

19/6/2023

Hilltops Council
Mayor, Councillors, General Manager

Dear Mayor, Councillors and General Manager,

RE: Draft Keeping of Domestic Animals Policy (Draft Policy)

The Canary and Cage Bird Federation of Australia Inc. (CCBFA) is a national federation of approximately 250 avicultural (bird keeping) clubs. Our member clubs include those supporting a large and broad range of bird species.

We understand and support sensible compliance policy to ensure animal welfare and neighbourhood amenity, however such policy must accurately inform the public of their rights as well as their responsibilities when enforcement becomes necessary.

This submission addresses concerns with the Draft Policy document accessed via the following link.

<https://www.hilltops.nsw.gov.au/wp-content/uploads/2023/05/Draft-Keeping-of-Domestic-Animals-Policy-May-2023.pdf>

In the submission below, we have provided the rationale for three (3) highlighted recommendations which aim to provide further clarity to the draft policy, primarily (but not exclusively) as it applies to bird keeping and aviculture, while also aligning the draft policy with relevant sections of legislation, regulations and state environmental planning policies.

CCBFA is working with Animal Care Australia (ACA) who is engaged with state governments to develop more appropriate model regulation of animal keeping nationally. We encourage councils to promote and encourage the keeping of animals, in our case birds.

We recommend the policy commences with a clear statement to this effect.

Recommendation 1

Add the following as an initial objective of the policy.

“Hilltops Council acknowledges the importance animals play to the wellbeing of our residents. Council’s default position is to encourage and promote the keeping of animals within the shire.”

Sections 129-135 of the *Local Government Act 1993* details procedures that must be observed before giving orders. Although the Draft Policy alludes to these Sections, we contend they have not been given due attention, hence we recommend the following.

Recommendation 2

Replace “2. Giving of orders” with the following.

“On receipt of a complaint, prior to orders being made Hilltops Council will advise the owner or occupier of the details of the complaint and advise their rights to respond, to be represented and have their case heard under Sections 132-135 of the *Local Government Act 1993*.”

The following comments relate specifically to the following row in “6. Table of requirements”.

ANIMAL SPECIES	MAXIMUM NUMBER (Excluding off-spring to 3 months of age)	MINIMUM DISTANCE (From certain buildings see Note 1,2,3,4)	APPLICABLE REGULATIONS AND OTHER ADVISORY MATTERS
Birds (Incl canaries, budgerigars, quails, finches, and parrots)	All locations Appropriate to location and breed Keepers of 50 birds or more must be members of official Aviculture Societies.	All locations Appropriate distance to avoid nuisance to adjoining premises	All birds should be kept in accordance with the Code of Ethics produced by the NSW Associated Bird Keepers and Traders Inc. A National Parks and Wildlife permit is required for the keeping and sale of protected bird species. Registered breeders may keep more birds (normal, breeding or show) but are subject to requirements of the POEO Act 1997.

- The *NSW Code of Practice No 4 - Keeping and Trading of Birds*¹ is not designed to be a set of enforceable standards, rather it is intended as a set of recommendations - general guidance for bird keepers. It is a specified Code for animal trades classified as Pet Shops in Schedule 1 of the *Prevention of Cruelty to Animals Regulation 2012*², for other legal purposes, compliance with the code can be used as a defence to charges.
- The Associated Birdkeepers and Traders Inc. is no longer in operation. The CCBFA is the peak body and we are in the preliminary stages of editing and updating the code in consultation with NSW DPI officers. Reference should refer to the “NSW Code of Practice No 4 - Keeping and Trading of Birds and subsequent replacements” and recommend owners aim to comply with this code.
- There are over 400 different species of birds kept in Australian aviculture, each matures at a different rate. For some species 3 months of age is a suitable time to move them, for many others this is totally inappropriate. We suggest a phrase is added “or as appropriate for the species”.
- Details of all avicultural societies throughout Australia are on our website www.ccbfa.org.au/clubs We suggest referring to this URL.
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 - Reg 2.8*³ specifies the development standards for aviaries, including zones, permitted size and number of aviaries that can be constructed without the need for development approval. To assist users, we suggest reference to the development standards in Reg 2.8 of the SEPP are included with a note stating that aviaries constructed outside Reg 2.8 may require council approval.
- There are hundreds of avian species routinely kept in NSW and every species has its own specialised management, husbandry, enclosure size and welfare requirements. We recommend councils advise keepers to consider neighbourhood amenity and that offensive noise can be dealt with via noise abatement directions under Part 8.6 Division 3 of the *Protection of the Environment Operations Act 1997*⁴.

¹ <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/animal-care-and-welfare/other/companion-animal-files/nsw-code-of-practice-no-4-keeping-and-trading-of-birds>

² http://classic.austlii.edu.au/au/legis/nsw/consol_reg/poactar2012451/

³ http://www5.austlii.edu.au/au/legis/nsw/consol_reg/seppacdc2008721/s2.8.html

⁴ http://classic.austlii.edu.au/au/legis/nsw/consol_act/poteoa1997455/

- CCBFA recommends compliance officers and also residents contact CCBFA whenever complaints arise. We routinely assist resolving such matters nationally.

Recommendation 3

Under the “MAXIMUM NUMBER” column append the words “or as appropriate for the species.” to the existing text “Excluding off-spring to 3 months of age”.

Under the “MAXIMUM NUMBER” column in the bird row append the following words.

“Aviculture societies are listed on the CCBFA website under the clubs tab - www.ccbfa.org.au/clubs “

Replace text under “APPLICABLE REGULATIONS AND OTHER ADVISORY MATTERS” with the following.

- Council recommends owners of birds comply with the *NSW Code of Practice No 4 - Keeping and Trading of Birds* and subsequent replacements. Compliance with relevant clauses in the code can be used as a defence.
- In the interest of neighbourhood amenity, regard should be given to preventing excessive noise, rodents and odour. Noise abatement directions are available to council officers for offensive noise under Part 8.6 Division 3 of the *Protection of the Environment Operations Act 1997*.
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 - Reg 2.8¹* specifies the exempt development standards for aviaries. Aviaries constructed according to these standards do not require council approval. Aviaries outside these standards may require council approval.

Although not directly under our remit, we note and support similar to that stated above for a range of other animals within the Draft Policy.

Aviculture is a hobby activity enjoyed by many thousands of people for many hundreds of years. In recent decades it has evolved to be central to conservation efforts globally. We support regulation that ensures aviculture is practiced with due respect for neighbours and with high welfare standards.

For your information, this submission will be publicly available via our website www.ccbfa.org.au.

Please do not hesitate to make contact if we can assist further.

Kind regards,



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