



**LEETON SHIRE COUNCIL**  
*Preserving the Past, Enhancing the Future*

# **LEETON SHIRE COUNCIL POLICY**

## **COMPANION ANIMALS MANAGEMENT PLAN**

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### 1. **INTRODUCTION**

The NSW Companion Animals Act 1998 (the Act) defines companion animals as dogs and cats. The majority of households within Australia have at least one companion animal and in Leeton there are over 3000 registered companion animals. A significant proportion of the community has direct involvement in companion animal issues. Companion animals play an integral role in society, but can cause conflict when irresponsible pet ownership occurs.

Many of the issues identified in companion animal management are related to irresponsible pet ownership.

The Leeton Shire Council Companion Animals Management Plan (the Plan) should be read in conjunction with the Companion Animals Act (1998), Regulations (2008) and the Companion Animals Guidelines (DLG, 2013).

### 2. **AIMS AND OBJECTIVES**

The aim of the Plan is to provide for the effective and responsible care and management of companion animals within Leeton Shire Council.

It involves encouraging the responsible management of companion animals in line with community expectations and protecting the community from menacing and dangerous dogs and to promote animal welfare.

The objectives are to:

- Provide an efficient service for customers updating or registering details on the NSW Companion Animal Register.
- Facilitate the prompt return to owner of seized animals and therefore reduce the number of animals that need to be impounded.
- Promote animal welfare as a priority in all dealings involving Council. Council staff regard animal welfare as a high priority in all dealings with the community and their companion animals.
- Improve community awareness of the need and their responsibilities for effective animal control in public places.
- Ensure an efficient and effective response to reported dog attacks.
- Provide a controlled leash-free recreational area for dogs in the Leeton Local Government Area that is as safe as possible for dogs and people.

- Minimise the adverse impact of companion animals on the amenity and biodiversity of Leeton Encourage re-homing of suitable unclaimed companion animals by residents and approved animal rescue organisations.

### **3. MEANING OF TERMS**

The meaning of terms contained within this Plan are the same as those provided under the Act and Regulations 2008

## **PART B ISSUES & MANAGEMENT PRESCRIPTIONS**

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The main issues affecting companion animal management relate to:

- Responsible Pet Ownership
- Animal Regulation and Welfare
- Community Expectations and
- Environmental Protection

### **4. RESPONSIBLE PET OWNERSHIP**

Responsible pet ownership is needed to achieve the objectives of this plan and assist in the management of issues.

Many of the issues identified in companion animal management can be related to irresponsible pet ownership.

Council will, through education and if necessary enforcement require all pet owners in the Leeton Shire to be responsible for their pet and the behavior of their pet.

The privilege of owning and enjoying the companionship of a pet carries with it the dual responsibilities of care for the animal, and respect for the community.

Responsible pet owners:

- Provide their pet with ready access to water and access to food and shelter;
- At home, confine their animal in their yard to prevent impacts on public safety and the environment;
- In public places, ensure that their dog is under effective control by means of a leash (except in leash free areas);

- Keep their animals out of prohibited areas;
- Make sure their animal is identified with a microchip, collar and tag to assist in returning the animal if it becomes lost;
- Register their animal on the State register;
- Desex their animal to minimise nuisance behaviour, minimise numbers of unwanted animals and have a cleaner, healthier, happier animal;
- Clean up after their animal.

## **5. ANIMAL REGULATION AND WELFARE**

### **5.1 Identification and Registration**

An integral part of the Act is the permanent microchip identification, statewide lifetime registration and web-based NSW Companion Animal Register.

The Companion Animals Act requires that companion animals, i.e. dogs and cats, be microchipped by 12 weeks of age or at time of sale, even if they are less than 12 weeks when sold, and be registered by 6 months of age. The microchip and registration process allows lost or straying companion animals to be identified and returned to their owners as quickly as possible, generally avoiding the need for the animals to be impounded.

Microchipping must be carried out by authorised identifiers such as Veterinarians, animal welfare groups and Rangers. The owner of a registered companion animal must also advise Council of change of address or ownership of the animal.

All dogs must wear a collar and a tag providing the name of the dog and the address or telephone of the owner, unless the dog is on property owned or occupied by the owner of the dog. Working dogs and greyhounds are generally exempt from this requirement.

All cats must be identified by a form of identification that enables a local authority to ascertain the name of the cat and the address or telephone number of the owner. This could be a collar and tag or a microchip.

### **5.2 Discounted microchipping**

Pet owners can have their animals' micro chipped by Council at a discounted price as an incentive towards registration. The current discount of \$28 applies to microchip one companion animal by Council (2014-2015).

### **5.3 Impounding Animals**

Council responds to complaints and proactively patrols for animals straying in public places. When the animal is seized by a Council officer, the ***Impounding Protocol (Appendix 1)*** will apply.

Council aims to return as many animals to their owner as possible, however animals must be impounded when an owner cannot be identified and/or contacted. If the animal has not been claimed council may sell, rehome or destroy the animal. This can only occur after 14 days following the giving of notice to the registered owner. If there is no registered owner, Council can sell, rehome or destroy the animal after seven days.

Where a companion animal is impounded, that is microchipped and registered and where the impoundment is not the result of an attack or a nuisance matter Council will return the animal to its owner free of charge. This is subject to there being no prior history of impoundment.

In such a case involving a companion animal that is not microchipped and not registered Council will release the animal to its owner upon the payment of relevant registration and microchip fees. No other impoundment fines or fees will be charged to the owner, provided the animal is collected within 24 hours or the next business day.

### **5.4 Infant animals.**

Often very young infant animals are dumped or surrendered into Council's possession. Infant animals that cannot independently eat solid foods will be humanely euthanased.

### **5.5 Surrendered animals.**

Animals are regularly surrendered to Council by their owners for a variety of reasons. Owners who surrender a dog or cat are required to complete and sign a surrender form which states that they are the bona fide owner and that the surrendered animal becomes the property of Council. Council will attempt to re-home the animal if it is considered suitable, however if it is not the animal will be humanely euthanased.

### **5.6 Euthanasia of Animals**

The euthanasia of animals will be undertaken in accordance with animal welfare best practice requirements. The euthanasia of impounded animals will be undertaken by, or at the direction, of an attending Vet.

The use of firearms for the euthanasia of dogs will continued to be employed in circumstances that warrant their use. This will include, but not be limited too, attacking dogs, at the direction of either a vet or a member of the NSW Police, in accordance with Council's Protocol for Dog Attacks or injured animals in the field that require destruction in accordance with humane practices.

## **5.7 Feral Cats**

From time to time Rangers are required to trap Feral Cats. Feral cats are obvious by their behaviour and the location of capture. Cats that are considered feral and are caught by Council will be humanely euthanased by a vet.

## **5.8 Re-Homing**

Council will endeavor to re-home companion animals that have been impounded.

Companion animals will be advertised on Councils website and offered for re-homing and Council will also enter into agreements with approved re-homing organizations.

When a companion animal is released for rehoming it will be microchipped by Council at no charge. Should the animal be re-homed directly to a member of the public the registration fees will need to be paid by the person rehoming the animal. Approved rehoming organisations are exempt from registration fees for re-homed companion animals. All impounding fees will be waived for re-homed companion animals.

## **5.9 Injured Animals**

Where an injured animal that can be identified is either delivered to or is seized by Council the owner will be contacted where possible so that collection arrangements can be organised. In such a circumstance the owner will need to make the necessary arrangements for veterinary assistance or euthanasia.

If the owner cannot be readily contacted the matter will be deferred to the General Manager, or his delegate to authorise either the euthanasia of the animal or delivery to a clinic for veterinary attention.

Where an injured animal, that cannot be identified, is either delivered to or is seized by Council the matter will be deferred to the General Manager, or his delegate to authorise either the euthanasia of the animal or delivery to a clinic for veterinary attention.

When Council is made aware that a companion animal has been killed by a moving vehicle, Council will take reasonable steps to identify and contact the owner.

Where an injured animal is delivered to a vet by a member of the public who is not the owner of the animal, Council will not be liable or responsible for any costs incurred as a result of any treatment, including euthanasia, undertaken by any vet on this animal.

## **6. COMMUNITY EXPECTATIONS**

Companion animals play an important role in Australian society and culture. For some, companion animals are an important part of everyday life while others have no or little involvement with them. Community expectations are that companion animals be managed so that animal welfare is assured with minimal adverse societal and environmental impacts.

### **6.1 Public Safety**

Community safety is a key consideration in the management of companion animals in line with community expectations.

Dog attacks pose a serious public safety issue. Because of this Council is committed to ensuring that menacing and dangerous dogs are controlled and regulated in the interests of public safety. Any dog attack incident will be investigated to determine the nature and cause of the attack. This is to assist in managing and minimising the risk of such an attack occurring again in the future.

Appendix 2 shows the Council protocol for the investigation of dog attack incidents.

This identifies the procedures to be followed in both the investigation and enforcement phases of the process by Council following a dog attack. The protocol creates a framework for decision-making. It aids in determining an appropriate response to the incident. Potential responses include warnings, education and prosecution including dangerous and menacing dog declarations and destruction orders.

### **6.2 Dangerous and Menacing Dogs**

Under the Act a dog is dangerous if it has, without provocation attacked or killed a person or animal. It is also dangerous if it has repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin).

Under the Act a dog is menacing if it has displayed unreasonable aggression towards a person or animal (other than vermin). It is also menacing if it has without provocation attacked a person or animal (other than vermin).without causing serious injury or death.

Council has developed a Protocol for the Investigation of Dog Attacks and Procedure (the protocol) to Declare a Dog as a Dangerous or Menacing Dog in accordance with Division 1 of Part 5 of the Act (**See Appendix 2**).

In dealing with (potentially) dangerous or menacing dogs Council Rangers have discretion based on the circumstances of the case. The primary concern is the public interest of which community safety is a key consideration.

Factors for consideration when determining the public interest are:

1. The harm or potential harm to the public that may be caused if a declaration is not made.
2. Any mitigating or aggravating circumstances.
3. The prevalence of public risk circumstances and the need for deterrence.
4. Whether the consequences of any declaration would be unduly harsh or oppressive.

In accordance with the Act, Council follows specific procedures as outlined in the Protocol.

The owner of any companion animal who has been served with an Intention to Declare their animal as either dangerous or menacing may make representation to Council against the proposed declaration. Any submission against the proposed intention will be reviewed and in accordance with the Protocol.

Applications to revoke a dangerous or menacing dog declaration will only be resolved by Council and will be considered in accordance with Council's Protocol for the Assessment of Applications to Revoke a Dangerous or menacing Dog Declaration (See Appendix 4).

### **6.3 Restricted Dogs**

If a suspected restricted dog comes to the attention of Council, Council will issue the relevant Intention to Declare Notice in accordance with 58A of the Act to declare the dog a restricted dog.

### **6.4 Nuisance Dogs and Cats**

Dogs may cause a nuisance to the community for a range of reasons. The owner of a 'nuisance dog' may be served a control order under s. 32A of the Act. This order is made to require the owner to mitigate potential nuisance by controlling dog behavior.

To manage potential nuisance a responsible dog owner will control their dog so it is prevented from straying, being loose in a public place, defecating in a public place and or barking.

Cats too can cause nuisance by straying, crying and, damaging property. In these instances Council may use provisions of s31 of the Act to place control orders on the cat's owner to prevent the nuisance from happening.

## **7. ENVIRONMENTAL PROTECTION**

Companion animals have the potential to adversely impact the environment. For example through noise pollution, water pollution, faecal contamination and predation on native fauna, particularly birds. Community education is required to encourage responsible companion animal management to minimise impact on the environment.

### **7.1 Noise Pollution**

Barking dogs account for approximately 97% of noise complaints received by Council and a large percentage of all companion animal complaints (SoE 2004).

Barking can be caused by many different things such as separation anxiety, attention seeking, boredom, or perceived territorial incursion. Barking may occur at any time of the day or night.

Barking affects people differently in different areas. Urban design, landscaping and topography affect the volume, intensity and frequency of barking and thus level of annoyance.

Neighbourhood disputes can be exacerbated by barking dogs especially in medium to high-density housing areas.

Council's general procedure in managing barking dog complaints is as follows:

- The complainant is advised to talk to the dog's owner as they may have not realised that their dog is a nuisance, and in many cases, will be happy to resolve the problem.
- If this is unsuccessful and the problem persists a formal written complaint should be addressed to the Ranger, with the signatures of at least two immediately affected neighbours for investigation.
- In the event of dissatisfaction with any of these procedures a noise abatement order can be sought from the Local Court independently of Council.

### **7.2 Biodiversity**

Leeton Shire has significant biodiversity assets and values.

These include the following matters of national significance:

- Fivebough and Tuckerbil Swamp, an internationally significant Ramsar wetland

- The critically endangered White Box- Yellow Box- Blakely's Red Gum Grassy Woodland and Derived Native Grassland; Grey Box Grassy Woodlands and Derived Native Grassland of South- Eastern Australia and Weeping Myall Woodlands each also of state significance that are all likely to occur .As well the Buloke Woodlands of the Riverina and Murray- Darling Depression Bioregions which may also occur in the area
- 14 Threatened species with the potential to occur along with 20 migratory species protected under international agreements (ROKAMBA, JAMBA or CAMBA)

And matters of State significance:

- The endangered population- Glossy Black- Cockatoo, Riverina population recorded near Yanco and around the Brobenah-Colinroobie area
- Potential Fuzzy Box Woodland on alluvial soils of the South Western Slopes, Darling Riverina Plains and Brigalow Belt South Bioregions
- Sandhill Pine Woodland in the Riverina, Murray- Darling Depression and NSW South Western Slopes Bioregions,

It is vital that feral animal and companion animal management strategies be implemented to assist with protection of these.

Feral cats and free-ranging domestic cats are responsible for a significant number of wildlife deaths every year particularly birds. This is significant when considering the values afforded by the Ramsar wetland to migratory waders and other species. It is therefore important that appropriate emphasis be placed upon the care and control of domestic cats, especially to limit their nocturnal wanderings.

Council has identified the following issues that arise during this process:

- The NSW Companion Animals Act 1998 provides that companion animals may be prohibited from wildlife protection areas at the discretion of Council. Nature Reserves are also prohibited areas for companion animals. Owners can be fined if their companion animal is found within these areas.
- Domestic cats provide a reservoir of breeding animals for wild populations and continually increase the wild cat population.
- Increase community awareness regarding the impact of companion animals on fauna.
- Implement a community awareness campaign highlighting the advantages of keeping cats totally inside.

- Continue to promote the benefits of desexing of companion animals.

## **8. MISCELLANEOUS**

### **8.1 Exhumation Policy**

All companion animals will be disposed of at Council's Landfill and no companion animal will be exhumed from the Landfill.

### **8.2 Leash Free Area**

The purpose of leash free areas is to allow dogs to exercise off lead so they can 'burn off' excess energy in a safe environment without being a nuisance to the general public and to provide socialisation experience with other dogs. By providing these opportunities, dogs are less likely to exhibit nuisance behaviour due to boredom and frustration when confined to their yard.

Under the NSW Companion Animals Act 1998, Council is obliged to provide one leash free area for community use. Council has designated the area located at the former Brobenah Road caravan park site, in Brobenah Road, Leeton.

## **PART C      MONITORING AND REVIEW**

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### **9. MONITORING AND REVIEW**

Council will monitor and review the implementation of this plan to ensure the effective and sustainable management of companion animals in line with community expectations and the protection of the environment.

Annual companion animal reports are presented to Council to assist them in keeping up to date with companion animal issues.

## **APPENDIX 1**

### **LEETON SHIRE COUNCIL**

#### **COMPANION ANIMAL IMPOUNDING PROTOCOL**

1. At the time of impounding the companion animal, the authorised officer is to;
  - i) Scan the animal for a microchip,
  - ii) Take a colour photo of the animal.
2. The animal is to be placed into a pen.
3. The details of the animal are to be written on an animal record form which is then attached at the corresponding pen number on the white board which is located within the pound. This information is to include;
  - i) Date of impounding.
  - ii) Details (location seized, surrendered or delivered by whom).
  - iii) Microchip status.
  - iv) Number of the pen in which the animal has been placed.
4. On return to the office the authorised officer is to;
  - i) Record the details of the animal into the pound register and pound kennel number.
  - ii) Record the details on the Animal Record form.
  - iii) If the animal has a microchip establish the identity of the animal's owner and contact them in the first instance by phone and/or email (if possible). A formal written notice of seizure advising them that their animal has been impounded is also to be sent to the registered owners address.
  - iv) Place a copy of the animal's photo onto Council's website page, giving advice that this dog or cat has been impounded
5. At the earliest possible opportunity a copy of the animal's photo is to be placed onto the Noticeboard at the pound, along with any information or notes that may have resulted with discussions with the owner.
6. If the animal has not been claimed at the expiry of the relevant statutory period (7 days for non registered animals and 14 days for registered animals), the animal's details are to be provided to approved companion animal welfare organisations to determine if they are interested in re-homing it.

Council will be responsible for microchipping the animal and will provide the animal to the approved companion animal welfare organisation for free.

Should the animal be re-homed details of this will be recorded on the Animal Record form.

7. If the animal has not been claimed at the expiry of the relevant statutory period and is not suitable for re-homing, the animal is to be euthanased in accordance with the following steps;
  - i) The details of the animal to be euthanased on the Animal Record form are to be checked by the senior ranger and in his/her absence the Ranger and Manager Environment & Building or Director of Environmental & Community Services, in relation to the date that the animal was seized or surrendered, any notes on the animal record form and period of time under the Companion Animals Act and this information is to be reconciled against the animal's details in the Pound register.
  - ii) The animal is to be re-checked for the presence of a microchip in the presence of the attending veterinarian, if possible. Any number found is to be reconciled against the impounding history of the animal. If this procedure establishes an anomaly in the impounding history, the animal will be placed back in the pen until such time as the anomaly can be cleared.
  - iii) The animal is to be euthanased by a veterinarian where possible.
  - iv) Following the euthanasia of the animal the method of euthanasia is to be recorded. If the euthanasia was conducted by a veterinarian, the veterinarian is to sign the Animal Record form. If the euthanasia was not conducted by a veterinarian, the details of the euthanasia are to be recorded and reported to the Director of Environmental and Community Services.
8. The completed Animal Record form, including photo, is to be Trimmed on Council's internal record system following either the release or euthanasia of the animal.
9. Should Council impound a companion animal that is microchipped and registered and the animal has not been impounded as a result of its involvement in an attack or a nuisance matter, and should this animal have no prior history of being impounded, Council shall return the animal to its owner without any fines or fees associated with its impoundment being imposed on its owner, provided the animal is collected within 24 hours or the next business day.
10. Should Council impound a companion animal that is not microchipped and not registered and the animal has not been impounded as a result of its involvement in an attack or a nuisance matter, and should this animal have no prior history of being impounded, Council shall release the animal to its owner upon the payment of relevant registration and micro chip fees without any fines or fees associated with its impoundment being imposed on its owner, provided the animal is collected within 24 hours or the next business day.

# COMPANION ANIMAL RECORD FORM

1. Date ..... Time .....Animal Seized .....

2. Location .....

3. Description of Animal .....

4. Impound No. .... (from pound register) 5. Kennel No. ....

6. Circumstances in Relation to Seizure .....

.....

.....

7. MICROCHIP No..... REGISTERED Yes/No

8. STEPS TAKEN TO NOTIFY OWNER / RESPONSE FROM OWNER

.....

.....

9. OFFENCES TO WHICH OWNER MAY BE LIABLE TO .....

.....

.....

10. ANIMAL CLAIMED OR NOT CLAIMED Yes/No

11. ANIMAL REHOMED Yes/No NOT REHOMED Yes/No

12. ANIMAL EUTHANASED Yes/No

13. AUTHORISED OFFICER Full Name: .....

Signature .....

14. REVIEWED BY Full Name: .....

Signature .....

15. CERTIFICATION BY VET Full Name: .....

Signature .....

14. REASON IF ANIMAL NOT EUTHANASED BY VET

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## APPENDIX 2

### **PROTOCOL FOR THE INVESTIGATION OF DOG ATTACKS AND PROCEDURE FOR THE DECLARATION OF DANGEROUS OR MENACING DOGS**

#### **1. Introduction**

The Leeton Shire Council Protocol for the Investigation of dog attacks is called up under the Leeton Shire Council Companion Animals Management Plan.

#### **2. Purpose**

The purpose of this Protocol is to provide direction to Leeton Shire Council authorised officers on the investigation and management of dog attacks by creating a framework for determining the appropriate course of action, from warnings and education to prosecution, dangerous dog declarations and destruction orders.

#### **3. Supporting Documentation**

This Protocol is to be read in conjunction with:

- a. Leeton Shire Council Companion Animals Management Plan dated August 2014
- b. Companion Animals Act 1998 and Regulation 2008.
- c. Impounding Act 1993
- d. Any relevant practice, codes or guideline applicable to the investigation and management of dog attacks.

#### **4. Definitions**

**Authorised officer** means an employee of a local authority authorised by the local authority for the purpose of the Companion Animals Act 1998 and the Impounding Act 1993.

**Dangerous Dog:** for the purposes of this Protocol a dog is a dangerous dog if it;

- a) has, without provocation, attacked or killed a person or animal (other than vermin),
- b) has, without provocation, repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin).

**Dog Attack** is defined by Section 16 of the Companion Animals Act 1998 when a dog rushes at, attack, bites, harasses or chases any person or animal (other than vermin) whether or not any injury is caused to the person or animal.

**Menacing Dog:** for the purposes of this Protocol a dog is menacing if it:

- a) has displayed unreasonable aggression towards a person or animal (other than vermin),
- b) has, without provocation, attacked a person or animal (other than vermin) but without causing serious injury or death.

#### **5. First Response**

- Upon notification of a dog attack proceed to location.
- Upon arrival at the scene assess the situation.
- Should the dog attack still be in process attempt to stop the attack by seizing the dog if safe to do so. If unsafe to do so call for assistance or the Police.
- If the attacking dog is still at large and is posing a threat to any person or animal and if any members of the public are present, instruct the public to leave the area immediately. If possible secure the dog by means of a dog pole and secure in the cage of the ranger vehicle.

- If the dog is still at large and posing a threat to any person or animal and cannot be secured, the Police should be called for assistance. It shall be the responsibility of the authorised officer is to take all necessary action to prevent injury to any person or animal from the actions of the dog.
- Assess if any one requires medical attention or first aid. Call an ambulance if required.
- If the attack has ceased speak to the person who generated the call and or witnessed the attack and record the following:
  1. Time, date and location of the attack
  2. Details of the attack
  3. Description of the dog, if the dog is not present the owners name if know by anyone at the scene.
  4. Names and contact details of the person who generated the call, any person who was attacked and any witnesses.
- Request a signed written statement outlining the details of the attack from the complainant and any witnesses.
- If the owner of the dog is present at the scene advise him/her that the dog has been seized in accordance with section 18 of the Companion Animals Act 1998 and will be relocated to the Leeton Shire Council dog pound, where it will be held during the course of the investigation. If the owner refused to surrender the dog inform him/her that the Police will be called to enforce the seizure of the dog.
- Should the dog have left the scene attempt to locate and seize it if it remains at large and return with the dog to the complainant in order to obtain a positive identification and confirmation from the complainant that it was the responsible dog.
- Should the dog have left the scene attempt to locate the alleged owner on the information provided by the complainant or witnesses at the scene and undertake a visit to the alleged owner with the intention to seize the dog to obtain a positive identification. Should this prove positive return to the owner and advise him/her that the dog has been seized in accordance with section 18 of the Companion Animals Act 1998 and will be relocated to the Leeton Shire Council dog pound, where it will be held during the course of the investigation. If the owner refuses to surrender the dog inform him/her that the Police will be called to enforce the seizure of the dog.
- When a seized animal is delivered to a council pound or approved premises, the person in charge of the pound or premises is to give notice of the seizure of the animal to the person who appears (from the best endeavours of the person in charge to establish who the owner is) to be the owner of the animal. Notice of seizure need not be given if those best endeavours fail to establish the name and address of the owner of the animal.

## **6. Investigation**

- The dog is to be impounded in accordance with Leeton Shire Council's Impounding Protocol except in the event where the dog does not have any obvious identification and/or if there was no information provided by the complainant at the scene of the attack as to the dogs likely owner and the dog displays unreasonable aggression that could constitute a safety risk to the authorised officer during attempts to handle the dog the authorised officer is to determine the most appropriate action to minimise this risk.
- If the owner can identified they are to be contacted (if not already advised at the scene of the attack) and advised of the situation and that the dog has been seized under section 18 of the Companion Animals Act 1998 and that Council will be in contact once the investigation has been completed.
- The statements from the complainant and witnesses, if any, are to be presented to the senior ranger. Should the senior ranger be the authorised officer who responded to the first response, he/she is to report to either the Manager Environment & Building or in their absence the Director Environmental & Community Services to advise them of the attack
- The senior ranger is to then consider the circumstances of the attack in view of the statements received from the complainant, witnesses and dog owner. The senior

- ranger may, if deemed necessary interview again any persons involved in the attack
- The senior ranger is to report to the Manager Environment & Development or in his/her absence the Director of Environmental & Community Services with recommendations on actions to be initiated. These actions could include:
    1. Return the dog to the owner if the attack cannot be substantiated.
    2. Issue a warning and return the dog to the owner. The dog will not be returned until such time as the dog is microchipped and registered, if not already done so, and the owner can effectively contain the dog.
    3. Issue any appropriate fines in relation to the incident and return the dog to the owner. The dog will not be returned until such time as the dog is microchipped and registered, if not already done so, and the owner can effectively contain the dog.
    4. Formally advise the owner that it is Council's intention to have the dog declared as a dangerous or menacing dog under the meaning of the Companion Animals Act 1998. Formally advise the owner of his/her appeal rights available under the Act.
    5. If no owner of the dog can be determined or identified within the appropriate statutory period or should the owner surrender the dog, the dog will be euthanased.
    6. Consideration of the issue of any Infringement Penalty Notice to the owner of the dog for offences under the Companion Animals Act 1998.

## **APPENDIX 3**

### **PROTOCOL FOR THE DETERMINATION PROCESS TO DECLARE A DOG AS A DANGEROUS DOG OR A MENACING DOG**

#### **Introduction**

The purpose of this Protocol is to establish a framework to evaluate the representations from the owners of dogs upon who an Intention to Declare has been served under s. 35 of the Companion Animals Act 2008.

This protocol is designed to enable authorised officers and the public to understand the process of declaring a dog as either a dangerous dog or a menacing dog in response to instances of unacceptable behaviour exhibited by individual dogs and addresses the potential of a dog to cause problems in the future.

When undertaking a determination whether to declare or not declare a dog as a dangerous or menacing dog, Council will at all times consider the importance of public safety and interest.

#### **Definitions**

**Authorised officer** means an employee of a local authority authorised by the local authority for the purpose of the Companion Animals Act 1998 and the Impounding Act 1993.

**Dangerous Dog:** for the purposes of this Protocol a dog is a dangerous dog if it;

- c) has, without provocation, attacked or killed a person or animal (other than vermin),
- d) has, without provocation, repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin).

**Dog Attack** is defined by Section 16 of the Companion Animals Act 1998 when a dog rushes at, attack, bites, harasses or chases any person or animal (other than vermin) whether or not any injury is caused to the person or animal.

**Menacing Dog:** for the purposes of this Protocol a dog is menacing if it;

- c) has displayed unreasonable aggression towards a person or animal (other than vermin),
- d) has, without provocation, attacked a person or animal (other than vermin) but without causing serious injury or death.

**Unreasonable aggression:** for the purposes of this protocol means the behaviour exhibited by an allegedly dangerous or menacing dog when judged by an authorised officer to be unreasonable in the circumstances. The authorised officer will consider whether an ordinary dog when placed in the same circumstances of the allegedly dangerous or menacing dog would have behaved in the same manner.

#### **Legislation**

Section 34 of the Companion Animals Act 1998 permits an authorised officer of Council to declare a dog as dangerous or menacing dog if the authorised officer is satisfied that;

- (1) (a) the dog is dangerous, or
- (b) the dog has been declared a dangerous dog under a law of another State or a Territory that corresponds with this Act.

- (1A) (a) the dog is menacing, or
  - (b) the dog is of a menacing breed or kind of dog (or a cross-breed of a menacing breed or kind of dog), or
  - (c) the dog has been declared a menacing dog under a law of another State or a Territory that corresponds with this Act.
- (2) A declaration can be made on the officer's own initiative or on the written application of a police officer or any other person.

Section 37 of the Companion Animals Act 1998 requires that an authorised officer must consider any objections from the owner of the dog to the proposed declaration;

- (1) The owner has 7 days after the date the notice is given in which to object to the proposed declaration.
- (2) If the owner does not object within that time, the authorised officer can proceed to make the declaration after the 7 days have passed.
- (3) If the owner does object within that time, the authorised officer must first consider the objection before proceeding to make the declaration.
- (4) A reference in this section to the authorised officer is a reference to any authorised officer of the council and is not limited to the authorised officer who gave the notice.

### **Declaration Process**

1. The authorised officer of Council makes a decision to declare a dog as a dangerous dog or a menacing dog and serves upon the owner of the dog an Intention to Declare Notice stating that it is Council's intention to declare the dog as either a dangerous dog or a menacing dog.
2. The owner of a dog who has been served with an Intention to Declare Notice may either make a written submission to Council or make direct representations to the authorised officer and the Manager Environment & Development, or both, as to why the proposed declaration should not be made. Any submission or representation must be received by Council or occur within seven (7) days of date that the Intention to Declare Notice.
3. Before making a dangerous or menacing dog declaration, authorised officers must consider all representations made by the owner within the 7 day period after they have received the Intention to Declare Notice.
4. After the expiry of the 7 day Intention to Declare Notice period, Council's authorised officer will advise the owner of the dog whether or not they intend to declare the dog dangerous or menacing within 7 days of making a decision to declare or not declare the dog dangerous or menacing.
5. Should no appeal be made by the owner to Council following the issue a of Intention to Declare Notice a dog to be dangerous or menacing, the authorised officer will declare the dog as a dangerous dog or a menacing dog under the meaning of the Companion Animals Act 1998 and advise the owner within 7 days.
6. Should the owner appeal the Intention to Declare Notice a dog to be dangerous or menacing, the circumstances of the matter and the representations from the owner will be reviewed by Council's Senior Ranger and Manager Environment & Development, who will provide a recommendation to the Director of Environmental and Community Services to make a final determination. The result of this determination will then be provided to the owner of the dog within 7 days.
7. Should the dog be declared a dangerous dog following an appeal against such a declaration, Council will provide advice to the owner of the dog that a court may revoke a dangerous dog declaration if it considers the action was inappropriate in the particular circumstances of the case.

## **Assessment Factors**

When considering to declare a dog as either a dangerous dog or a menacing dog, the authorised officer will exercise discretion in the application of the dangerous and menacing dog declaration provisions to suit the individual circumstances of incident which they are responding to. The dominant factor is the public interest and the safety of the community.

Factors that will be taken into consideration when considering representations against the declaration will include;

- The harm or potential harm to the public that may be caused if a declaration is not made.
- Any mitigating or aggravating circumstances.
- The prevalence of public risk circumstances and the need for deterrence.
- An objective assessment of the aggressive behaviour displayed by the dog. In other words, an authorised officer will consider whether an ordinary dog placed in the same circumstances of the allegedly dangerous or menacing dog would have behaved in such a manner.
- Whether the dog may have come to the attention of an authorised officer because it has displayed unreasonable aggression towards a person or animal – to the extent that it causes fear or apprehension of an attack.
- The application of a dangerous or menacing dog declaration by an authorised officer will be informed by the level of unreasonable aggression displayed by the dog. For example, it may be appropriate to issue a menacing dog declaration on a dog which has had a once-off display of unreasonable aggression. However, in the case of the dog that repeatedly displays unreasonable aggression, or shows a more serious level of unreasonable aggression, it may be more appropriate to issue a dangerous dog declaration.

A key principle of Council's determination is that the declaration will not be made for improper reasons, such as:

- Any elements of discrimination against the owner of the dog on any grounds including race, nationality, or political or community associations.
- Personal empathy or antipathy towards the owner of the dog.
- Personal empathy or antipathy towards the person subject to an alleged attack.
- The political or other affiliations of the authorised officer responsible for making the decision.

When assessing a proposed declaration, the authorised officer will take into consideration the following:

- Has the dog come to the attention of the officer because it has displayed unreasonable aggression towards a person or animal, to the extent that it has caused the death of an animal or fear or apprehension of an attack to a person or animal.
- Are there mitigating circumstances whereby the dog may only behave aggressively when guarding their owner's home or business.
- The level of unreasonable aggression displayed by the dog will be used to determine the appropriate response, i.e. no action, declaration of menacing dog or declaration of dangerous dog. For example did the dog cause actual harm, was this a once off display, is the dog displaying escalating behaviour of unreasonable aggression.
- The strength of any evidence of the unreasonable aggression exhibited by the dog, including physical evidence, witness statements, videos, photos etc.
- The objections submitted or representations made by the dog owner. Any submission or representation is to include:

- 1) Reasons why the declaration should not be made. This must be supported by evidence that the dog was either not responsible for the exhibition of unreasonable aggression or that there were mitigating circumstances.
  - 2) Any action that will prevent the dog displaying unreasonable behaviour in the future. This could include behavioural correctional training, de-sexing or the construction of a suitable enclosure.
  - 3) Any compensation provided by the owner of the dog to the person subject to a display of unreasonable aggression by the dog.
- The authorised officer may require the owner of the dog to provide an animal behavioural assessment from an animal behaviour specialist or other qualified professional to support their representations. In such instances Council will require that the statement from an accredited animal behavioural specialist certifying that in their opinion the dog has received appropriate behavioural training resulting in the correction of the dog's aggressive and dangerous behaviour and outlining the nature and extent of the training that the dog has undergone to achieve this.

## **APPENDIX 4**

### **PROTOCOL FOR THE ASSESSMENT OF APPLICATIONS TO REVOKE A DANGEROUS DOG OR MENACING DOG DECLARATION**

#### **Introduction**

The purpose of this Protocol is to establish a framework to enable Council to consider applications to revoke dangerous or menacing dog declarations.

#### **Legislation**

Section 39 of the Companion Animals Act 1998 permits a Council to revoke a dangerous or menacing dog declaration.

#### **Minimum term of declaration before application can be made**

An application to revoke a dangerous or menacing dog declaration cannot be made until after the period of 12 months following the date on which the dog was declared to be a dangerous dog or a menacing dog.

#### **Applications to Revoke a dangerous or menacing dog declaration to address following criteria.**

The application must contain the following;

1. A statement as to why the declaration should be revoked.
2. A statement from an accredited animal behavioural specialist certifying that in their opinion the dog has received appropriate behavioural training resulting in the correction of the dog's aggressive and dangerous behaviour and outlining the nature and extent of the training that the dog has undergone to achieve this.

#### **Council to Make Decision**

Any application to revoke a dangerous or menacing dog declaration will be submitted to Council for determination.

A dangerous or menacing dog declaration can only be revoked by a resolution of Council.

Council's resolution to approve or to refuse to revoke a dangerous or menacing dog declaration will be final.

#### **Owner of Declared Dog May Attend Council**

The owner of any declared dangerous or menacing dog applying to have the declaration revoked may appear before Council to present and support their application.

#### **Consideration Process**

Council must be satisfied that it is appropriate to revoke a dangerous or menacing dog declaration before doing so. Council is to take into consideration the following:

- a) the circumstances under which the dangerous or menacing dog declaration was issued.

- b) the dog's current circumstances and behaviour in relation to the original declaration, including any behaviour modification training that may have been undertaken.
- c) any behavioural assessment obtained by the owner from an animal behaviour specialist.
- d) report from the Council's Senior Ranger.
- e) a victim impact statement

#### **Informing Dog Owner of Resolution**

Council must, as soon as practicable, inform the owner of the dog that the declaration has been revoked or that council has refused to revoke it.

#### **Notification of Council Resolution**

Councils must notify the Chief Executive, Local Government within 7 days of revoking a dangerous or menacing dog declaration. This notification can be done by recording the details of the revocation on the Register using the 'Dangerous dog declaration process' or 'Menacing dog declaration process'.

## **APPENDIX 5**

### **PROTOCOL FOR THE ASSESSMENT OF AN APPLICATION TO REVOKE A RESTRICTED DOG DECLARATION**

#### **Introduction**

The purpose of this Protocol is to establish a framework to enable Council to consider applications to revoke restricted dog declarations.

#### **Applications to Revoke a Restricted Dog Declaration.**

The application must contain the following;

1. A statement as to why the declaration should be revoked.
2. A statement from an accredited dog breed and temperament assessor that the dog is not a restricted dog.

#### **Council to Make Decision**

Any application to revoke a restricted dog declaration will be submitted to Council for determination. A Restricted dog declaration can only be revoked by a resolution of Council.

Council's resolution to approve or to refuse to revoke a restricted dog declaration will be final.

#### **Owner of Declared Dog May Attend Council**

The owner of any declared restricted dog applying to have the declaration revoked may appear before Council to present and support their application.

#### **Consideration Process**

Council must be satisfied that it is appropriate to revoke a restricted dog declaration before doing so. Council is to take into consideration the following:

- a) the circumstances under which the restricted dog declaration was issued.
- b) details of the dog's original breed assessment.
- c) Details as to why this assessment has been changed.
- d) report from the Council's Senior Ranger.

#### **Informing Dog Owner of Resolution**

Council must, as soon as practicable, inform the owner of the dog that the declaration has been revoked or that council has refused to revoke it.

#### **Notification of Council Resolution**

A revocation can only be processed on the Companion Animals Register by an authorised officer of the Division.

Councils must submit a written request to revoke such a declaration to: [pets@dlg.nsw.gov.au](mailto:pets@dlg.nsw.gov.au). Such requests **must** also include the following information:

- a) Where a decision to revoke a restricted dog declaration has been made by the council – a copy of the relevant resolution of council.

**Policy History:**

<b>Date of Adoption/Amendment</b>	<b>Resolution Number</b>
29 October 2014	14/281
22 February 2017	17/018