

Draft Keeping of Animals, Poultry and Bees Bylaw

Statement of Proposal – March 2020

1. Introduction

Southland District Council is reviewing its Keeping of Animals, Poultry and Bees Bylaw. This bylaw contains rules about keeping animals such as pigs, horses, poultry, cats and cattle, and about animal noise. This bylaw does not have any rules about dogs. Rules about dogs are in Council's Dog Control Bylaw.

To get information to help develop the draft bylaw, Council has sought feedback from a number of community groups and had discussions with a number of people in the District. Feedback identified that the currently bylaw is working quite well, and that no significant changes to the current bylaw are needed.

2. What is proposed?

The draft bylaw is included with this proposal as Attachment A.

The draft bylaw contains some general rules that aim to prevent nuisance, health and safety issues, the polluting of water ways, and animal related noise. The draft bylaw also has specific sections that provide:

- rules about keeping animals in areas that are zoned 'urban'
 - animals that aren't permitted in urban zones
 - restrictions on poultry
- rules about keeping animals in areas that are zoned 'industrial'
 - rules about pigs
 - restrictions on poultry
- provisions that relate to specific issues, including
 - restrictions on pigs and pigsties
 - that Council can impose a limit on the number of cats in specific circumstances
 - that Council can impose conditions on the number and location of beehives in specific circumstances
 - information about buildings for animals
- how to get a permit (to keep animals not otherwise permitted by the bylaw)
- dispensing power - that Council can forgo rules in the bylaw, in particular circumstances
- information about enforcement
- information about penalties.

The draft bylaw is similar to the current bylaw. Some of the changes that have been made, and the reason for the change, are:

PROPOSED CHANGE	WHAT IS IN THE CURRENT BYLAW	REASON FOR THE PROPOSED CHANGE
To have sections outlining the general rules that apply to everyone, the rules for urban zones, the rules for industrial zones, and other specific rules	In some sections, it is not clear where the rules apply (for example, which zone)	Clarity, readability

To include a general rules section that states it is an offence to keep animals in a way that causes nuisance, health and safety issues, the polluting of water ways, or animal related noise	There is a section on animal related noise. There is no general rules section	To clearly identify the rules that apply to everyone. Clarity, readability
A permit system is proposed for people who want to keep an animal that is not permitted by the bylaw	The current bylaw refers to obsolete provisions in an outdated District Plan. It also states that to keep animals outside the bylaw, people have to get a consent under the Resource Management Act 1991. The current bylaw gives Council the authority to grant dispensations	The proposed permit system is similar to the dispensation system currently being used, which has been working well. Compared to getting a consent under the Resource Management Act 1991, a permit system has a simpler application process, is less expensive for applicants and is not subject to appeals
To include an appendix that lists the towns that have an urban zone, and to state in the definitions section where industrial zones are. The draft bylaw also includes some guidance on how to find the relevant parts of the District Plan	Refers to urban and industrial areas in the District Plan, but gives no practical guidance on the towns that have the zones, or how to view them	For ease of use. Staff are not proposing to include all of the relevant maps with the bylaw, as these maps may change before the bylaw is due to be reviewed
Making it an offence to kill animals or process meat in a way that is, or is likely to become, a nuisance, dangerous, offensive or injurious to health	Does not include any rules about killing animals or processing meat	To help prevent nuisance and health and safety issues
Not including different rules for Ohai in the draft bylaw	The current bylaw applies to all areas in the District, but a formal dispensation has been granted for the Ohai urban zone	To create consistency across the District. Staff believe the bylaw would become too complex and confusing if different rules were introduced for different towns. The permit system will allow people to keep animals not permitted by the bylaw
Including a specific list of animals that are prohibited, and removing the term 'beast of burden'. There is a change that llamas, alpacas, emus, swans, chamois and tahr would be prohibited in areas in an urban zone.	Does not permit horses or other beast of burden, cattle, goats, deer or ostriches in the urban zone.	To help prevent nuisance and health and safety issues.

In 2012, Council adopted a formal dispensation for Ohai that allows people in the Ohai urban zone to keep farm animals (such as horses, cattle, etc) in specific circumstances. When Council adopts a new bylaw, it may revoke the dispensation for Ohai and require people in Ohai to use the proposed permit system. If the dispensation for Ohai is going to be revoked, Council staff would work with Ohai residents to identify the best way to transition to the permit system. Council may re-issue permits for these residents under the proposed bylaw, at no cost to the resident; provided there is compliance with conditions in the current Ohai dispensation.

If Council adopts the draft bylaw, Council may treat dispensations that have already been granted to particular individuals (allowing people to keep an animal that would not otherwise be permitted under the current bylaw), as a permit under the draft bylaw. This would mean that the individuals who already have a dispensation, would not need to apply for a permit.

3. Reason for the Proposal

The key reasons for this proposal are:

- to protect the public from nuisance and to protect, promote and maintain public health and safety
- the current bylaw has been in place for nearly 10 years and legislation requires Council to review the bylaw
- to encourage people to give feedback on the draft bylaw
- to let people know how they can give feedback.

4. How to have your say

Council encourages any person or organisation with an interest in the draft bylaw to consider it and to give feedback.

Submissions will be accepted from 8am on 12 March 2020 and must be received **no later than 5pm on 13 April 2020**. There will also be a subsequent consultation period for three weeks, when New Zealand is in COVID-19 alert level two or lower. Submissions can be made online at <https://www.southlanddc.govt.nz/my-council-/have-your-say/>

All submissions must state the submitter's name and their contact details. If you need help submitting please contact Council at 0800 732 732, or call in to one of Council's offices. Submitters should indicate in their written submission whether they would like to be heard on this matter. All written submissions made to Council will be acknowledged and made available to the public.

Council intends to convene a hearing, at which any party who wishes to do so can present their submission in person. Oral submissions will be heard in a Council meeting which is open to the public. If you indicate you would like to be heard in your written submission, Council staff will get in touch with you to arrange a time at the hearing. If you have any special requirements when appearing at the hearing (eg video conferencing or using sign language) please let us know.

If you indicate in your written submission that you do not want to be heard and then you change your mind, please get in touch with Council staff and we will try and accommodate you at the hearing.

5. Timetable for consultation

The dates below outline the timetable for the consultation process. Any changes to these dates will be publically advised on Council's Facebook page and website.

DATE	ACTIVITY
4 March 2020	Council adopt the proposal for consultation
12 March 2020	Consultation period begins (8am)
13 April 2020	Consultation period ends (5pm)
date TBC	Subsequent three week consultation period
date TBC	Oral submissions heard by Council (at Council offices, 15 Forth St, Invercargill)
date TBC	Council deliberate on this matter and adopt the draft bylaw
date TBC	Keeping of Animals, Poultry and Bees Bylaw comes into force

6. Options

The following options have been considered regarding how Council could proceed, after it has undertaken the consultation process:

Option 1 – adopt the draft bylaw

Option 2 – adopt an amended bylaw. This may include:

- changes to the types and numbers of animals permitted or how animals must be kept, across the District
- having different rules for different areas in the District (for example, it is possible Council may receive feedback that a particular community wants more liberal or restrictive rules for that community. If this occurred, Council may consider incorporating those rules into the bylaw)

Option 3 – retain the status quo (the current bylaw)

Analysis of Options

Option 1 – adopt the draft bylaw

Advantages	Disadvantages
<ul style="list-style-type: none"> • easy to read and to use • does not refer to the outdated District Plan, so brings the bylaw up-to-date • gives more clarity on where urban and industrial zones are • helps ensure people do not keep animals in a way that causes nuisance and health and safety issues • is not overly prescriptive • allows Council to take action when necessary • reasonably similar to the bylaws adopted by ICC and GDC, which makes it easier for people to know what the rules are likely to be. 	<ul style="list-style-type: none"> • people may know the current dispensation system and take time to adjust to the new permit system • a more prescriptive bylaw may better prevent nuisance and health and safety issues • may not be supported by some people in the District.

Option 2 - adopt an amended bylaw

Advantages	Disadvantages
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<ul style="list-style-type: none"> • an amended bylaw may better reflect community/stakeholder views • an amended bylaw may better prevent nuisance and health and safety issues. 	<ul style="list-style-type: none"> • an amended bylaw may not be as consistent and easy to use • an amended bylaw may not be as effective at preventing nuisance and health and safety issues. • may not be supported by some people in the District.
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Option 3 – retain the status quo

Advantages	Disadvantages
<ul style="list-style-type: none"> • people may be familiar with the current bylaw, and know how the dispensation system works • helps ensure people do not keep animals in a way that causes nuisance and health and safety issues • is not overly prescriptive • allows Council to take action when necessary • reasonably similar to the bylaws adopted by ICC and GDC, which makes it easier for people to know what the rules are likely to be. 	<ul style="list-style-type: none"> • not as easy to read or use • refers to the outdated District Plan • does not help clarify where there are urban and industrial zones • a revised bylaw may better prevent nuisance and health and safety issues • may not be supported by some people in the District.

7. Determinations

Council has made the following determinations in relation to the draft bylaw.

Most appropriate way of addressing the perceived problem – Council resolved that having a bylaw is the most appropriate way to address the nuisance and health and safety issues associated with keeping animals.

Most appropriate form of bylaw – Council resolved that the draft bylaw is the most appropriate form of bylaw. The draft bylaw has been drafted so that is easy to read and to use. Staff believe the draft bylaw is only creating necessary rules, and that it is not overly restrictive. The provisions in the bylaw allow Council to take action when nuisance and health and safety issues do arise. The bylaw has been made in recognition that many towns in the District are quite rural in nature.

Does not give rise to any implications under the New Zealand Bill of Rights Act 1990 - The New Zealand Bill of Rights Act 1990 grants certain civil and political rights to people in New Zealand. Council resolved that the provisions of the draft bylaw do not unreasonably interfere with any of the rights given pursuant to this act.

8. Legal rights and requirements

Council is required to consult on the draft bylaw in accordance with sections 83 and 86 of the Local Government Act 2002 (LGA). Council will satisfy these legal requirements. Council will also abide by the principles of consultation outlined in section 82 of the LGA.

9. Making an effective submission

Written submissions can take any form (eg online form, email, letter). An effective submission references the clause(s) of the draft bylaw you wish to submit on, states why the clause or change is supported or not supported and states what change to the clause or limit is sought.

Submissions on matters outside the scope of the draft bylaw won't be considered by Council as part of this bylaw review process.

Southland District Council

The Keeping of Animals, Poultry and Bees Bylaw

DRAFT

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Document Revision

Date	Amendment	Amended by	Approved by	Approval date

1. Commencement

This bylaw shall come into force in the district on XX June 2020. This bylaw has been reviewed and adopted by a resolution passed at a meeting of Council held on XX.

2. Purpose

This bylaw is to:

- help protect people in the District from nuisance, and
- help protect, promote, and maintain the health and safety of people in the District.

3. Definitions

Council	means Southland District Council
District	means the area within the territorial boundary of Council
Industrial zone	means specific areas classified as ‘industrial’ under Council’s operative District Plan. These areas can be located by selecting the ‘District Plan’ on Council’s website (https://www.southlanddc.govt.nz/), and by viewing the ‘District Plan maps’. There are industrial zones in Oban, Te Anau, Winton and in Riverton/Aparima
Nuisance	shall have the meaning assigned to it by the Health Act 1956
Poultry	includes chickens, geese, pheasants, pigeons, peafowl, ducks, quails and domestic fowl of all descriptions
Urban zone	means specific areas classified as ‘urban’ under Council’s operative District Plan. These areas can be located by selecting ‘District Plan’ on Council’s website, and by viewing the ‘District Plan maps’. A list of the townships that have an urban zone, is included with this bylaw as Appendix A

4. General rules

It is an offence to keep animals, kill animals, or process meat in a way that is, or is likely to become, a nuisance, dangerous, offensive or injurious to health.

It is an offence to keep animals in a way that is, or is likely to pollute any fresh or coastal water as defined in the Resource Management Act 1991.

It is an offence to keep any noisy animal, bird, poultry or fowl, which is, or is likely to become, a nuisance to residents in the neighbourhood.

5. Rules for urban zone

Animals not allowed in an urban zone unless a permit is obtained

It is an offence to keep the following animals (including their young) on private land in an urban zone without obtaining a permit from Council:

- alpacas
- cattle/bison/buffalo
- deer
- donkeys/mules
- goats/chamois/tahr
- horses/ponies
- llamas
- ostriches/emus
- pigs
- swans.

Restrictions on poultry

It is an offence to keep more than 10 poultry (that are over six months of age) on private land in an urban zone, without obtaining a permit from Council.

It is also an offence to keep poultry on private land in an urban zone, without obtaining a permit from Council, unless they are housed and contained appropriately. Poultry are housed and contained appropriately when:

- they are in a properly constructed house covered in with a rainproof roof
- the poultry house has a floor made of solid wood, concrete, or another appropriate material, with a surrounding nib wall where a poultry run shall be attached
- the poultry house/poultry run keep the poultry contained
- both the poultry house and any poultry run are least 10 metres from any dwelling, factory, or wholly/partially occupied building
- the poultry house and poultry run are at least two meters from any boundary not separated by a solid fence
- the poultry house and poultry run are clean and in good condition, and free from any offensive smell, overflow or vermin.

Additional information on keeping animals in an urban zone

There are no restrictions on keeping cats or bee hives on private land in an urban zone, unless specific restrictions have been imposed by Council.

There are no restrictions on the number of sheep that may be kept on private land in an urban zone.

6. Rules for industrial zone

Animals not allowed in industrial zone unless a permit is obtained

It is an offence to keep any pigs on land in an industrial zone without obtaining a permit from Council.

Restrictions on poultry

The same restrictions apply to keeping poultry in an industrial zone, as apply in an urban zone. These restrictions are outlined in section 5 of this bylaw.

7. Other specific rules

Pigs

It is an offence to build or allow any pigsty to remain, or any pigs to be at large or to range, at a less distance than 50 meters from a:

- dwelling
- wholly or partly occupied building
- street or public place
- place used for the preparation, storage, or sale of food for human consumption
- boundary of any adjoining property.

Cats

Council may impose a limit on the number of cats that may be kept on a private land (a limit being not more than five) where:

- Council has received a complaint about the number of cats kept on private land, and
- Council considers cats are being kept in a way that is, or is likely to become, a nuisance, offensive or injurious to health, and
- the person keeping the cats fails to comply with any reasonable request of the officer to abate or prevent the nuisance or health concern.

It is an offence to not comply with any limit imposed by Council, on the number of cats that may be kept.

Bees

Council may impose conditions limiting the number and location of hives on private land where:

- Council observes or receives a complaint that bees are being kept in a way that is, or is likely to become, a nuisance, dangerous, offensive or injurious to health, and
- Council has consulted with the complainant(s) (where possible), and
- Council has consulted with the person keeping the bees (where possible), and
- Council has requested the person keeping the bees to keep them in way that is not, or is not likely to become, a nuisance, dangerous, offensive or injurious to health (this may include specific requests such as moving a hive), and
- the person keeping the bees has failed to comply with Council's request.

Council may seek advice from experts in the keeping of bees through this process.

It is an offence not to comply with conditions imposed by Council, limiting the number and location of hives on private land.

Buildings for animals

Where animals are kept in a building, any required resource consent must be obtained. The building must also be properly constructed in accordance with the New Zealand Building Code, and appropriate building consent obtained where the proposed building is not exempt from the need of a building consent under Schedule 1 of the Building Act 2004.

8. Permits

To obtain a permit, please complete the 'Permit to Keep an Animal form' that is available on Council's website under 'Apply For It' and then under 'Environmental Health'.

To determine whether a permit should be granted, a Council staff member may choose to:

- seek further information from the applicant
- visit the premises to assess whether keeping the animal/s is appropriate
- require the applicant to seek approval from their neighbours.

If an application is successful, a written permit will be issued to the applicant by post or e-mail. The permit may include conditions about how the animal is kept. It is an offence to not comply with any conditions imposed by a permit.

9. Dispensing Power

It shall be lawful for Council in any particular case or cases, by resolution, to dispense with any of the foregoing requirements of this bylaw.

10. Enforcement

In addition to enforcing the provisions in this bylaw, Council may elect to take action relating to animals, poultry and bees under the Health Act 1956 or the Resource Management Act 1991.

11. Penalties

Every person who commits a breach of this bylaw is liable to a fine not exceeding \$20,000.

Appendix A - List of the townships that have an urban zone

- Balfour
- Browns
- Colac Bay/Oraka
- Edendale
- Lumsden
- Manapouri
- Mossburn
- Nightcaps
- Oban/Rakiura
- Ohai
- Otautau
- Riversdale
- Riverton/Aparima
- Te Anau
- Tokanui
- Tuatapere
- Waikaia
- Wallacetown
- Winton
- Wyndham