

Access Areas for Dogs

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1. Purpose

This policy provides the basis for designating dog OFF-LEASH and dog PROHIBITED areas in the Shoalhaven local government area, in accordance with the *Companion Animals Act 1998* (NSW, herein referred to as 'the Act') and the following priorities identified in the *Shoalhaven 2023 Community Strategic Plan*:

- 1.3 Support community wellbeing through fostering active and healthy communities
- 2.3 Protect the natural environment and enhance sustainability
- 4.3 Inform and engage with the community about the decisions that affect their lives

In accordance with the Act, responsible dog ownership practices shall be supported and enforced through the establishment of appropriate 'dog off-leash' and 'dog-prohibited' areas for land and assets within the ownership, management, care, and control of Shoalhaven City Council (herein 'Council').

In accordance with the Act, Council must provide at least one dog off-leash area within the Shoalhaven local government area.

All other matters relating to dog ownership (such as collars, microchipping, registration, etc.) are defined under the Act and are outside of the scope of this policy.

1.1. Definitions

The following definitions are provided to give clarity to meaning and terminology under this policy:

- a) **Companion animal** – for the purposes of this policy means 'dog'. Note: 'companion animals' are also commonly referred to as 'pets'.
- b) **Public place** – as defined in the *Companion Animals Act 1998 (NSW)* – any pathway, road, bridge, jetty, wharf, road-ferry, reserve, park, beach or garden, and any other place, that the public are entitled to use, within the Shoalhaven Local Government Area, and as described in Section 205 and Section 702 of the *Local Government Act 1993 (NSW)*.
- c) **Dangerous or Menacing Dogs** – any dog that is declared 'Dangerous' or 'Menacing' under the Act.
- d) **Restricted breed dogs** – any dog that is declared as 'Restricted' under the Act.
- e) **Owner** – as defined in Section 7 of the Act – the person by whom the animal is ordinarily kept; or the registered owner of the animal.
- f) **Competent person** – in accordance with Section 13 of the Act, any person who takes a dog(s) into a public space. This person must have no more than 4 dogs under their control at any time.

All dogs under the control of the competent person must be 'under effective control' at all times (see definition at 3.1g).

g) **Under effective control** –

- When on-leash (on-lead) – dog(s) must be under the effective control of a competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the competent person. This means the dog(s) behave appropriately and must not rush at, or provide unwanted attention to, other people or dogs.
- When off-leash (off-lead) – all dog(s) within designated off-leash areas must be under effective control at all times and be able to be recalled immediately and controlled by

means other than a leash. Dogs must not rush at, or provide unwanted attention to, other people or dogs.

- h) **Dog-controlled area** – any area within the Shoalhaven local government area designated as a:
- 'dog off-leash' exercise area (fenced or unfenced);
 - 'dog-prohibited area, and
 - all other areas where, for the purposes of this policy, dogs are required to be 'on-leash'.
- i) **Habitat** – as defined by the *Biodiversity Conservation Act 2016 (NSW)* and including:
- an area periodically or occasionally occupied by a species or ecological community, and
 - the biotic and abiotic components of an area.

2. Statement

This policy supersedes the previous *Access Areas for Dogs* policy and was adopted by Council at its meeting of 11 December 2023.

Dogs in public places across Shoalhaven will be managed by Council in accordance with the Act and this policy in the best interests of the community and the environment.

Council recognises companion dogs provide significant benefits for population health and wellbeing. This policy is therefore calibrated to ensure these benefits are realised and managed in a manner that protects the rights of all users to equitable access to a range of public places across Shoalhaven; recognising there are segments of the population that wish to avoid contact with dogs.

It is acknowledged dogs in public places can present a barrier to participation for some members of the community, including children, the elderly, and people living with physical and intellectual disabilities. Consideration shall therefore be given to equitable access to dog-free areas when designating dog-controlled areas.

The Shoalhaven community is custodian of nationally significant, environmentally sensitive areas across a wide array of landscapes. Thus, there is a vital need for dog exercise in public places to be conducted in a manner that minimises impacts on the environment and community.

Council will engage with other key agencies as partners in relation to managing dog access in public areas. Key agencies include but are not limited to: National Parks and Wildlife Service; NSW Department of Primary Industries (DPI) Fisheries; Department of Regional NSW Jervis Bay Marine Park; and Crown Lands.

2.1. Objectives

The principal objectives of this policy are to:

- a) Provide clear and accessible designations for 'dog off-leash' and 'dog-prohibited' areas within the Shoalhaven to ensure population health and wellbeing benefits associated with dog ownership are achieved in balance with the protection of biodiversity and maintenance of ecosystem health.
- b) Protect flora and fauna from the adverse impacts of dogs and, more generally, to limit the impact of dogs on biodiversity and the natural environment.

- c) Support a risk-based approach to the designation and management of dog-controlled areas to balance social and environmental needs in accordance with legislation.
- d) Provide clarity to all users with respect to areas where dogs are restricted or prohibited and to ensure a range of public places remain dog-free, and therefore accessible, to a wide spectrum of users across the Shoalhaven.
- e) Outline expectations regarding the safe, shared use of public places in Shoalhaven for dog owners and other users.
- f) Direct efforts to develop educational resources that promote responsible dog ownership and positive interactions with companion dogs within public places.
- g) Provide a framework for ongoing review and adaptive management (of this policy and dog-related matters in the Shoalhaven).
- h) Promote compliance with all relevant legislation governing dog ownership and control in New South Wales.
- i) Enable effective enforcement of this policy and the Act.

2.2. Scope

- a) This policy applies to the delivery of infrastructure and services, in accordance with the *Shoalhaven 2023 Community Strategic Plan*, that support responsible dog ownership practices for dog owners and competent persons when taking dogs into public places.
- b) All members of the public (including dog owners and competent persons), whether they be residents or visitors, must comply with the provisions of this policy when taking a dog into a public place in the Shoalhaven local government area.
- c) This policy does not include a list of off-leash and dog-prohibited areas. A list of off-leash and dog-prohibited sites will be maintained and made publicly available via Council's website and guideline materials.

3. Provisions

This policy is primarily governed by the Act and the *Local Government Act 1993* (NSW). The Act outlines legislative requirements in New South Wales relating to the identification and registration of companion animals and for the duties and responsibilities of their owners, and for other purposes.

Further to the Act, Council is obliged to manage the impacts of dogs on the natural environment through the preparation of environmental assessments in accordance with relevant legislation, such as: the *Environmental Planning and Assessment (EP&A) Act 1979* (NSW), *Biodiversity Conservation Act 2016* (NSW), the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), and the enforcement of legislative functions to ensure this outcome.

This policy provides further detail about dog access arrangements in the Shoalhaven in line with the Act and other relevant legislation.

3.1. Code of Conduct

Dog owners have a responsibility to preserve and maintain the social and natural environments of the Shoalhaven local government area.

- a) Dogs must therefore be *under effective control* (ref. 3.1h for definition) at all times in public places.

- b) Dog owners and competent persons who use designated off-leash areas (fenced or not fenced) must be within view of their dog/s and within close proximity of their dog/s at all times.
- c) It is the responsibility of the dog owner/competent person to be aware of dog control zonings as determined from on-line information, signage and other forms of communication provided by Council and described in section 3.9.

Dog faeces is considered an environmental risk and can contain pathogens harmful to human health and canine (dog) health.

- d) Dog faeces must be collected and disposed of responsibly (by the relevant owner or competent person). This means all dog waste must be collected in a receptacle (such as a plastic or compostable bag) and disposed in a waste container (bin).

3.2. “On-Leash at all times in Public Places”

Under the Act, dogs in public places must be under the effective control *of some competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the person*. This applies to all public places, EXCEPT designated ‘dog-off leash’ and ‘dog-prohibited’ areas (within the Act or within this policy).

- a) As a general rule, dogs in the Shoalhaven local government area are therefore required to be *on-leash* at all times EXCEPT when in a designated *off-leash* area (fenced or not fenced)
- b) Dogs are not permitted within ‘dog-prohibited’ areas.

3.3. Designated Dog-Controlled Areas

For the purposes of this policy, three categories of dog-controlled area shall apply to public places across Shoalhaven. These are:

- **GREEN** - Dog off-leash areas (timed and untimed)
- **ORANGE** - Dog on-leash areas
- **RED** - Dog prohibited areas

This traffic light classification system (green, orange, red) is utilised to differentiate between each of the three dog-controlled area categories. The traffic light classification system will be utilised in all new signage and educational material relating to dog management in the Shoalhaven local government area. Council will endeavour to update and replace all dog compliance signage and supporting information as soon as practicably possible.

Further information regarding conditions of use for each of the three dog-controlled area classifications is provided below (ref. 3.4, 3.5, 3.6).

3.4. Dog off-leash Areas – **GREEN**

- a) Dogs are permitted to be off-leash in designated off-leash areas (only), as indicated by Council approved on-site signage and online resources.
- b) Dog off-leash access areas can be either time-restricted or 24-hour off-leash. Mapping and signage for both types will be indicated by a green colour but with clear graphic differences for time-restricted and 24-hour off-leash areas.
- c) Owners and competent persons may be responsible for up to four dogs (only) at any time within a dog off-leash area.
- d) Dogs declared ‘dangerous’ and ‘restricted’ and ‘menacing’ dogs are prohibited in off-leash areas.

- e) All dogs must remain *under effective control* at all times within a dog off-leash area (ref. 3.1h).

3.5. Dog On-Leash Areas – ORANGE

- a) In accordance with the Act, dogs are required to be restrained (by way of leash, cord, or chain) and *under effective control* at all times within public areas (except as designated in dog 'off-leash' areas and/or dog 'prohibited' areas).
- b) As a rule, dogs in the Shoalhaven local government area are therefore required to be *on-leash* at all times EXCEPT when in a designated *off-leash* area (fenced or not fenced).

3.6. Dog Prohibited Areas – RED

Under the Act, all dogs are prohibited in the following public places (whether or not they are leashed or otherwise controlled):

- a) *Children's play areas*
- b) *Food preparation/consumption areas*
- c) *Recreation areas where dogs are prohibited*
- d) *Public bathing areas where dogs are prohibited*
- e) *School grounds*
- f) *Childcare centres*
- g) *Shopping areas where dogs are prohibited*
- h) *Wildlife protection areas*
- i) *Any Dog Prohibited Areas designated by Council in accordance with this policy*

(Ref. to Section 14 [Paragraph 1] of the Act for further information relating to Dog Prohibited Areas).

Restrictions on dog access required by other legislation must also be observed. Legislation includes, but is not limited to, the *National Parks and Wildlife Act 1974 (NSW)*, the *Marine Estate Management Act 2014 (NSW)* and *Marine Estate Management (Management Rules) Regulation 1999 (NSW)*. Further information regarding relevant legislation is provided below (ref. 4.1).

3.7. Designating Dog-Controlled Areas

In accordance with the Act, Council may designate 'dog-prohibited' or 'dog off-leash' areas to adequately manage social or environmental constraints at any given location under its care and control. All other areas (not designated as either 'dog-prohibited' or 'dog off-leash') shall be considered 'dog on-leash' areas.

In accordance with legislative requirements, the protection and enhancement of biodiversity, and management of heritage and recreational values, shall be given consideration when developing, implementing, and enforcing this policy – including when identifying, assessing, and designating 'dog off-leash' and 'dog-prohibited' areas.

- a) Council will delineate, foster, and regulate 'dog off-leash' areas and 'dog-prohibited' areas on the basis of the presence of environmental sensitivities, as determined by environmental due diligence undertaken by Council in accordance with this policy and relevant legislation.
- b) Council will engage with other key agencies as partners in relation to managing dog access in public areas. Key agencies include but are not limited to: National Parks and

Wildlife Service; NSW Department of Primary Industries (DPI) Fisheries; Department of Regional NSW Jervis Bay Marine Park; and Crown Lands.

- c) Adaptive management approaches (such as temporary or partial closures of designated *off-leash* areas, or changes to the extents of *prohibited* areas) will be utilised as required to manage high-risk / high-use sites, including to protect threatened biodiversity or cultural heritage as determined by environmental due diligence undertaken by Council. Any adaptive management measures will be communicated to the general public via on-site signage and supporting information.
- d) Every effort will be made to minimise any impact/s arising from temporary or partial closures of dog-controlled areas, including through offsetting (making additional contiguous areas and/or alternative areas available as close as practicably possible), where appropriate.

Dog-Prohibited Areas

- a) Dog-prohibited areas will be determined on the basis of risk associated with:
 - *Environmental sensitivities* – for example, areas where dogs will have an unacceptable impact to social and environmental values as determined by environmental assessments. This may include but is not limited to: Aboriginal cultural heritage sites, threatened species habitat such as known and probable shorebird nesting sites and migratory bird foraging and roosting sites, Endangered Ecological Communities and areas adjoining National Parks.

and/or

 - *High-Use Recreation Areas* – for example: popular beach areas, parks, sports fields, or similar.
- b) Dog-prohibited areas may be subject to change, dependent on environmental fluctuations and/or changing use patterns over time, as required and in accordance with the stated objectives of this policy (refer to Section 2.1) and priorities 1.3, 2.3, and 4.3 of the *Shoalhaven 2023 Community Strategic Plan* (or any subsequent version of that plan).

3.8. Reporting

Proposals to designate dog-controlled areas

All recommendations relating to proposals to designate dog-controlled areas in the Shoalhaven arising from Notices of Motion, community requests, strategic initiatives, and capital works planning, and subsequent implementation works shall be subject to a decision of the elected Council to aid in facilitating public scrutiny and transparency.

- a) A report(s) shall be placed on the agenda of an Ordinary Council Meeting in relation to all proposed new dog off-leash and dog-prohibited area designations.
- b) A report(s) shall be placed on the agenda of an Ordinary Council Meeting in relation to all proposed permanent changes to any existing designated dog off-leash and dog-prohibited areas.
- c) In accordance with Section 232(1) of the *Local Government Act 1993* (NSW) and 3.7(a) of this policy, when deliberating proposed dog off-leash and dog-prohibited designations, consideration shall be given to the outcomes of all relevant environmental due diligence investigations, including (but not limited to) the recommendations of any relevant Review of Environmental Factors.
- d) Communities affected by proposed changes to any existing dog off-leash areas that arise due to REF findings and other investigations will be notified and consulted. The results of

the consultation activities, REF findings, recommendations, and any other relevant matters, will be referred to Council for final determination.

Temporary changes to dog-controlled areas

- a) Report(s) will not be required to be submitted to the elected Council in relation to temporary changes to existing designated dog-controlled areas (such as temporary closures of dog off-leash areas, or changes to the extents of dog-prohibited areas) undertaken in accordance with section 3.7 of this policy. These occurrences will be managed by suitably qualified Council staff in accordance with this policy.
- b) A report(s) shall be placed on the agenda of an Ordinary Council Meeting in relation to any occurrence where temporary changes to existing designated dog off-leash or dog-prohibited areas are enacted in a consistent manner across a period of at least 36 months and where these changes can reasonably be expected to be continued for a further 24 months and/or indefinitely.

3.9. Mapping and Communication

To support the stated objectives of this policy, Council will develop and implement educational resources to ensure the effective and clear dissemination of information to enable dog owners, and the general public, to understand restrictions and to promote appropriate dog exercise in public places.

- a) Designated dog off-leash and dog-prohibited areas (categories GREEN & RED) will be defined using on-site signage and online resources (via Council's webpage). Council will endeavour to make this information universally accessible via other channels (such as printed information booklets, pamphlets, media advertising, and similar, as appropriate). On-site signage will be installed at all regularly used access points and, where possible, at the boundaries between zones of different levels of dog control.
- b) Council will collaborate with other public land managers towards providing 'cross-tenure' mapping of dog access areas for the Shoalhaven local government area.

3.10. Exemptions

- a) This policy does not apply to police dogs, emergency service dogs or dogs used to assist people with a disability (defined as 'assistance animals' under the Act).
- b) In the event a prohibited or restricted area enforceable under this policy be hired / leased out by Council to a group / individual / organisation, the terms and conditions of that hire / lease will determine the regulatory role of this policy.

3.11. Penalties for Non-Compliance

Breaches of this policy (including legislation administered by Council on behalf of other governments) will attract a penalty (or penalties).

- a) Penalties will be levied in accordance with relevant state or commonwealth legislation (including the NSW Companion Animals Act 1998), and/or Council's Compliance and Enforcement Policy.

4. Implementation

4.1. Legislation

This policy shall comply with relevant commonwealth and state legislation, including, but not limited to:

- *Biodiversity Conservation Act 2016*
- *Civil Liability Act 2002*

- *Coastal Management Act 2016*
- *Companion Animals Act 1998 (the Act)*
- *Companion Animals Regulation 2018*
- *Crown Land Management Act 2016*
- *Environment Protection and Biodiversity Conservation Act 1999*
- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Fisheries Management Act 1994*
- *Local Government Act 1993*
- *Marine Estate Management Act 2014*
- *Marine Estate Management (Management Rules) Regulation 1999*
- *National Parks and Wildlife Act 1974*
- *Prevention of Cruelty to Animals Act 1979*
- *Public Spaces (Public Property) Act 2021*
- *Shoalhaven Local Environmental Plan 2014*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

No part of this policy shall override any act. Any part of this policy in contravention of any act shall be considered invalid.

4.2. Council Plans and Policies

This policy has been designed and developed to align with all relevant Shoalhaven City Council plans & policies, including:

- *Shoalhaven 2023 Community Strategic Plan*
- *Companion Animals (Impacts on Native Fauna) – conditions of development consent*
- *Compliance and Enforcement Policy*
- *Foreshore Reserves Policy*
- *Community Engagement Strategy (adopted at Council's Ordinary Meeting on 12 December 2022 [MIN22.978]. This policy can be viewed via Council's Policies page: <https://www.shoalhaven.nsw.gov.au/Access-to-Information/Organisation/Policies>)*

4.3. Administration

- a) This policy (including future policy reviews) will be administered by the City Lifestyles directorate (Community Planning & Projects).

4.4. Implementation

- a) Implementation plans (including actions arising, such as any strategies or guideline documents relating to enforcement, communications & engagement, education, etc.) will be a shared responsibility of directors with accountability for asset strategic planning, asset custodianship, and enforcement matters, including the: Director – City Lifestyles; Director – City Development; and Director – City Services.

- The City Development directorate (Environmental Services) shall have responsibility for undertaking environmental due diligence investigations for designated dog off-leash and dog-prohibited areas.
- City Lifestyles (Community Planning and Projects) shall oversee the preparation of an Implementation Plan and associated Implementation Funding Plan to ensure the policy detail is implemented across the organisation and municipality.
- Actions (identified in the Implementation Plan) will be assigned to relevant departments for implementation in accordance with their roles and responsibilities (such as: asset strategic planning, asset custodianship, or enforcement).

b) All Councillors are responsible for implementation of this policy, in accordance with policy detail (provisions) and related legislated obligations.

4.5. Enforcement

a) This policy, and related matters under the *Companion Animals Act 1998* (NSW) and other related legislation will be enforced by the City Development directorate (Ranger Services).

5. Review

The policy, in its entirety, will be reviewed within 12 months of election of a new council, or when a change of legislation affects this policy.