

2. BYLAW CONTROLLING THE KEEPING OF ANIMALS, POULTRY AND BEES

RR 10198

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The purpose of this report is to present draft provisions of a bylaw controlling the keeping of animals, poultry and bees in the City of Christchurch in order that a new consolidated bylaw can be introduced by the Council.

INTRODUCTION

At the time of amalgamation, in 1989, provisions existed in bylaws of the merging territorial authorities controlling the keeping of animals, poultry and bees, largely in relation to residential properties, for the purpose of controlling perceived nuisances from such activities. These bylaws were made variously under the provisions of the Counties Act; the Municipal Corporations Act; the Local Government Act; and the Health Act. The new City Plan process commenced shortly after amalgamation and it was considered that as it was being made under the Resource Management Act 1991, which has the purpose of controlling adverse effects of land based activities, the review of these bylaw provisions should await the release of decisions on submissions made. This process has now been completed and it is now more clear to which areas bylaw provisions could be made for the keeping of animals, poultry and bees.

The current provisions that exist over the present City are contained in the following bylaws.

- Christchurch City Bylaw No. 117 (1981) Keeping of Animals, Poultry and Bees*
- Heathcote County Bylaw 1933*
- Heathcote County Animal Trap By-Law 1975 No.1*
- Paparua County Bylaw 1981 - Section 8*
- Riccarton Borough Bylaw 1972*
- Waimairi County Bylaw 1966 (No.1)*

Provisions exist in these bylaws for the following matters:

Keeping of pigs, except in areas zoned “rural” require a licence, in some areas, issued by the Council and compliance with conditions imposed.

Keeping of specified animals on any land zoned “residential” requires the consent of the Council and is subject to any conditions the Council may impose.

Keeping of poultry on land zoned “residential” is subject to conditions as to numbers, siting and construction of poultry houses and yards, and control of pests and nuisances.

Keeping of domestic rabbits is subject to conditions as to number, siting and construction of cages, and control of nuisance conditions.

Keeping of bees requires a licence from the Council and is subject to conditions relating to the number and location of hives on the property.

Provisions exist for the prohibition of certain animal traps such as gin traps.

DISCUSSION

It could be desirable to simplify the provisions of the bylaw by removing, largely, the need for consents or licences to be issued for the keeping of animals. The stress of any new bylaw should be largely on provisions to reduce the possibility of nuisances, as defined in the Health Act 1956, occurring and where possible to ensure animals are confined to the properties on which they are kept.

Definitions have been changed to enable the coverage of a wider range of possible animals and birds within the provisions of the bylaw, without the need for amendments to any lists that have been contained in past bylaws when new animals become kept as domestic pets. The definition of poultry, for example, would cover not only domestic fowls but pigeons, peacocks, aviary birds, and if necessary such birds as ostriches or emus.

With the publication of decisions on the City Plan a number of controls that were previously included in bylaws have been taken over, in effect, and therefore do not need to be included. There are provisions controlling the boarding of animals in living zones to not more than four in the care of a registered veterinarian for medical and surgical purposes only. Provisions also exist in relation to rural zones, in relation to intensive livestock management, with distances prescribed from boundaries for the activities to preclude odour and other nuisance problems arising.

The control of the majority of buildings is covered by the Building Act 1991 and therefore requirements related to this aspect are not proposed to be included in the bylaw. Provisions are retained regarding some general requirements that shelters for animals must comply with but the means of specific compliance are for any building consent issued. There are provisions included regarding the maintenance and cleaning of such buildings.

Specific provisions in the proposed bylaw are included to cover:

- The keeping of pigs, these will be prohibited in residential areas.
- The keeping of rabbits. While numbers are not specified, only exempted breeds under the Agricultural Pests (Exemption of Domestic Rabbit) Order 1994 are permitted
- The keeping of ferrets, and animals such as polecats, stoats, or weasels. Limits on the numbers able to be kept without licence are specified in the Wildlife (Farming of Unprotected Wildlife) Regulations 1985.
- Conditions are set down for the keeping of guinea pigs similar to those for the keeping of rabbits.
- Keeping of poultry, including all the birds under that definition, is permitted subject to certain conditions in residential areas. There is no limit on the number that may be kept subject to compliance with the conditions but consent of the Council is required for the keeping of roosters.
- The keeping of bees in residential areas, is permitted subject to the written advice being given to the Council.
- Prohibition of certain animal traps placed in residential areas is proposed to continue. Most of the current bylaws contain restrictions on the use of “gin traps” in urban areas largely on the basis that domestic pets could be seriously injured if caught by these. These traps consist of two metal jaws which close on each other and are operated by a spring.

With regard to gin traps some approaches have been made by residents with residential properties adjacent to rural areas to have the prohibition extended to rural areas in the district. Should the Council wish to extend the prohibition on such traps to apply in rural areas approval, at present, must be obtained from the Minister as below. There is little information of any actual cases of harm done to either domestic pets, or humans, from contact with such traps in the City. However, concerns have evidently been expressed from time to time of the possibility that such harm could occur. In one recent year only one complaint (of 288 complaints about animals) about gin traps was received. However, it could be argued that this is because of the general prohibition that applies, at least in residential areas, throughout the City.

Specific provision currently exists in the bylaw making power of the Local Government Act 1974 to prohibit the setting or placing animal traps of the spring jaw or gin-trap type within the district. This has a proviso that no bylaw shall have effect in any rural area until approved by the Minister of Local Government who must consult with the Ministers of Conservation and Agriculture before giving his approval. A decision needs to be made as to the extension of the prohibition, in a new bylaw, to other than residential areas. If a decision is made to extend the prohibition the approval of the Minister, as noted above, must be obtained. However, advice has been received from the Ministry of Agriculture and Forestry that provisions of the Animal Welfare Act will repeal section 684(1)(37) of the Local Government Act. This is the section under which local authorities have the power to restrict the use of traps and devices. The Select Committee considered that because the Animal Welfare Act will be a specialist piece of legislation it was the most appropriate vehicle for this type of mechanism and should prevail over the more general bylaw provision. It is understood a transitional period of three years will provide that existing bylaws under 684(1)(37) shall remain in force, with the proviso that any prohibitions or restrictions on traps made under the Animal Welfare Act take precedence over the bylaws where there is any conflict.

New provisions are suggested to prohibit the slaughtering of stock on residential properties to preclude nuisance conditions arising.

A discussion draft of the current proposed bylaw is attached.

Recommendation: That approval be granted to have a bylaw legally drafted along the lines of the attached discussion draft, as amended, to be introduced for adoption during 1999.