

Keeping of Animals Bylaw 2024 Statement of Proposal

1 Context and Situation

The Far North District Council proposes to make a bylaw to regulate the keeping of animals (excluding dogs) under the Local Government Act 2002 and the Health Act 1956 in order to enforce and regulate animal related issues.

On 4 May 2023 (refers 2023/46), the governing body of the Council approved the development of a new Keeping of Animals Bylaw under the Local Government Act 2002 and the Health Act 1956.

On 21 September 2023 (refers 2023/116), the governing body of the Council resolved to include cat management in the Keeping of Animals Bylaw.

2 The Proposal

The Council proposes to make a new Keeping of Animals Bylaw under:

- 1) sections 145 (a) and (b) of the Local Government Act 2002, which allow the council to make bylaws to protect the public from nuisance, and to protect, promote, and maintain public health and safety
- 2) section 146 (1) (a) (v) of the Local Government Act 2002, which allows the council to make bylaws to regulate the keeping of animals, bees, and poultry
- 3) section 64 of the Health Act 1956, which allows the council to make bylaws to cover a range of areas such as regulating stables, cow sheds, and piggeries, and regulating, licensing, or prohibiting the keeping of any animals in the district

3 Reasons for the proposal

Commonly occurring issues that have been identified regarding the keeping of animals (excluding dogs, which are regulated under the Dog Bylaw 2018 and the Dog Policy) are as follows:

- animal noise and smell
- animals in rubbish and/or gardens
- feral/wild and abandoned cats
- unwanted cat litters
- animal droppings on public footpaths
- domestic animals straying or wandering onto private and public property causing damage

- poultry without adequate housing or care
- uncontrolled beehives in urban areas

The proposed new Keeping of Animals Bylaw will provide Council with more ability to regulate and control animal behaviour in the district, encourage responsible ownership, and provide greater clarity on what constitutes appropriate animal ownership.

Under section 156 of the Local Government Act 2002, Far North District Council must consult with the public when making a new bylaw.

4 Analysis of the reasonably practicable options

On 4 May 2023, Council considered four options with regards to addressing the perceived problems regarding the keeping of animals.

Council chose Option 4- Make a new bylaw under the Local Government Act 2002 and the Health Act 1956.

The advantages and disadvantages of the options are summarised in the following table.

Option	Advantages	Disadvantages
<p>Option one: Status Quo- Do not make a new bylaw</p> <p>Council does not make a new bylaw to regulate animals. Problems regarding animals continue to be regulated through existing powers under the Health Act 1956</p>	<ul style="list-style-type: none"> • No resources are allocated to the development of a new bylaw 	<ul style="list-style-type: none"> • Will not provide effective tools for enforcement and monitoring of animal issues leading to reputational risk and inefficient use of resources. <p>Option two: Make a bylaw under the Local Government Act 2002 A new bylaw is made under the Local Government Act 2002 only. Council continues to use specific regulatory powers available under the Health Act 1956</p>
<p>Option two: Make a bylaw under the Local Government Act 2002</p> <p>A new bylaw is made under the Local Government Act 2002 only. Council continues to use specific regulatory powers available under the Health Act 1956</p>	<ul style="list-style-type: none"> • Provides clearer guidance to members of the public around permissible activities • Provides Council with the opportunity to monitor and enforce against non-compliance • Provides solutions or guidance to many commonly occurring problems 	<ul style="list-style-type: none"> • A narrow scope for the types of animals and controls that can be put in place

Option	Advantages	Disadvantages
<p>Option three: Make a bylaw under the Health Act 1956</p> <p>A new bylaw is made under the Health Act 1956 only.</p>	<ul style="list-style-type: none"> • Provides scope for some known animal problems • Provides clearer guidance to members of the public around permissible activities • Provides Council with the opportunity to monitor and enforce against non-compliance 	<ul style="list-style-type: none"> • Enforcement is only through prosecution with a maximum penalty of a \$500 fine • Limited in scope of other problems permitted by other legislation
<p>Option 4: Make a new bylaw under the Local Government Act 2002 and the Health Act 1956 (recommended option)</p> <p>A new bylaw is made under both the Local Government Act 2002 and the Health Act 1956.</p>	<ul style="list-style-type: none"> • Allows for Council’s full regulatory powers to be enacted via a bylaw including a wide range of animals and specifically identified animal problems such as smell and noise • Increased enforcement options • Provides more solutions to address current known and perceived issues • Provides greatest ability to provide clear public guidelines for animal ownership • Ties all regulatory options into one bylaw 	<ul style="list-style-type: none"> • none identified

5 New Zealand Bill of Rights Act 1990 implications

Assessment of implications under the New Zealand Bill of Rights Act 1990 (NZBORA)

Pursuant to section 155(2)(b) of the Local Government Act 2002 (**LGA**), before making a bylaw the Council must determine whether the proposed bylaw “gives rise to any implications under” NZBORA. Section 155(3) LGA states that “no bylaw may be made which is inconsistent with the NZBORA”.

Before making the proposed Keeping of Animals Bylaw it is therefore necessary for Council to identify any implications it may have under NZBORA, and to determine that it is not inconsistent with NZBORA.

The NZBORA affirms the rights and freedoms set out in sections 8 to 27, which include the right to freedom from discrimination on the grounds set out in the Human Rights Act 1993. Those rights and freedoms are enforceable by the courts subject only to “such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society” (section 5 NZBORA).

The proposed bylaw applies generally to the manner in which, and the locations where, domestic animals may be kept. There are no apparent implications under NZBORA.

It follows that the proposed bylaw is consistent with NZBORA.

6 How to give your views on the proposal

The Council encourages any person or organisation affected by, or having an interest in, the Keeping of Animals Bylaw to present their views on the proposal to the Council by making a submission.

You can make a submission by using any of the following methods:

- online at the Council’s website www.fndc.govt.nz/have-your-say
- email your submission to submissions@fndc.govt.nz

- drop-off your submission at any Council service centre or library, details of their locations and opening times are listed at www.fndc.govt.nz/contact or you can get that information by phoning the Council on 0800 920 029
- post your submission to: Strategy and Policy Team, Far North District Council, Private Bag 752, Kaikohe 0440
- make an oral submission at a meeting of Council

Please include your full name and email address or postal address in your submission if you would like:

- the Council to acknowledge receipt of your submission
- to make an oral submission – you will be contacted about when and where the meetings for this are taking place.

Any submissions that are out of scope, offensive, inappropriate, or late may not be accepted by the council. You will be notified if your decision is not accepted and, where appropriate, invited to resubmit.

Those interested in supporting their submission orally will be contacted with a date and time following the four week consultation period.

Privacy statement – Please be aware, any submissions that are made will become part of the public consultation process. As such, all submissions, any summaries of submissions, and any documents provided with your submission, are copied and made available to the Council’s governing body as well as the public. Any personal information included with a submission such as your name, is treated as part of the submission and will also be released publicly. Your submission and any personal information that you supply such as your name will not be treated as confidential unless you specifically request it in your submission.

6.1 Draft Keeping of Animals Bylaw

The draft bylaw is as follows:

Part 1: Preliminary provisions

1 Title

This bylaw is the Far North District Council Keeping of Animals Bylaw 2024.

2 Commencement

- (1) This Bylaw comes into force on XX Month 2024.
- (2) The provisions of this Bylaw that refer to zones described in the District Plan will apply to the land in those zones in the Proposed District Plan as from the date the rules for those zones have legal effect pursuant to section 86B of the Resource Management Act 1991.

3 Application

This Bylaw applies to the keeping of animals, including bees, pigs, poultry, cats, horses, goats, sheep, alpacas, llamas and cattle within the Far North District. This bylaw was written pursuant to the Local Government Act 2002, Part 8 and the Health Act 1956, Part 2.

4 Purpose

The purpose of this Bylaw is to regulate the keeping of animals, including bees, pigs, poultry, cats, horses, goats, sheep, alpacas, llamas and cattle, so that they do not create a nuisance or endanger the health of the public.

5 Interpretation

(1) Any words, phrases or expressions in this Bylaw which have meanings assigned to them by the Local Government Act 2002 and Health Act 1956 shall have the meanings as are respectively assigned in those Acts and corresponding supplementary legislation, unless inconsistent with the context in which such words occur.

(2) In this Bylaw, unless the context otherwise requires:

Animal means any live member of the animal kingdom that is a mammal (excluding humans and dogs), bird, or any other member of the animal kingdom which is declared from time to time by the Governor-General, by Order in Council, to be an animal as defined under Section 2(a) of the Animal Welfare Act 1999.

Approval means an Approval granted under this Bylaw and includes all conditions to which the Approval is subject

Beehive and hive mean any receptacle housing a honeybee colony for the purposes of honey production and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes.

Bee keeping means the keeping of beehives and includes the removal of honey and bee products from the hive, but not the further processing of such products.

Beekeeper means a person who is keeping bees or owns hives.

Council means the Far North District Council.

District means the area with the territorial boundary of the Far North District Council.

District Plan means the operative plan approved by the Far North District Council under Schedule 1 of the Resource Management Act 1991 and includes any proposed district plan.

Dwelling means a building that a person lives in and includes any separate buildings on a site that are lived in or used for sleeping in but are accessory to the main dwelling.

Enforcement officer means an enforcement officer appointed under section 177 of the Local Government Act 2002.

Keep or keeping includes owning, looking after, caring for, being in charge of, a custodian of or in possession of any animal.

Nuisance means, without limiting the meaning of the term “nuisance”, any unreasonable interference with the peace, comfort, or convenience of another person, whether by way of excessive noise or offensive odours, and includes the nuisances defined in section 29 of the Health Act 1956.

Person has the meaning given by the Legislation Act 2019.

Pigsty means a pen or enclosure of a pig or pigs.

Poultry means any live bird that is kept or raised to produce eggs, hatching eggs, or poultry products, or for rearing on behalf of any other person, and includes geese, ducks, pigeons, turkeys, emus, ostriches, pheasants, and all types of domestic fowls.

Poultry keeping means the keeping of poultry on a small scale for domestic use only.

Proposed District Plan means the Far North Proposed District Plan (24 May 2024).

Public place means:

- a. a place that is-
 - (i) under the control of Council and/or
 - (ii) that is open to or being used by the public, whether or not there is a charge for admission and
- b. includes:
 - (i) a road, whether or not the road is under the control of Council, and
 - (ii) any part of the public place.

Swarm means a cluster or flying mass of honeybees, including workers, queen, and drones.

- (3) The Interpretation Act 1999 applies to this Bylaw.
- (4) Explanatory notes and related information boxes are for information purposes only, do not form part of this Bylaw, and may be inserted, amended, or removed by the Far North District Council without any formality at any time.

Part 2: Substantive provisions

6 General Requirements

- (1) Any person keeping, or permitting to be kept, bees, pigs, poultry, cats, and other animals as defined in this Bylaw on private land must always ensure that these animals:
 - a. do not cause or are unlikely to cause a **nuisance** to any person; and
 - b. are kept in conditions which are not offensive or injurious to public health and safety; and
 - c. do not damage any property belonging to any person.
- (2) The Council may by written notice require that an owner or person keeping bees, pigs, poultry, cats, and other animals as defined in this Bylaw must take specified steps to ensure compliance with clause 6.1 or to mitigate or abate the conditions referred to in clause 6.1.
- (3) The Owner or person keeping the bees, pigs, poultry, cats, other animals as defined in this Bylaw must comply with the steps set out in the notice provided under clause 6.2 within the specified time period.

7 Bee Keeping

- (1) No person shall keep bees in the District if in the opinion of an enforcement officer the keeping of bees is likely to become a **nuisance** or potential danger to any person.
- (2) No person may keep bees in the District unless the beehive or the beekeeper is registered under the Biosecurity Act 1993 and the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998.
- (3) Where an enforcement officer considers an existing hive or hives is likely to become a **nuisance** or potential danger to any person, they may require removal of the hive(s).
- (4) A person may keep bees on any property zoned Residential, Rural, Commercial or Industrial in the District Plan provided they comply with the following conditions:

- a. Hives are placed no closer than 5 metres to any property boundary where there is no solid fence 1.8 metres or taller on that boundary; or
- b. Where there is a solid fence 1.8 metres or taller on any property boundary, the hives are placed no closer than 3 metres from that boundary; and
- c. The property area is 500 square metres or greater; and
- d. The number of hives does not exceed that which is allowed for the area of the property as indicated in the following table:

Property Area	Maximum no. of hives
500 – 2000 m ²	2
2001 – 4000 m ²	4
4001m ² or greater	6

8 Pig Keeping

- (1) Except with the prior written approval of the Council, no person shall keep pigs in any part of the District except on property zoned Rural Living, Rural Production, Rural Lifestyle, or Rural Residential in the District Plan.
- (2) No person shall allow any pig to wander freely on any property with 10 m of a dwelling or any other building used for food storage or preparation of food for sale, or on any street or public place.
- (3) No person shall construct or permit the construction of a pigsty within 50 m of any dwelling, or any wholly or partly occupied building, or any street or public place, or any place used for the preparation, storage, or sale of food for human consumption, or from any boundary with any adjoining property.
- (4) All pigs kept in the District must be provided with a pigsty, which shall be maintained in good repair, in a clean condition, free from any offensive smell or overflow, accumulations of manure, food and vermin.

9. Poultry Keeping

- (1) No person may keep a rooster or cockerel on any property zoned Residential, Rural Living, Commercial or Industrial in the District Plan.
- (2) No person may keep more than 10 head of poultry hens on any property zoned Residential, Rural Living, Commercial or Industrial in the District Plan, except with the written approval of the Council.
- (3) All Poultry kept on any property zoned Residential, Rural Living, Commercial or Industrial in the District Plan shall at all times be confined to a poultry house or a run on the property on which they are kept.
- (4) All poultry kept on any property zoned Residential, Rural Living, Commercial or Industrial in the District Plan must be provided with a poultry house, which shall be maintained in good repair, in a clean condition, free from any offensive smell or overflow, accumulations of manure, food and vermin.
- (5) Poultry houses or poultry runs must be at least 10 metres away from any dwelling, factory, or any other building and at least 2 metres away from the boundary of adjoining properties.
- (6) The Council may by written notice, require that an owner or person keeping poultry take specified steps to ensure compliance with clause 9(4) or 9(5).
- (7) Nothing in this Bylaw shall prevent any person from keeping Poultry:

- a. In an auction room for not more than 48 hours; or
- b. In a shop for the purposes of sale; or
- c. in a coop for the purposes of immediate consumption.

10. Keeping of Cats

- (1) Any person keeping, or permitting to be kept any cat(s) must always ensure that:
 - a. Any such cat(s) over the age of four (4) months is microchipped and the cat's microchip registered with New Zealand Companion Animal Register.
 - b. Any such cat(s) over the age of four (4) months is de-sexed, unless:
 - i. the cat is kept for breeding purposes and registered with a nationally recognised cat breeders body, or
 - ii. the owner provides a certificate from a veterinarian stating that the de-sexing of the cat will adversely affect its health and/or welfare.

11. Keeping of Horses, Goats, Sheep, llamas, Alpacas and Cattle

- (1) No person shall keep, or allow to be kept, horses, goats, sheep, llamas, alpacas or cattle on property zoned Residential, Commercial or Industrial in the District Plan.

12. Horse Riding in a Public Place

- (1) Any person riding or taking a horse or horses on any public place within any area zoned Residential, Commercial or Industrial in the District Plan must promptly remove or safely dispose of any horse manure or droppings deposited by that horse or horses in that place.

13. Killing of Animals

- (1) No person shall kill or slaughter or allow to be killed or slaughtered, any animal on any property zoned Residential in the District Plan except with the written approval of the Council.

Part 3: Approvals

14. Approvals

- (1) Where any Approval from Council is required by this Bylaw, a person who seeks that Approval must:
 - a. Apply in writing to Council for the approval using the prescribed form for that Approval;
 - b. Provide the information required or requested by Council; and
 - c. If applicable, pay the fee for that Approval as set out in the Far North District Council Fees and Charges Policy.
- (2) Council may grant or refuse to grant the requested Approval.
- (3) The Approval from Council will be in written form and may include a licence, permit, order, letter, or other written document.

- (4) The Approval may be granted on such terms and conditions as Council considers appropriate.
- (5) Council may revoke the Approval if any of the terms and conditions of the Approval are not complied with.
- (6) Council may revoke any Approval that has been granted at any time if the circumstances under which the Approval was granted have changed since the Approval was granted.

Part 4: Enforcement

15. Offences

- (1) Every person who fails to comply with the requirements of this Bylaw or breaches this Bylaw commits an offence under the Local Government Act 2002 and is liable to the penalties set out in that Act.

16. Removal of works

- (1) Council may, in accordance with section 163 of the Local Government Act 2002, remove or alter a work or thing that has been constructed in breach of this Bylaw or in a manner that is likely to become a **nuisance** or annoyance to any person or potentially dangerous or injurious to health and recover the costs of so doing from the person who committed the breach.