

BARKING NUISANCE & AFFIDAVIT INFORMATION SHEET

What is an affidavit?

An affidavit is a written form of evidence used in court proceedings. An affidavit sets out the facts as you remember them. In some legal proceedings, the evidence you want the court to hear about your matter must be in the form of an affidavit.

Is there a special way I should write my affidavit?

When you write an affidavit, you should set it out in paragraphs that are numbered. You can also use headings. You must ensure that what you write is what you have witnessed yourself (that is, what you have seen, heard or felt). Information provided in this document cannot be from a third party. If you have another party who has witnessed something that is relevant, that person would need to do their own affidavit.

How do I sign an affidavit? Do I need to sign it in front of anyone?

Before signing the affidavit, you need to make sure you have a qualified witness present. The qualified witness is either a Justice of the Peace, Commissioner for Declarations or a lawyer.

In front of the qualified witness, you must either have the affidavit sworn or affirmed as being the truth.

When you sign your affidavit, you place your signature where it says 'the deponent'. A deponent means the person making the affidavit. The qualified witness will then sign their name and give details of their position.

Type of information required for Noise Nuisance Complaint affidavit

To assist Council and investigating officers to establish whether Nuisance Barking is occurring, an affidavit should contain detailed information describing the dog; the barking and why it is a nuisance to you (use the checklist below to assist you).

- Description, location and name (if known) of dog?
- How often does the dog bark?
- How long does the barking continue for?
- What sort of noise does the dog make?
- Does it bark at certain times of the day?
- What is making the dog bark (if known)?
- Where is the barking in relation to your property / bedroom / living area? etc.
- Does the barking impact on your peace, comfort, health or social well-being? / How?
- How does the barking impact on other members of the family / Business?
- Any other information that you deem relevant may also be included.

What is not considered Barking Nuisance

It must be understood that dogs bark, it is a natural action and occurs for a number of reasons. Some of the examples below are common practices by dogs and if conducted only occasionally and in limited duration will not be considered to be a nuisance in terms of the Local Laws.

- Responding to territorial threats – other dogs passing, cats, intruders, strangers approaching boundary such as leaflet distributors, persons walking past the property etc.
- The Postman deliveries – the Postman and his motorbike brings out the worst in some dogs
- An isolated incidence of barking that has occurred as a result of some environmental stimulus – Itinerants in the area, work gangs (roadworks) working nearby, neighbourhood party.

If you wish Council to proceed further, please return all completed and signed documents (Barking Nuisance Monitoring Forms & Barking Nuisance Affidavit) to the address above.

BARKING NUISANCE MONITORING FORM

The following details and information must be completed for further Council investigation into this matter to be undertaken. Alternatively, you may wish to pursue the following alternative options:

Other Options Available

1. Discuss the issue with your neighbours; it is a common fact that most dog owners are not aware that in their absence their pets are annoying other neighbours in the area. Council encourages the community to discuss these issues with neighbours to prevent a further escalation in barking incidents and the degradation of neighbourly relations.
2. If you wish to remain anonymous, simply delivering a polite note to the offending dog owners letterbox advising of barking excess and times may assist in resolving the matter and give the owners an indication that their dog is actually causing a problem for neighbours.
3. To assist with approaching neighbours to discuss issues such as this the Queensland Government Department of Justice and Attorney-General have developed a Neighbourhood Mediation Kit, which can be found at the following website: <https://www.publications.qld.gov.au/dataset/neighbourhood-mediation-kit>
4. If there is a neighbourhood dispute that cannot be resolved, the Queensland Government also provides free Mediation Services through their Dispute Resolution Branch. The Dispute Resolution Centre in Cairns can be contacted on 07) 4039 8742 / 1800 671 680, further details can be found on the above website.

For further Council Investigation, please complete the following Monitoring form.

SECTION 1 – APPLICANT DETAILS

Full Name:

Street Address:

Contact Numbers: H:

W:

M:

SECTION 2 – OFFENDING (NOISE NUISANCE) DOG DETAILS

Address of Offending Dog/s:

Offending Dog/s Owner's Name (if known):

Description of offending dog/s:

Breed of Dog / Type of Dog	Colour	Size
1.		
2.		
3.		

Other Details:

An accurate fourteen (14) days monitor form Statutory Declaration is required of the alleged barking nuisance to assist investigating officers.

Example

Date	Timings	Duration of Noise	Types of Noise Nuisance
01/07/2023	0600 – 0625	25 min	Loud, whining, Howling, Yelping, Yapping, high pitched, persistent, etc

OFFICE USE

☐ Are all sections of the application completed and signed?

☐ Are all the supporting documents attached?

Oaths Act 1867

Statutory Declaration

I, of, in the State of
(name) (address)

Queensland, do solemnly and sincerely declare that:-

1. I heard the dog/s described as
(colour, breed, sex, name, size etc)

and situated at
(location)

make the following noises:

Date	Timings	Duration of Noise	Types of Noise

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of
the *Oaths Act 1867*

.....Declarer
(signature)

Taken and declared before me at this day of, before me
(place) (day) (month, year)

..... A Justice of the Peace/Commissioner for Declarations
(signature)

Oaths Act 1867

Statutory Declaration

I, of, in the State of
(name) (address)

Queensland, do solemnly and sincerely declare that:-

2. I heard the dog/s described as
(colour, breed, sex, name, size etc)

and situated at
(location)

make the following noises:

Date	Timings	Duration of Noise	Types of Noise

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of
the *Oaths Act 1867*

.....Declarer
(signature)

Taken and declared before me at this day of, before me
(place) (day) (month, year)

..... A Justice of the Peace/Commissioner for Declarations
(signature)

Oaths Act 1867

Statutory Declaration

I,, of, in the State of
(name) (address)

Queensland, do solemnly and sincerely declare that:-

3. I heard the dog/s described as.....
(colour, breed, sex, name, size etc)

and situated at.....
(location)

make the following noises:

Date	Timings	Duration of Noise	Types of Noise

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of
the *Oaths Act 1867*

.....Declarer
(signature)

Taken and declared before me at this.....day of, before me
(place) (day) (month, year)

..... A Justice of the Peace/Commissioner for Declarations
(signature)

Oaths Act 1867

Statutory Declaration

I,, of, in the State of
(name) (address)

Queensland, do solemnly and sincerely declare that:-

4. I heard the dog/s described as.....
(colour, breed, sex, name, size etc)

and situated at.....
(location)

make the following noises:

Date	Timings	Duration of Noise	Types of Noise

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of
the *Oaths Act 1867*

.....Declarer
(signature)

Taken and declared before me at this.....day of, before me
(place) (day) (month, year)

..... A Justice of the Peace/Commissioner for Declarations
(signature)

Oaths Act 1867

Statutory Declaration

I,, of, in the State of
(name) (address)

Queensland, do solemnly and sincerely declare that:-

5. I heard the dog/s described as.....
(colour, breed, sex, name, size etc)

and situated at.....
(location)

make the following noises:

Date	Timings	Duration of Noise	Types of Noise

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of
the *Oaths Act 1867*

.....Declarer
(signature)

Taken and declared before me at this.....day of, before me
(place) (day) (month, year)

..... A Justice of the Peace/Commissioner for Declarations
(signature)

Oaths Act 1867

Statutory Declaration

I,, of, in the State of
(name) (address)

Queensland, do solemnly and sincerely declare that:-

6. I heard the dog/s described as.....
(colour, breed, sex, name, size etc)

and situated at.....
(location)

make the following noises:

Date	Timings	Duration of Noise	Types of Noise

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of
the *Oaths Act 1867*

.....Declarer
(signature)

Taken and declared before me at this.....day of, before me
(place) (day) (month, year)

..... A Justice of the Peace/Commissioner for Declarations
(signature)