Local Orders Policy

to

Restrict Keeping of Dogs in Koala Habitat Areas: Thrumster (Area 13)

Amendment No.1

Adopted by Council on

12 June 2008

Amended 22 October 2008

under the provisions of Section 159 of the

Local Government Act 1993
TITLE

This Policy (“The Policy”) is called the “Port Macquarie-Hastings Council Local Orders Policy to Restrict Keeping of Dogs in Koala Habitat Areas: Thrumster (Area 13)”.

STATUS AND PURPOSE OF THE POLICY

The Policy is a local orders policy prepared and adopted under Chapter 7, Part 3 of the Local Government Act, 1993 (“the Act”).

The purpose of the Policy is to supplement provisions of the Act and the Local Government (Orders) Regulation by specifying Council’s policy in regards to Order 18 of Section 124 of the Act.

COMMENCEMENT OF THE POLICY

The Policy was adopted by Council at its ordinary meeting on 12 June 2008 and commences on 9 July 2008.

AMENDMENT OF THE POLICY

The Policy incorporates the amendments listed in Table 1 below.

Table 1 – List of Amendments

<table>
<thead>
<tr>
<th>Amendment No.</th>
<th>Date</th>
<th>Nature of Amendment</th>
<th>Date Commenced</th>
<th>Notified in Local Paper</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>22/10/2008</td>
<td>Northern area to which LOP applies added</td>
<td>22/10/2008</td>
<td>5/11/2008</td>
</tr>
</tbody>
</table>

LAND TO WHICH THE POLICY APPLIES

This Policy applies to land within Koala Habitat Areas at Thrumster (Area 13) shown by Appendix 1 within the Port Macquarie-Hastings Local Government Area.

SCOPE OF POLICY

This Policy applies to dogs kept for domestic purposes, as companion animals, pets or for hobby interests. However, does not apply to assistance animals (as defined in the Companion Animals Act 1998), such as guide dogs and hearing assistance dogs.

The principles contained in the prescriptive requirements will also apply to the keeping of dogs for commercial purposes, including boarding, breeding, grooming, caring, treatment, training, racing, exhibiting, trading or selling.

This Policy relates to Order 18 of Chapter 7 of the Local Government Act 1993.
GENERAL AIMS OF THE POLICY

The Policy seeks to inform the community of Thrumster (Area 13) of Council’s regulatory powers concerning the keeping of dogs in Koala Habitat Areas. The Orders Policy aims to:

(a) Protect the welfare of wildlife, in particular Koalas, within Koala Habitat Areas

Restrictions on the keeping of domestic dogs in areas of Koala Habitat were recommended as part of the Koala Plan of Management prepared for the Area 13 Urban Investigation Area.

COUNCIL’S POWERS TO CONTROL AND REGULATE THE KEEPING OF ANIMALS

Generally, Council’s powers to control and regulate the keeping of animals is 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; and/or
- 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; and/or
- 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 and associated structures under the following Acts:

- Companion Animals Acts 1998
- Protection of the Environment Operations Act 1997
- Food Act 2003
- Environmental Planning & Assessment Act 1979
- Local adopted planning instruments and policies.
**GIVING OF ORDERS BY COUNCIL**

Generally, where the keeping of an unauthorised dog is identified within a Koala Habitat Area and the matter cannot be resolved by consultation, the Council will proceed to issue a Notice of Intention to Serve an Order under the provisions of Section 124 of the Local Government Act 1993. Normally a person will be given the opportunity to make representations to Council prior to a formal Order is served. In situations where urgency is required, an emergency Order may be issued without prior notice.
General Matters for Consideration

The matters that Council must consider in determining whether to issue an Order are:

- The matters prescribed in Section 124 of the Local Government Act 1993 and the Local Government (General) Regulation 2005;
- Procedures to be observed before giving orders as detailed in Chapter 7, Part 2, Division 2 of the Local Government Act 1993;
- Requirements referred to in Table 2 of this policy.

SPECIFIC REQUIREMENTS FOR THE KEEPING OF DOGS

TABLE 2 – PRESCRIPTIVE REQUIREMENTS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dogs</td>
<td>Keeping of dogs is prohibited within Area 13 Koala Habitat Areas shown as &quot;Dog Restriction Area&quot; in Appendix 1.</td>
<td>a) Restrictions do not apply to assistance animals (as defined in the Companion Animals Act 1998), such as guide dogs and hearing assistance dogs.&lt;br&gt;b) Restrictions do not apply to an existing allotment at the date of adoption of this Policy generally located within the Thrumster Street / The Grange Neighbourhood (shown hatched on Map 1 of Appendix 1 of this Policy.&lt;br&gt;c) Restrictions do not apply to an existing dog that is registered to an existing allotment. That dog may be replaced following sale or death.&lt;br&gt;d) Voluntary Restriction (refer to note 3 below)</td>
</tr>
</tbody>
</table>

Notes:

1. The sale of a property WILL NOT restrict the ability to keep dogs on allotments referred to Column 3: Special Provisions b) of Table 2 above located within the Thrumster Street & The Grange Neighbourhood shown hatched red on Map 1 of Appendix 1.

2. The keeping of dogs is prohibited on all NEW ALLOTMENTS created [excepting residue lots created via subdivision of allotments listed in Special Provisions b)] within the “Dog Restriction Area” including Thrumster Street/The Grange Neighbourhood shown by Map 1 of Appendix 1.

3. The owner of a property within the “Dog Restriction Area” may voluntarily elect to have the restrictions apply to their existing allotment or residue allotment following subdivision by specific inclusion of a restriction as to user on their property title.

4. Prospective purchasers will be advised of the general “Dog Restriction Area” by a notification on a 149 zoning certificate.
APPENDIX 1

Map 1: Prohibited Areas for the Keeping of Dogs in Area 13