements and standards applying to applications for companion animal breeding establishments;
- ▶ Enforce current legislation and encourage best practice for breeding processes, animal welfare and design and daily management of establishments;
- ▶ Minimise any potential adverse amenity impacts on adjoining land users through appropriate location, size and layout of the companion animal breeding establishments; and
- ▶ To minimise the impact of waste from the companion animal breeding establishments on water, soil, biodiversity, air quality and ecosystems.

## 3. SCOPE

Under the Standard Instrument – Principal Local Environmental Plan 2006, animal breeding falls within the definition of *Animal boarding or training establishment*.

**Animal boarding or training establishment** 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.

There is no current stand-alone land use definition for companion animal breeding within NSW Planning legislation. Animal breeding is defined with the Prevention of Cruelty to Animal Regulation 2012 (NSW) (see Part 7 of this Policy for definition). This Policy specifically looks at the issue of companion animal breeding establishments, not animal boarding or training establishments at this time.

**This Policy applies to companion animal breeding establishments with ten (10) or more breeding companion animals per property, in accordance with Council's Local Environmental Plan and Development Control Plan/s.**

This policy covers:

- ▶ The breeding of **companion animals** only, which are dogs and cats as per the Companion Animals Act 1998 (NSW) (see Part 7 of this Policy for definition).
- ▶ New development applications for companion animal breeding establishments.
- ▶ Modification applications for existing companion animal breeding establishments with existing Council approval. Note - This Policy only applies to the extent of the premises effected by the application to modify development consent. Council cannot retrospectively request the existing parts of the establishment to come into line with the policy.

This policy excludes:

- ▶ Animal boarding or training establishments that do not include breeding practices
- ▶ Breeders with less than ten (10) breeding companion animals per property
- ▶ Breeding of any animal other than companion animals (i.e. livestock, birds etc.)
- ▶ Pet shops.

## 4. POLICY STATEMENT

### 4.1 General Requirements

- a. Council will take action if no development consent has been granted and a companion animal breeding establishment is proven to be operating.
- b. All applications for companion animal breeding establishments that involve companion animal breeding shall be assessed giving due consideration to the Prevention of Cruelty to Animals Act 1979 (NSW) and the Animal Welfare Code of Practice – Breeding Dogs and Cats 2021 (NSW) or any future iterations. All assessments must give priority consideration to the Environmental Planning and Assessment Act 1979 (NSW).

### 4.2 Animal Welfare Code of Practice – Breeding Dogs and Cats 2021 (NSW)

- a. Any companion animal breeding establishments **must** meet the Standards of the Animal Welfare Code of Practice – Breeding Dogs and Cats 2021 (“the Code”) under law. Applicants will be required to demonstrate how they propose to meet the standards via a management plan/report at the time of lodgement of the DA or modification application.
- b. Companion animal breeding establishments are encouraged to meet the Guidelines outlined in the Code.
- c. Compliance with the Code does not remove the need to abide by the requirements of the Prevention of Cruelty to Animals Act 1979 (NSW) and any other laws and regulations, including the Local Government Act 1993 (NSW); or the Companion Animals Act 1998 (NSW).

**Note:** The standards of the Code have a legal effect in three ways:

- ▶ Failure to meet a standard may result in a Penalty Infringement Notice: or
- ▶ A prosecution under Clause 26 of the Prevention of Cruelty to Animals Regulation 2012 (NSW); and/or
- ▶ In more serious cases, failure to meet a standard may support a prosecution for an offence under the Prevention of Cruelty to Animals Act 1979 (NSW).

### 4.3 Application Requirements (To Be Provided At Time Of Development Application Lodgement)

- a. The applicant must be registered with an Australian Business Number (ABN) and provide evidence as part of their application that they are registered for GST.
- b. The applicant must provide their Breeder Identification Number (BIN) in their application.
- c. The applicant must identify the breed of dogs or cats proposed to be bred onsite.
- d. Completed application form.
- e. Plans including:
  - i) A Site and Locality Plan (appropriately scaled and with clear dimensions) showing the proposed location of development and a 500m radius from this location. This plan must show any existing dwellings, buildings, and other features within the 500m radius area include any sensitive land uses.

- ii) An Emergency Management Plan including but not limited to natural disaster risk management (e.g. fire, flood), is required to be submitted with all applications. Note – you can find a simplistic template and more information at: <https://www.ses.nsw.gov.au/get-ready-animals/get-ready-animals-splash-page/get-ready-animals/> An Emergency Management Plan should be reflective of the size and scale of the facility. The template provide here may not be adequate in meeting the needs of all facilities and the applicant should take this into consideration when drafting the required Emergency Management Plan.
- iii) A Stormwater Management Plan (see Part 4.8 of this Policy – Environment Impacts).
- iv) A Waste Management Plan (see Part 4.10 of this Policy – Waste Management

## 4.4 Site Requirements

Companion animal breeding establishments shall not be located on land that is identified as **flood liable land** (see Part 7 of this Policy for Definitions) unless appropriate measures to the satisfaction of Council are implemented.

## 4.5 Setbacks

- a. No companion animal breeding establishments will be permitted within 200m of an adjoining residential dwelling not associated with the premises.
- b. All applications for companion animal breeding establishments must address how the impacts on any dwellings within 500m radius area will be minimised (including but not limited to noise, odour, dust, visual amenity, biodiversity and ecosystems etc.).
- c. All companion animal breeding establishments (including associated development components) are required to be setback a minimum of 10m from all property boundaries.

## 4.6 Noise Impacts

- a. Proposed companion animal breeding establishments within 500m of any residential dwelling are to provide a noise impact assessment prepared by a suitably qualified consultant. This assessment will need to address and mitigate the potential increase in noise and impact on amenity.
- b. Council reserves the right to request or conduct a noise assessment post application determination, if circumstances change or a formal complaint is received by Council.

## 4.7 Isolation Facility

It is preferred that a secure isolation facility be provided on site in order to segregate animals which have an infectious disease (the facility must be clearly identified on submitted plans). If this is not achievable on site, then a secure isolation facility at a nearby veterinary hospital must be identified in the application (as per Chapter 6 of the Code).

## 4.8 Environmental Impacts

- a. A Stormwater Management Plan is required to be submitted with the application to demonstrate stormwater runoff will be controlled so that it does not pose a risk to any natural water course, soil, biodiversity, ecosystems or adjoining property.
- b. Runoff from shed roofs, access tracks and hard stands areas is to be effectively collected and stored on-site.

- c. Details of any proposed sediment basins or dams are to be submitted to Council with the application.
- d. Any application must demonstrate proposed water supply for the daily requirements of the establishment as per the Animal Welfare Code of Practice – Breeding Dogs and Cats 2021 (NSW) including noting water supply location (and capacity) on submitted plans.

## 4.9 Landscaping

Appropriate vegetative screening around buildings and structures shall be used to minimise visual impact and contribute to the elimination of air and noise pollution. It is preferred that native species are used where possible.

## 4.10 Waste Management

- a. A Waste Management Plan shall be prepared and submitted to Council as part of any development application for a companion animal breeding establishment, including but not limited:
  - i. Faeces and other solid waste
  - ii. Deceased animals.
- b. All solid wastes must to be disposed of appropriately which could include entering into a trade waste agreement with Council.
- c. Any deceased animals shall be removed from the premises and disposed of at an appropriately licensed waste facility.
- d. No disposal of deceased animals onsite is permitted, whether it be by burning or burial (unless authorised by appropriate authority linked to biosecurity measures).

## 4.11 Notification

All applications will be notified in accordance with Council's notification chapter of the Development Control Plan (DCP). Notification will include (but not be limited to) advertisement to:

- i. adjoining land holders,
- ii. Council's website
- iii. local papers.

## 4.12 Compliance

- a. Council may undertake regular inspections to check compliance against the Companion Animals Act 1998 (NSW) and Companion Animals Regulation 2018 (NSW) regarding identification and registration of animals.
- b. The premises may be subject to regular inspections by RSPCA NSW to ensure compliance with Animal Welfare Code of Practice – Breeding Dogs and Cats 2021 (NSW) and Prevention of Cruelty to Animals Act 1979 (NSW).
- c. Development consent will include conditions to require record keeping as set out in Chapter 5 Record Keeping of the Animal Welfare Code of Practice – Breeding Dogs and Cats 2021 (NSW).  
Note – Council officers may inspect the facility's records as part of administration of the Companion Animals Act 1998 (NSW) and Companion Animals Regulation 2018 (NSW).

## 5. RESPONSIBILITIES

MRC Planning Services	Assess Development Applications and modifications to existing consents against planning instruments ( <u>Environmental Planning and Assessment Act 1979</u> , <u>LEP</u> and <u>DCP</u> )
RSPCA NSW, Animal Welfare League NSW, Inspectors of the Greyhound Welfare and Integrity Commission and NSW Police	Enforce <u>Prevention of Cruelty to Animals Act 1979 (NSW)</u> and <u>Animal Welfare Code of Practice - Breeding Dogs and Cats 2021 (NSW)</u> .
MRC Compliance Ranger Service	Enforce <u>Companion Animals Act 1998 (NSW)</u> , <u>Protection of the Environment Operations Act 1997 (NSW)</u> and conditions of Development Consent.

## 6. EVALUATION AND REVIEW

It is the responsibility of the Director – Planning and Environment to monitor the adequacy of this Policy and recommend appropriate changes.

The NSW Animal Welfare Action Plan covering State legislation reforms to occur over the coming years is detailed at the following link:

<https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/animal-welfare-reform>

This Policy is subject to legislation and/or Policy changes.

This Policy will be formally reviewed every four (4) years or as needed, whichever comes first.

## 7. LEGISLATION, ASSOCIATED DOCUMENTS AND DEFINITIONS

### Legislation

- ▶ Prevention of Cruelty to Animals Act 1979 (NSW)
- ▶ Prevention of Cruelty to Animals Regulation 2012 (NSW)
- ▶ Protection of the Environment Operations Act 1997 (NSW)
- ▶ Companion Animals Act 1998 (NSW)
- ▶ Companion Animals Regulation 2018 (NSW)
- ▶ Environmental Planning and Assessment Act 1979 (NSW)
- ▶ Standard Instrument - Principal Local Environmental Plan 2006 (NSW)
- ▶ Murray Local Environmental Plan 2011
- ▶ Wakool Local Environmental Plan 2013
- ▶ Wakool Development Control Plan 2013
- ▶ Animal Welfare Code of Practice - Breeding Dogs and Cats 2021 (NSW)
- ▶ Local Government Act 1993 (NSW)

### Associated Documents

- ▶ Murray Development Control Plan 2012
- ▶ Wakool Development Control Plan 2013
- ▶ NSW Animal Welfare Action Plan
- ▶ EPA - NSW Noise Guide for Local Government 2013

Definitions:

Term	Definition
Application	A new Development Application or an application to modify existing development consent.
Animal boarding or training establishment	Animal boarding or training establishment 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.
Animal breeding establishment	Animal breeding establishment is a type of animal trade (that is, a business in the course of which dogs or cats are bred for fee or reward)
Animal trade	Animal trade means a trade, business or profession in the course of which any animal is kept or used for a purpose prescribed for the purposes of this definition.
Companion Animal	Includes each of the following: <ol style="list-style-type: none"> <li>a. a dog,</li> <li>b. a cat,</li> <li>c. any other animal that is prescribed by the regulations as a companion animal.</li> </ol> <p><b>Note:</b> The fact that an animal is not strictly a “companion” does not prevent it being a companion animal for the purposes of this Act. All dogs are treated as companion animals, even working dogs on rural properties, guard dogs, police dogs and corrective services dogs.</p>
DA	Development Application
Flood Liable Land	Land that has been determined by the council to be flood liable land, having regard to the principles contained in the Floodplain Development Manual.
LGA	Local Government Area

## 8. DOCUMENT CONTROL

Version No.	Details	Dates	CM9 Reference	Resolution No.
1	Initial Issue	26 October 2021 to	VF/21/11	101021

Council reserves the right to review, vary or revoke this policy at any time  
This Policy is scheduled for review in or before October 2025.

**NOTE:**

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This document was formulated to be consistent with Murray River Council's legislative obligations and with the scope of Council's powers. This document should be read in conjunction with relevant legislation, guidelines and codes of practice. In the case of any discrepancies, the most recent legislation should prevail. This document does not constitute legal advice. Legal advice should be sought in relation to particular circumstances and liability will not be accepted for losses incurred as a result of reliance on this document.