
COMMUNITY POLICIES

Keeping of Three to Six Dogs



Policy Number:	C7
Relevant Delegation:	5.1.8 – Approval to Keep More than Two Dogs
Adoption Details:	25 October 2022
Last Review Details:	Not Applicable

POLICY OBJECTIVE:

To provide guidance to Council, staff and the public on the circumstances which between three (3) and six (6) dogs may be kept at a property.

Provide clarity on when 3-6 Dog Applications are approved under staff and council delegation.

To promote the responsible ownership of dogs.

To ensure the amenity and safety of the community is maintained.

POLICY SCOPE:

This policy relates to all 3-6 Dog Applications submitted to the Shire for consideration.

POLICY STATEMENT:

INTRODUCTION

As defined in the Shire of York Dogs Local Law 2012 Amendment Part 3 Clause 3.2 amended:

- (2) *The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act –*
- (a) on land, within a townsite, or zoned “rural residential” under a local planning scheme, 2 dogs over the age of 3 months and the young of those dogs under that age; and*
 - (b) on land zoned “rural” under the local planning scheme, 4 dogs over the age of 3 months and the young of those dogs under that age.*

In some circumstances, residents may wish to keep more than the prescribed number. The *Dog Act 1976* allows residents to apply to keep up to six (6) dogs on their premises provided they have the necessary approval of a 3-6 Dog Application from Council.

All dogs residing or staying at the property for longer than eight (8) weeks must be added to an application. An application must be approved by Council prior to the additional dogs being kept at a property.

Once the application is assessed, a Shire representative will contact the applicant to inspect the property. Surrounding neighbours will be engaged in a consultation process to obtain comments on the application based on the zoning areas as defined in the Local Planning Scheme No. 3:

1. A 150-metre radius within the Residential R-Code Zone
 2. A 300-metre radius within the Rural Residential Zone
 3. A 500-metre radius within the Rural Zone
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These areas may be adjusted as deemed appropriate depending on the property location. The radius of consultation is taken from the approximate centre of the lot.

The Shire will also consider any history recorded against the applicant's dogs when reviewing the application.

Animal Establishment (Kennel)

As defined in the Shire of York Local Planning Scheme No. 3, an Animal Establishment "*means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre.*"

An Animal Establishment is an 'X' use within all Residential, Light Industry, General Industry, Service Commercial and Regional Centre zones. An 'X' use means that the use is not permitted by the Scheme.

An Animal Establishment is an 'A' use within all Rural, Rural Residential and Rural Smallholdings, except in the Rural Residential 1 (RR1) area where it specifically states that 'Dog kennels will not be permitted'. An 'A' use means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions. If development approval is not obtained this would constitute a breach of the Scheme and would be classed as illegal development.

An Animal Establishment is an 'I' use within the Rural Townsite. An 'I' use means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of the Scheme.

If the dogs listed as part of the 3-6 Dog Application are indicative of an Animal Establishment the applicant must seek the appropriate planning approvals prior to a 3-6 Dog Application being considered by the Shire. As part of this process, community consultation will be undertaken in line with planning requirements for the above areas nominated for each zone. This allows the Shire to only consider applications which are compliant with the Local Planning Scheme No. 3.

MANDATORY REQUIREMENTS FOR KEEPING DOGS

As stated in the *Dog Act 1976*, a dog owner is responsible for ensuring a dog:

1. Wears a collar displaying a current Shire registration tag whilst in public places.
2. Can be confined to the premises where it lives.
3. Is held by a competent person capable of controlling a dog on a maximum two (2) metre fixed lead or eight (8) metre retractable lead when in public places.
4. In designated areas, dogs may be exercised off a leash, but the person in control of the dog must carry a leash in case it is required.
5. Is registered in one (1) person's name who is over the age of 18 years.

Considerations

The following criteria applies for residents seeking approval to keep more than the prescribed dogs allowed as defined in the Shire of York Dogs Local Law 2012 Amendment:

1. Application for an approval to keep between three (3) and six (6) dogs shall be submitted in writing on the prescribed form prior to the additional dogs being kept on the property.
 2. Two dogs must already be registered to the premises and/or owner as applicable to the application.
 3. The existence of a dwelling on the premises, and the applicant to be the occupier of the premises.
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4. The portion of the premises on which the dog is kept must be fenced in a manner capable of confining the dog.
 5. The area where the dogs are confined must have sufficient area for the dogs to use, play and have adequate shelter and must conform with the relevant provisions of Animal Welfare statutes and standards.
 6. The fence, gate or door used to confine the dog is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it.
 7. Every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a latch with a self-closing mechanism or other means which allows the gate to be locked.
 8. Maintain the fence and all gates and doors in the fence in good order and condition.
 9. Where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
 10. All dogs subject of an application are required to be microchipped.
 11. The applicant must disclose if all dogs subject of an application are sterilised.
 12. The owners and dogs subject of the application have had no previous convictions relating to serious *Dog Act 1976* or *Animal Welfare Act 2005* as amended convictions.
 13. Signed disclosure that consent has been obtained from the landowner or managing agent.
 14. The reasons for which the approval is required.
 15. The applicant shall submit plans showing the location of fencing and yards in relation to the boundaries and dwelling.
 16. Applications relating to the introduction of Declared Dangerous Dogs will not be considered.

Standard Conditions

1. The approval being placed on the condition that the dogs do not prove to be a nuisance (to the satisfaction of Council) to adjoining or adjacent neighbours in terms of barking, aggressive behaviours and/or wandering.
2. The exemption applies only to the dogs stated on the application. Once any of the dogs are deceased, sold or otherwise disposed of, the exemption for that particular dog ceases to have effect.
3. The exemption will cease to have effect on the date of any conviction for an offence relating to *The Dog Act 1976* in respect of any of the dogs, or any person in charge of those dogs.
4. The subject property must be kept clear of all animal excreta using proper disposal methods.
5. Adequate cover and protection are always to be available to the dogs.
6. The dogs are to be adequately confined in accordance with *Section 3.1* of the *Shire of York Dogs Local Law 2000* and *Dogs Local Law 2012 Amendment*.
7. Access to the property is to be given to a Shire Officer for an annual inspection, or more regularly if the Shire so determines. Each inspection will be charged in accordance with the adopted Schedule of Fees and Charges.

Supplementary conditions or considerations may also be applied by Council.

Fees

The relevant Application and Inspection fees will be charged in accordance with the Shire of York's adopted Fees and Charges, included as part of the Annual Budget.

PRINCIPLES

That there is a clear, equitable and transparent process for assessing 3-6 Dog Applications.

PROVISIONS

ASSESSMENT PROCESS

Delegation 5.1.8 – Approval to Keep More Than Two Dogs provides delegated authority from Council to the Chief Executive Officer to grant exemptions for particular premises for the keeping of more dogs than is allowed under the Shire’s Dogs Local Law pursuant to Section 26(3) of the *Dog Act 1976*.

Delegation 5.1.8 also sub-delegates the decision-making authority from the CEO to the Executive Manager Infrastructure & Development Services in consultation with the Shire Ranger, meaning Officers can make determinations on whether, or not, to approve an application for the keeping of more than the prescribed dogs as allowed in the Shire’s Dogs Local Law. A condition on the use of delegated authority is that the Ranger must inspect the premises to ensure means exist to effectively confine the dogs within the premises.

Delegation 5.1.8 and the associated Sub-delegation to Approve a 3-6 Dog Application will only be actioned when:

1. No substantiated written objections or complaints from occupiers of adjoining premises are received as part of the consultation process.
2. The dogs are not disclosed as being a Restricted Breed.

If the above conditions cannot be satisfied, or there are other extenuating circumstances, the 3-6 Dog Application will be referred to Council for approval.

If Council chooses to reject the application, the applicant has a right to apply to the State Administrative Tribunal (SAT) for a review of the decision under the *Dog Act 1976*. An application must be lodged with SAT within 28 days of the date on which the Shire gives notice of the decision.

Outside of the SAT process, the Shire will not reconsider an application unless there is a change to the dogs listed within the application or there is new relevant information which may impact on the outcome of the assessment, in which case a new 3-6 Dog Application must be re-applied for.

RELEVANT LEGISLATION:

This policy is made pursuant to:

- Section 2.7(2)(b) of the *Local Government Act 1995*
- Shire of York Dogs Local Law 2000
- Dogs Local Law 2012 Amendment
- The *Dog Act 1976*
- Shire of York Local Planning Scheme No. 3

PENALTIES:

Continuing to keep more than prescribed dogs on a property in contravention of Section 26(4) of the *Dog Act 1976* could result in a fine of up to \$5,000.

Operating an Animal Establishment (kennel) without planning approval is considered an offence under the *Planning & Development Act 2005*. This could result in a fine of \$200,000 and a daily penalty of \$25,000 for every day during which the offence continues.

KEY TERMS/DEFINITIONS:

Not applicable.

Responsible Officer: Chief Executive Officer
Contact Officer: Executive Manager Infrastructure and Development Services
Relevant Legislation: Section 2.7(2)(b) of the *Local Government Act 1995*
Shire of York Dogs Local Law 2000
Dogs Local Law 2012 Amendment
The *Dog Act 1976*
Shire of York Local Planning Scheme No. 3

Review History:

Date Review Adopted:	Resolution Number
Former Policy No:	Not Applicable