



# **COMPANION ANIMAL ACTION PAPER**

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August 2017

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# 1. ETHICAL FRAMEWORK

Every animal is a sentient being, capable of experiencing both pain and suffering as well as physical and psychological well-being. As a society, we must progress from viewing animals as objects or possessions that can be purchased and then abandoned like an unwanted piece of furniture, to the recognition of their intrinsic worth as living, complex beings with their own needs.

Because of human dominance of the planet's resources, including the domestication of animal species such as cats and dogs, we have a responsibility to provide care and protection for those companion animals living with or in close contact with humans. In recognition of the sentience of cats and dogs and in objection to their current legal status as personal property, this policy document refers to 'guardians' rather than 'owners' of animals.

It is the position of the [Animal Justice Party](#) (AJP) that the interests of companion animals have been consistently and deliberately overlooked or marginalised by a succession of state and federal governments. The fact that nationally over 250,000 healthy dogs and cats are put to death each year in pounds and shelters is clear evidence that existing regulations, policies and educational initiatives are failing to protect these animals.

The standard of care for companion animals housed in commercial breeding establishments should meet the animal's emotional, psychological, and physical needs. The AJP considers that pet shops cannot provide an environment which meets these needs.

## 2. THE HUMANE MANAGEMENT OF COMPANION ANIMALS

### 2.1 Background

Companion animals have been selected and bred over many generations to live in a close domestic relationship with humans. Dogs and cats are expected to submit to the control of their human guardians, and in return they are provided with food, shelter, and physical care. The reality is that many human guardians fail to provide this care. Each year tens of thousands of companion animals are either surrendered to pounds and shelters, or abandoned to fend for themselves, living as best they can in industrial waste lands, on the streets, in suburban recreational areas or our state and national parks. Animals can often be left to their own devices for days and weeks at a time, with guardians holidaying without providing for their animals in their absence.

Often animals are abandoned due to financial problems and the inability to afford food or the costs of veterinary care, moving into rental accommodation where animals are not allowed or changing family circumstances where animals cannot be accommodated. Guardians may also have no alternative other than to surrender their animals due to unforeseen circumstances such as ill-health, personal crises such as homelessness or domestic violence.

In other instances, it is a lack of understanding of the needs of the animal or a lack of commitment to providing the care and attention required. There is an urgent need for better public education about the needs of companion animals. Dogs kept on chains or left alone in backyards, provided with little to no exercise, limited socialisation or inadequate sensory stimulation will be stressed, bored and lonely. Thus, these dogs may well engage in behaviours such as barking, aggression or straying, putting them at risk of abandonment, surrender or seizure by council.



## **2.2 Transfer of Statutory Responsibility for Animal Welfare - Animal Protection Office (APO) and NSW Police**

The AJP considers that it is inappropriate for animal welfare to be located within the Department of Primary Industries. There is a clear conflict of interest between the profit-driven nature of animal industries and the need to protect animals from inhumane treatment and to ensure adequate conditions for animal well-being and the expression of natural behaviours.

The AJP supports the establishment of a separate statutory body; the Animal Protection Office (APO) with powers to review existing animal industry regulations and make recommendations for change. Private animal welfare charities would no longer be responsible for investigating and prosecuting animal cruelty matters due their lack of resources and accountability to government.

The APO would establish an Animal Protection Inspectorate with powers to accept complaints from the public, ability to undertake broad-ranging inspections of animal industries (including companion animal breeding, entertainment, animal research facilities and local government pounds), and make recommendations to government for change to regulations and refer recommendations for investigations and prosecutions to police.

APO would be a significant improvement upon the current situation where private charities and non-government agencies are investigating and enforcing criminal laws without the same degree of oversight that is required of public bodies.

NSW Police would be provided with funding to establish an Animal Protection Division for investigation and prosecution of offences under the *Prevention of Cruelty to Animals Act*.

## **3 BREEDING**

### **3.1 Breeding as an expression of natural instincts**

The AJP recognises that there is a conflict between allowing companion animals to express their natural instincts by mating and breeding and concern that unchecked breeding is both detrimental to the health of individual animals and may lead to an unsustainable increase in companion animals available for homing. This over-breeding in turn may contribute to high kill rates in pounds and shelters where homes cannot be found for impounded animals. Consequently, the AJP accepts the current necessity of sterilising companion animals.

### **3.2 Desexing-Mandatory for animal traders, pounds, and shelters only**

The AJP supports mandatory desexing of cats and dogs for those in the animal trade, including the provision of pre-paid desexing vouchers for kittens and puppies at the point of sale. Local Councils, RSPCA, and Animal Rescue Shelters to be required to desex animals or provide vouchers prior to re-homing.

The AJP does not support mandatory desexing of companion animals owned by members of the public for the following reasons:

- It cannot be enforced without expending significant compliance resources, resources that the AJP considers are better spent on community education and providing free or discounted voluntary desexing services.
- Some guardians would surrender or abandon their companion animals rather than pay the veterinary costs for desexing, either because they consider it a waste of money or cannot afford sterilisation costs.
- Semi-owned, community and free living cats are at greater risk of being impounded and killed because they have not been desexed.
- There is preliminary evidence that the mandatory desexing provisions of the *Cat Act 2011 (W.A)* has resulted in a significant increase in the number of non-sterilised cats being impounded and killed<sup>1</sup>.

### **3.3 Desexing Programs**

Funding for programs to be drawn from Companion Animal registrations and levies on commercial breeders. State Government should allocate funding to local councils with a reporting mechanism for assessing success of desexing programs and reductions in pound numbers and kill rates.

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<sup>1</sup> (Citation reqd- Michelle Williamson)

### **3.4 Education**

The AJP proposes that the desexing of companion animals should be promoted and led by local government. Education programs should be directed at both the general community as well as targeted campaigns in community languages addressing cultural issues regarding desexing. Education campaigns should be conducted to address animal behaviour and health aspects of desexing as well as providing a practical guide to responsible and humane care of companion animals.

### **3.5 Discounted/Free desexing**

The AJP supports the provision of discounted or free desexing programs targeted at low socio-economic communities and rural areas where the availability of affordable and accessible veterinary care is a barrier to desexing. Where there is no desexing service available, fly-in veterinary services or mobile vet buses should be arranged by the Department of Local Government, in liaison with the Australian Veterinary Association.

Local veterinary practices should be funded to provide companion animal desexing services to means-tested low income earners, pounds and shelters. Council Pounds and CI 16(d) Animal Rescue Shelters should be given priority access to free desexing services.

The cost of subsidised desexing should be borne by government. The offset is the eventual reduction in the economic and social costs associated with enforcement, impounding, and killing of healthy animals.

### **3.6 Desexing–Early Age**

While there is some debate about the health risks of desexing young animals, there is evidence that early desexing of healthy kittens and puppies is safe and reduces the number of animals abandoned in pounds<sup>2</sup>.

The AJP recommends the promotion of early desexing of 12-week-old healthy kittens and puppies that have attained 1kg in weight. Smaller dog breeds to be desexed by 22 weeks of age.

### **3.7 Desexing vouchers must be provided at point of sale/gift**

Commercial breeders, and incidental breeders (guardians or persons in charge of undesexed companion animal/s who are not required to be registered as breeders) to be regulated to provide desexing vouchers with each sale or gifting of a kitten or puppy, with fines for non-compliance.

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<sup>2</sup> <http://kb.rspca.org.au/afile/419/114/>

### **3.8 Enforcement**

Enforcement by Local Council Compliance Officers, with right of entry to inspect premises and sale records.

## 4. BREEDING ESTABLISHMENTS

Of concern is the large number of animals produced by commercial breeders, including the unknown number of puppies and kittens euthanised due to birth defects or killed due to “unwanted ‘features’”. Commercial breeders argue that they find homes for all their animals, and while it may be true that they rarely abandoned or surrender their animals are to pounds, they nonetheless compete with pounds and shelters for the homing of animals. A reduction in commercial breeding and a public education campaign encouraging rescue adoptions would result in more homes being available to shelter animals.

A major concern is the prevalence of “puppy farms” which focus solely on maximising profits by repeated breeding, provide substandard, often squalid conditions. The focus on profits often means inbreeding occurs, with the risk of genetic defects causing not only 0animal suffering but also increasing the risk of abandonment due to the costs of any veterinary care required because of the inbreeding.

The NSW Companion Animal Taskforce (p6) defined puppy farms as ‘an establishment where a number of dogs are kept in sub-standard conditions and bred repeatedly to their detriment with inappropriate or inadequate provision of food, water, shelter and veterinary treatment.’ RSPCA Australia has defined puppy farms as “an intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs’ behavioural, social and/or physiological needs”<sup>3</sup>.

There is also considerable community frustration with guardians who do not desex their companion animals and contribute to the numbers of unwanted animals being abandoned or surrendered to Council Pounds and Shelters. These guardians can be defined as “incidental breeders’.

Ancillary to commercial breeding is sales, whether online or via pet shops. Animal Rescue groups consistently raise concerns about inappropriate impulse buying in pet shops and online sales masking the truth of animas bred in puppy farm conditions<sup>4</sup>. Breeders must not sell animals to pet shops. Pet shops should only promote rescue animals for adoption.

### 4.1 Regulatory Framework

In NSW, the breeding of companion animals is regulated as an animal trade under Schedule 1 of the *Prevention of Cruelty to Animals Act 1979 (NSW) (POCTAA)*<sup>5</sup>. The Animal Welfare Code of Practice - Breeding Dogs and Cats (2009)<sup>6</sup> sets out the welfare standards for the care and management of

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<sup>3</sup> End Puppy Farming-The Way Forward, RSPCA 2010, p1

<sup>4</sup> Mark Pearson, MLC Companion Animal Roundtable One and Two, held at NSW Parliament House, 24 February 2016, and 9 December 2016

<sup>5</sup> <http://www.legislation.nsw.gov.au/#/view/act/1979/200>

<sup>6</sup> [http://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0004/299803/Breeding-dogs-and-cats-code-of-practice.pdf](http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/299803/Breeding-dogs-and-cats-code-of-practice.pdf)

breeding dogs and cats and the raising of puppies and kittens for sale. The Code of Practice does not apply to the 'incidental' breeding of animals.

The Code contains both mandatory standards and recommended guidelines for the care of dogs or cats for breeding. A breeder who fails to meet a standard may be given Penalty Infringement Notice or be prosecuted under Clause 26 of the Prevention of Cruelty to Animals Regulation 2012<sup>7</sup>. In more serious cases, breeders may be prosecuted for an offence under POCTAA for failing to meet the legal obligations regarding an animal's welfare (for example failing to provide proper or sufficient food and water, adequate exercise, and necessary veterinary treatment.).

Clause 26 of the Prevention of Cruelty to Animals Regulation 2012 also sets out the minimum standards of care including: hygiene, record-keeping, monitoring care and treatment of animal, accommodation and equipment that is suited to the physical and behavioural requirements of the animal, protection from extreme climatic and environmental conditions and from interference by people, sufficient space within which to rest, stand, stretch, otherwise move about, sufficient quantity of appropriate food and water, protection from exposure to disease, distress and injury and, in the event that the animal becomes diseased, distressed or injured, must be promptly provided with appropriate treatment, and each animal must be periodically inspected to ensure that it is receiving appropriate food and water and is free from disease, distress and injury.

## **4.2 Mating and Litters**

The current mandatory standards require that bitches and queens must not be intentionally mated during their first oestrous cycle. Breeding animals must be physically and mentally fit, healthy, and free of disease at the time of being mated. Bitches must not have more than two litters in any two-year period, unless with the written approval of a veterinary practitioner. Queens must not have more than three litters in any two-year period, unless with the written approval of a veterinary practitioner.

Non-enforceable guidelines also encourage the desexing and re-homing of 'retired' breeding dogs and cats<sup>8</sup>.

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<sup>7</sup> <http://www.legislation.nsw.gov.au/#/view/regulation/2012/408/part4/sec26>

<sup>8</sup> [http://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0004/299803/Breeding-dogs-and-cats-code-of-practice.pdf](http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/299803/Breeding-dogs-and-cats-code-of-practice.pdf) PAGE 10

## 5. COMMERCIAL BREEDING REFORMS REQUIRED

The community has expectations that commercial breeders meet adequate animal welfare standards and that 'puppy farms' should be closed down and prosecuted for animal cruelty.

The AJP considers that the current regulatory regime has not stayed abreast with the rapidly evolving scientific understanding of the complex needs of companion animals as well as changing community attitudes towards the relationship between humans and companion animals<sup>9</sup>.

Most guardians view companion animals as part of the family<sup>10</sup> and it is reasonable to assume that they would expect commercial breeders to provide appropriate standards of care to prepare them for living in a family environment. This is borne out by the community outcry in response to [media articles reporting on 'puppy farms.'](#)

A review of the current Animal Welfare Code of Practice - Breeding Dogs and Cats Code of Practice has been in progress for several years. This is an opportunity for significant improvements to be made in the Code. The AJP recommends that mandatory standards should be based on the needs of animals to express their natural behaviours with specific set times for access to fresh air, exercise and socialisation with other dogs and humans.

- Minimum standards for shelters and pen size complete with comfortable bedding and environmental enrichment such as toys.
- Limits must be placed on litters per breeding animal, including minimum age of commencement and retirement from breeding.
- Minimum staff to animal ratios must be mandated to ensure proper supervision and care as well as adequate socialisation with humans.
- Mandatory desexing and rehoming of retired breeding animals.



<sup>9</sup> <http://www.oie.int/doc/ged/D2045.PDF>

<sup>10</sup> <https://www.realinsurance.com.au/RealInsurance-Mk2/media/documents/resources/2016-core-data-pet-survey-report.pdf>

## **6. INTRODUCTION OF A BREEDERS' LICENCING SCHEME**

There have been numerous complaints about the lack of accountability in the companion animal breeding industry. Although the NSW Government has repeatedly rejected the introduction of a breeder licencing scheme, the AJP considers that licencing is the only way of ensuring transparency and accountability in the industry, end puppy farming and guarantee responsible breeding and high welfare outcomes for breeding animals.

### **6.1 Incidental Breeders**

'Incidental breeders' are excluded from the requirement to register.

1. An 'Incidental Breeder' is defined as an individual who owns or is in charge of no more than two undesexed female companion animals that have produced no more than one litter in the lifetime of each animal. The onus of proof of 'incidental breeding' is upon the guardian or person in charge of the animal.
2. A community awareness campaign should be undertaken to educate the public about the changes to breeding laws.
3. Breeders of greyhounds and hunting dogs (breeds to be listed in the regulations) are not exempted from this provision.
4. Primary Producers with recognised breeds of working dogs (to be listed in regulations), are excluded from the requirement to register as a breeder.

### **6.2 Compulsory Registration- Companion Animal Breeders Licencing Scheme**

The *Companion Animals Act 1986 (NSW)*<sup>11</sup> to be amended to provide for a compulsory scheme for the registration of companion animal breeders.

1. Breeders to be licenced and listed on the Companion Animals Register administered by the Department of Local Government.
2. Individuals (other than 'Incidental Breeders') or businesses seeking to breed companion animals must be registered as breeders, irrespective of whether they breed pedigree animals or designer dogs or cats for the pet trade.
3. Failure to register as a breeder will attract a maximum penalty of 100 penalty units and the seizure of all animals, with a seven year disqualification from registration as a breeder.

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<sup>11</sup> <http://www.legislation.nsw.gov.au/#/view/act/1998/87>

## **THE BREEDERS' LICENSING SCHEME WILL CONTAIN THE FOLLOWING ELEMENTS:**

1. A publicly accessible database of breeders to be included on the Companion Animals Register
2. Breeders must have development approval to operate a breeding establishment in their local government area
3. Licence number for every breeder, to provide an auditable trail for every sale or transfer of guardianship
4. All breeding animals must be microchipped with an individual registration number including the breeder licence number
5. All kittens and puppies to be given a unique serial number which must be recorded in breeding records, including the microchip Register of Animal Boarding Establishments details of the parents.
6. A system of periodic audits and spot inspections
7. Sets the maximum number of animals that each breeding establishment may keep
8. Breeders' licence number, breeding animal's microchip number and puppy or kitten's serial number to be included in any advertisement in any medium where animals are advertised, sold, or transferred
9. Breeders must comply with all standards and guidelines contained in the Code of Practice for the Keeping and Breeding of Cats and Dogs
10. Minimum staff to animal ratio for the appropriate care, socialisation, training and enrichment of breeding animals and their litters.
11. Limit the age and frequency of breeding and maximum numbers of litters per animal, based on breed size and species (to be specified in the Code of Practice)
12. Requires desexing of all puppies and kittens of appropriate age prior to sale or transfer, or prepaid vouchers at point of sale.
13. Provision for licences to be revoked where breeder convicted of animal neglect and/or cruelty.
14. Breeders must not sell animals to pet shops.

## 7. COUNCIL POUNDS

The public expectation of council pounds is that they provide temporary care and protection for animals requiring housing pending return to their guardians or, if unclaimed and where appropriate, efforts are made to rehome animals either in private homes, RSPCA shelters or with animal rescue groups or foster carers.

Council Pounds must comply with the NSW Animal Welfare Code of Practice for Dogs and Cats in Animal Boarding Establishments. The Code was drafted with commercial kennels in mind and does not address the special needs of animals found abandoned, stray or surrendered. Animals in pounds are far more likely than kennel boarders to be stressed, victims of abuse or neglect, experiencing ill-health, lack of socialisation, pregnancy or lactation and care of young. In the three years from 2011 to 2014, NSW Council Pounds re-homed 5,000 and killed 15,000 cats and dogs<sup>12</sup>. Re-homing includes reclaimed animals and reasons for killing includes euthanasia for medical and behavioural reasons as well as the killing of healthy animals unable to be found homes in the timeframe dictated by pound management.

With no human guardian to advocate for them, companion animals in pounds are vulnerable to arbitrary decisions about their welfare, including access to appropriate veterinary treatment and crucially, testing for suitability for re-homing. There have been several incidents in council pounds that give rise to concerns about the safety of animals in pounds. Animals have died of [heat stress](#), [found frozen alive in freezers](#), [killed without a holding period](#), and [questions about the adequacy of veterinary care and diet](#). Pound facilities also vary significantly from one local government area to another. Some council pounds are barely habitable; concrete floors without bedding with no protection from extremes in temperature.

### 7.1 New Regulatory Framework for Council Pounds

1. The AJP recommends that the Office of Local Government review the regulatory framework for council pounds.
2. Part 7 of the *Companion Animals Act* to include the requirement for council pounds to provide seized or surrendered animals with adequate food, water and veterinary care, and kept in a place that is well drained and maintained in a clean condition, and is provided with adequate shade for the climatic conditions, and is kept secure, and is separated from other animals that are diseased or, if the animal is or appears to be diseased, is kept separate from other animals.
3. A specific and mandatory Code of Practice for Council Pounds should be developed which considers the needs of vulnerable animals.

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<sup>12</sup> Figures provided by Geoff Davidson from Justice for Max, drawn from Office of Local Govt statistics

4. In conjunction with a new Code, it is recommended that NSW adopt and implement a version of the Victorian Government's Domestic Animal Management Program.

## 7.2 Companion Animal Management Program

Under the Program;

1. Councils must demonstrate compliance with Sect 64 (5) of the *Companion Animals Act*.  
"Before destroying a seized or surrendered animal, Council must consider whether there is an alternative action to that of destroying the animal and (if practicable) to adopt any such alternative.
2. Councils must develop a domestic animal management plan every four years and outline the services, programs and policies required for the management of dog and cat issues in their community.
3. Councils would be required to provide benchmarks for kill rates and rehoming rates and publish annual progress reports on the council website and display on their premises so that they are visible to visitors.
4. Councils would be required to document and record reasons for decisions to euthanise. These records to be summarised into categories on council's website.
5. Animals available for rehoming should be advertised on council websites.

Program Strategies would include;

1. Key performance indicators for lowering kill rates solely for medical reasons.
2. Other performance indicators would include supporting animal rescue groups with free or discounted desexing and registration, providing community education for responsible companion animal guardianship and demographic targets for discounted or free desexing.
3. Pounds should be open to inspection by the public.
4. One of the goals of the Program should be to reunite guardians and their companion animals where possible. Many guardians of impounded animals end up surrendering their animals because they cannot afford to pay the holding charges.
5. Greater discretion in extending holding periods and fee waivers should be considered in order to promote reclaiming by guardians.
6. Fine amnesties or reimbursement for guardians who meet compliance requirements over extended periods of time should also be considered.
7. Amnesty systems for good behaviour (where guardians had prior history of straying, nuisance dogs) could be trialled.

8. Rangers to have greater discretionary powers regarding enforcement of the *Companion Animals Act*.
9. Trained and accredited rangers being given enforcement powers under *POCTAA* such as powers of entry to inspect for puppy farms, then referred on for police investigation.

### **7.3 Code of Practice for Council Pounds**

A Council Pound Code of Practice should ensure greater transparency in all aspects of animal management including standards for veterinary care, healthy food, hygiene, environmental enrichment, comfortable bedding, strategies to reduce stress such as separate areas for mothers and kittens.

1. There must be a mandatory minimum length of stay no less than 28 days for unclaimed animals.
2. Animals assessed as suitable for rehoming must be microchipped, vaccinated and desexed before leaving the pound.
3. CCTV cameras to be installed and monitored in all council pounds.
4. Minimum standards for provision of exercise for dogs
5. Quarantine area for animals with communicable diseases and illnesses
6. Separate areas for dogs and cats
7. Separate area for cats with kittens
8. Provision for veterinary care and vaccinations such as for Parvo, where appropriate
9. In recognition of the current varying standards between pounds, there will need to be a transition to minimum standards for facilities including adequate pen size and provision for a secure space for exercise.
10. Council pound staff must have minimum qualifications and training in animal care, animal behaviour and for the killing of animals.
11. Only independent, suitably qualified consultants should conduct the behaviour test which determines which animals have the capacity to be rehomed.
12. Rangers must undertake animal behaviour education and training and be fully conversant with the *Companion Animals Act*.
13. Pounds are to be open weekends to facilitate reclaiming, rehoming and adoptions.
14. Confirm compliance requirements concerning *POCTAA* provisions in regard to adequate shelter, protection from the elements including temperature extremes

## 7.4 Support for Rescue Groups

The Office of Local Government (OLG) to host and maintain a publicly available registry of companion animal rescue groups. To be eligible for registration, rescue groups must meet minimum standards including residency in NSW, incorporation under the *Associations Incorporation Act* and at least one member having completed a qualification in animal care. Registration would allow rescue groups to obtain impounded animals for rehoming, access OLG funds to undertake community education and discount desexing programs.

Registered groups that wish to provide accommodation services would be required to comply with a Code of Practice for Dogs and Cats in Rescue Shelters- to be developed in consultation with cl16(d) rescue groups.

## 8. ANIMAL BOARDING ESTABLISHMENTS

The AJP recommends that the NSW Animal Welfare Code of Practice - Dogs and Cats in Animal Boarding Establishments<sup>13</sup> be revised given that there have been no changes since it was first published in 1997. It is noted that a review has been undertaken but the Department of Primary Industries has not released a draft for comment.

While Animal Boarding Establishments are a regulated animal trade under Schedule 1 of POCTAA, there needs to be a system of registration, inspections, and audits to ensure compliance with the standards.

1. Inspections and audits should be funded via an annual registration fee imposed on all commercial boarding establishments.
2. The Department of Local Government would be required to tender for an independent inspection and audit service.
3. This service would make recommendations to the Minister for Local Government for registration renewals, suspensions, or cancellations.

### 8.1 Register of Animal Boarding Establishments

The AJP proposes that a publicly accessible Register of Animal Boarding Establishments be established in the Companion Animal Register administered by the Department of Local Government.

For animal boarding establishments to maintain their registration they must comply with the following requirements:

1. Obtain development approval to operate an animal boarding establishment in their local government area.
2. Display Registration Number on online sites and at premises where animals are kept.
3. House no more than the maximum number of animals allowable under the NSW Animal Welfare Code of Practice - Dogs and Cats in Animal Boarding Establishments
4. Comply with all standards and guidelines contained in the NSW Animal Welfare Code of Practice - Dogs and Cats in Animal Boarding Establishments
5. Maintain minimum staff to animal ratio for the appropriate care, socialisation, and enrichment of boarding animals.
6. A minimum of one onsite residential staff member to present at all times.

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<sup>13</sup> <http://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/codes/aw-code-5>

7. Cooperate with a system of periodic audits and spot inspections.
8. Publication of audits and inspection reports on OLG website.

