



**COMPANION ANIMAL
MANAGEMENT PLAN**

BROKEN HILL

CITY COUNCIL

**AUSTRALIA'S FIRST
HERITAGE LISTED CITY**

QUALITY CONTROL		
EDRMS REFERENCE	11/141 – Companion Animal Management Plan	
KEY DIRECTION	1. Our Community	
OBJECTIVE	1.1 People in our Community are in safe hands	
FUNCTION	Corporate Support	
STRATEGY	1.1.1 Implement infrastructure and services for the effective management and control of companion animals	
RESPONSIBLE OFFICER	Manager Planning Development and Compliance	
REVIEW DATE	October 2023	
DATE	ACTION	MINUTE No
26/02/2020	Adopted	46182
NOTES	<p>Copies of all plans and policies mentioned in this document are available by visiting Council's website www.brokenhill.nsw.gov.au</p> <p>This Plan has been developed in accordance with the Companion Animals Act 1998 and the Companion Animals Regulation 2008.</p>	
ASSOCIATED LEGISLATION	<ul style="list-style-type: none"> • <i>Companion Animals Act 1998</i> • <i>Companion Animals Regulation 2018</i> 	
ASSOCIATED COUNCIL POLICIES	Nil	
ASSOCIATED DOCUMENTS	Broken Hill 2033 Community Strategic Plan	

TABLE OF CONTENTS

1. INTRODUCTION	4
2. OBJECTIVE	4
3. SCOPE	4
4. STATEMENT	4
4. 1 Promoting Responsible Pet Ownership:	5
5. Companion Animal Management:	5
5. 1 Registration and Identification:	5
5. 2 Impounding Animals:	6
5. 3 Infant animals	7
5. 4 Surrendered animals	7
5. 5 Euthanasia of Animals.....	7
5. 6 Feral Cats.....	8
5. 7 Re-Homing.....	8
5. 8 Sick or Injured Animals	8
6. COMMUNITY EXPECTATIONS	9
6. 1 Public Safety	9
6. 2 Dangerous, Menacing and Restricted Dogs	9
6. 3 Annual Inspections	10
6. 4 Nuisance Dogs and Cats	10
7. LEASH FREE AREAS	11
8. CAT MANAGEMENT	12
9. COMPANION ANIMAL SHELTER	13
9. 1 Shelter open times.....	13
10. IMPLEMENTATION.....	14
10. 1 Roles and Responsibilities	14
10. 2 Communication	14
10. 3 Associated Documents	14
11. REVIEW	14
12. LEGISLATIVE AND LEGAL FRAMEWORK	14
13. DEFINITIONS	14

1. INTRODUCTION

The Companion Animal Management Plan provides the framework for the provision of an effective animal management service and procedural functions under the Companion Animals Act 1998 (the Act) and the Companion Animals Regulation 2018. The Act and the Regulations is the legislation that gives effect to the way local authorities manage dogs and cats. The principle object of the Act is to provide for the effective and responsible care and management of companion animals.

2. OBJECTIVE

- 1.1 To recognise that companion animals form part of the Broken Hill community, contributing to quality of life.
- 1.2 To ensure the needs of companion animals, their owner and other citizens are accommodated harmoniously.
- 1.3 To achieve high levels of responsible pet ownership through consultation, education and integrated management with the community, contributing to quality of life.

3. SCOPE

Broken Hill City Council's Companion Animals Management Plan aims to achieve high levels of responsible pet ownership through consultation, education and integrated management with the community that leads to a higher quality of life, for both our human and animal inhabitants.

Council recognises the importance of having a Companion Animal Management Plan as a key strategy in the effective management of companion animals in the community.

4. STATEMENT

Broken Hill City Council has identified the need to develop a Companion Animal Management Plan to improve outcomes in the area of companion animal management.

The aim of implementing a Companion Animal Management Plan is to provide guidance for Council to fulfil its responsibilities under the *Companion Animals Act, 1998* (the Act) by determining objectives and actions, along with a clear program of implementation.

These are grouped into the key areas of:

- Identification and Registration
- Public Safety
- Nuisance Animals
- Impounding Animals
- Dog off leash facility

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 responsible pet ownership.

By implementing the plan, Council aims to:

- Achieve a high level of responsible pet ownership through consultation, education and integrated management with the community.
- 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.
- 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 controlled leash-free recreational areas for dogs in the Broken Hill Local Government Area that is as safe as possible for dogs and people.
- Encourage re-homing of suitable unclaimed companion animals by residents and approved animal rescue organisations.
- Ensure procedures for enforcement of the Act are educationally based and project fairness.
- Have clear, consistent and achievable goals.
- Provide subsidised desexing programs to the local community through collaboration with other state agencies.

4.1 Promoting Responsible Pet Ownership:

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

Council encourages all pet owners to be responsible for their pets' actions. Owning a pet comes with responsibilities for the animal, and respect for the community.

Council aims to assist by educating and promoting responsible pet ownership, as set out by the Companion Animals Management Plan.

Being a responsible pet owner includes:

- Provide basic needs for health and welfare for the animal
- Minimise nuisance behaviour and potential negative impacts on the environment and community
- Keeping animals out of prohibited areas
- For dogs, ensuring they are under effective control of a leash whilst in public
- Confine their animal in their yard to prevent impacts on public safety and the environment
- 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
- De-sex their animal to minimise nuisance behaviour, minimise numbers of unwanted animals
- Clean up after their animal

5. Companion Animal Management:

5.1 Registration and Identification:

Objectives:

- To encourage the permanent microchip identification and registration of companion animals
- To facilitate the prompt return of lost or stray companion animals to their owners.
- To provide an efficient service for customers updating or registering details on the NSW Companion Animal Register.

Background:

There are still a large number of companion animals that are not microchipped, or lifetime registered within the Broken Hill community.

The management of companion animals is highly dependent on the animals being properly identified. Identification also leads to the ability to return the animals, and for the owners to be made accountable under the NSW Companion Animals Act.

Actions:

Appropriate identification and registration are integral to the management of companion animals. Microchipping and registration allow lost or straying animals to be identified and returned to their owners as quickly as possible, generally avoiding the need for animals to be impounded.

Council encourages pet owners to:

- Make sure their animal is microchipped, has a collar and a tag.
- Microchip their dogs and cats before 12 weeks of age, or when sold or given away and register by six months of age pursuant to the *Companion Animal Act*.
- Notify Council of certain changes and events e.g. change in phone number and/or address or if the animal change ownership. If the animal goes missing or dies, you must contact Council.

Strategies for Broken Hill City Council to increase the number of microchipped and registered companion animals include:

- Community education programmes to promote the benefits of microchipping and greater understanding of the 2-step identification process.
- Encouraging companion animal owners to notify Council of changes of contact details.
- Free Microchipping performed by Council's rangers.
- Collaborate with state agencies to fund/assist with desexing programs.

5.2 Impounding Animals:

Objectives:

- To reduce the number of animals impounded and increase the return to owner rate.
- To facilitate the prompt return to owners of seized animals.
- To provide appropriate pound facilities and service for the surrender of animals.

Upon impounding an animal, the authorised officer shall take a photo of the animal and follow microchipping procedures.

Details of any animal impounded shall be recorded in the Daily Shelter Register (hard copy) retained in the Shelter Office. Animal details are then to be entered on a Record Card, which will be inserted in the card holder on the cage holding the animal.

All Shelter Register entries will be copied into the electronic monthly Register of Animals Impounded.

The animals' photo shall be placed onto Council's website giving advice that the animal has been impounded.

If an animal has not been claimed at the expiry of the relevant statutory period (seven days for non-identified animals and 14 days for identified animals), the animal may be rehomed or the animal's details may be provided to an animal rescue group and released to such group if the animal is desired. Once an animal is released, microchip details will be updated in the Companion Animal Registry.

Strategies for Broken Hill City Council to reduce the number of animals impounded at the Broken Hill Animal Shelter include:

- Conduct community education programmes to reduce irresponsible pet ownership.
- Encouraging companion animal owners to notify Council of changes of contact details of their registered pets.
- Free Microchipping performed by Council's rangers.
- Maintain the Council "Lost and Found" page to advertise a lost animal to assist in the prompt return of the animal to its lawful owner.

Copies of forms used are in Appendix 1.

5.3 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 euthanised or released under duty of care to rescue agencies.

Strategies for Broken Hill City Council to reduce the number of dumped and unwanted infant animals include:

- Community education programmes to promote responsible pet ownership.
- Promote desexing of companion animals.
- Actively pursue grants to assist with the funding of desexing programs.
- Charge a fee for the surrendering of unwanted infant animals.

5.4 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 the Companion Animal Shelter Evaluation form 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 rehome the animal if it is considered suitable, if the animal is not suitable to be rehomed, the animal will be humanely euthanised.

Strategies for Broken Hill City Council to reduce the number surrendered animals include:

- Community education programmes to promote responsible pet ownership.
- Promote desexing of companion animals.
- Actively pursue grants to assist with the funding of desexing programs.
- Charging a fee for surrendering companion animals.

5.5 Euthanasia of Animals

The euthanasia of animals will be undertaken in accordance with animal welfare best practice requirements. The euthanasia of impounded animals may be undertaken by an authorised person or at the direction, of an attending Veterinarian (vet), or may be conveyed to a vet or the RSPCA for euthanasia.

Strategies for Broken Hill City Council to reduce the number of animals to be euthanised:

- Community education programmes to promote responsible pet ownership.

- Promote desexing of companion animals.
- Actively pursue grants to assist with the funding of desexing programs.
- Collaborate with rehoming organisations to rehome as many companion animals as possible.

5.6 Feral Cats

From time to time Rangers are required to trap feral cats. Feral cats may also be delivered to the shelter by the public. Feral cats are obvious by their behaviour. Cats that are considered feral and are caught by Council or delivered by the public will be humanely euthanised by a vet or an authorised person.

Strategies for Broken Hill City Council to reduce the number of feral cats include:

- Community education programmes to promote responsible pet ownership.
- Community education on semi-owned cats.
- Promote desexing of companion animals.
- Seek government funding to assist with feral cat control programmes.

5.7 Re-Homing

Council will endeavour to re-home as many companion animals that have been impounded as possible.

Council will enter into agreement with approved re-homing organisations for companion animals that are suitable to be re-homed.

When a companion animal is released for rehoming it will be microchipped and will be registered. Approved rehoming organisations are exempt from registration fees for re-homed companion animals.

Strategies for Broken Hill City Council assist with the rehoming of companion animals:

- Community education programmes to promote responsible pet ownership.
- Promote desexing of companion animals.
- All impounding fees will be waived for re-homed companion animals.

5.8 Sick or Injured Animals

Where an injured animal that can be identified 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.

Council will not accept any injured/sick animal from a member of the public and any person with an injured/sick animal is to be directed to the RSPCA for assistance.

If the owner cannot be readily contacted then the injured/sick animal will be delivered to a clinic for veterinary attention.

If an injured/sick animal cannot be identified then the animal will be delivered to a clinic for veterinary assistance.

When Council is made aware that a companion animal has been killed in a private or public place, Council will take steps to identify the animal and contact the owner.

Where an injured animal is delivered to a veterinarian 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 veterinarian on the 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 social 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 and 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, Menacing and Restricted 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 (See Appendix 2) to Declare a Dog as a Dangerous, Menacing or Restricted Breed Dog in accordance with Division 1 of Part 5 of the Act see Appendix 3. To revoke a declared Dangerous or Menacing Dog Order see appendix 4 and to revoke a Restricted Breed Dog Notice see Appendix 5.

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:

- a) The harm or potential harm to the public that may be caused if a declaration is not made.
- b) Any mitigating or aggravating circumstances.
- c) The prevalence of public risk circumstances and the need for deterrence.
- d) 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 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 5).

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.

6.3 Annual Inspections

Council will carry out annual Inspections of Declared Dangerous, Menacing and Restricted Breed Dogs to ensure continued compliance with the requirements of the Act.

Council views compliance with Dangerous, Menacing and Restricted Breed Dog declarations as a serious matter and non-compliance may attract an Infringement Notice.

6.4 Nuisance Dogs and Cats

Council recognises that animals can cause aggravation, discomfort and conflict. Noise complaints can be labour intensive, difficult at times to follow up, and can result in neighbour disputes.

Council aims to resolve animal complaints efficiently and effectively and aims to attempt to reach an amicable outcome for all parties involved.

Barking dogs account for a large percentage of noise complaints received by Council. 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.

All dogs bark, the problem facing Council is that a dog barking is not an offence. Council must be able to prove that due to the amount of barking and the times that a dog barks is a nuisance. 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 barking dog diary should be compiled for a period of 7 – 10 days, and a formal written complaint should be addressed to the Ranger.
- In the event of dissatisfaction with any of these procedures a noise abatement order can be sought from the Local Court independently of Council.

Dogs may also be potential nuisance by habitual straying onto private property, being loose in a public place and or defecating in a public place.

The owner of a 'nuisance dog' may be served a control order under section 32A of the Act. This order is made to require the owner to mitigate potential nuisance by controlling dog behaviour.

Cats too can cause nuisance by straying, crying and damaging property. In these instances, Council may use provisions of section 31 of the Act to place control orders on the cat's owner to prevent the nuisance from happening.

7. LEASH FREE AREAS

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 two designated areas located at the Queen Elizabeth Park and Patton Park:

- Queen Elizabeth Park – located adjacent to the North Primary School and the intersection of Chapple Street and Brazil Street.



- The eastern end of Patton Park at the intersection of South Street and Wilson Street.



8. CAT MANAGEMENT

Objectives:

- To increase the number of identified, registered and de-sexed cats.
- To minimise the adverse impact of cats on wildlife and public amenity.

Background:

The community have expressed concern regarding the number of stray cats and unwanted kittens having to be euthanised during breeding periods.

Council aims to educate the community about the benefits of desexing their cat, and address issues associated with straying cats.

Cats can be a nuisance to surrounding neighbours and can also threaten native wildlife.

Under Section 31 of the *Companion Animals Act*, a cat is a nuisance if:

- It makes a persistent noise
- Repeatedly damages anything outside the property on which it is ordinarily kept.

Council recognises cats are more difficult to confine to a property than dogs. It is envisaged that each complaint will need to be examined on a case by case basis. A distinction also needs to be made between feral and domestic cats.

Cats are required to be identified and registered under the *Companion Animals Act*.

Note: under the terms of the legislation, there is no definition for a 'stray cat'.

Actions:

Council aims to improve cat management by:

- Community education on the importance of desexing cats and responsible pet ownership.
- Offer free micro-chipping of companion animals to all local residents.
- Seek funding from State Government and other agencies to sponsor discounted and/or free desexing programs for cats.
- Seek funding from State Government for targeted Feral Cat control programs.
- Educate cat owners of the benefits of keeping cats confined at night to protect both the cat and wildlife.
- Increase public awareness of the need to identify and register cats.

9. COMPANION ANIMAL SHELTER

The Shelter is located at the Airport west of the airport car park and opposite the Flying Doctors Hangar Car park.



9.1 Shelter open times

The Shelter will be open to the public for collection or drop off animals, or for general enquiries from Monday - Friday.

- The staffed hours from Monday to Friday will be 9.00am to 10am and 2pm to 3pm. Rangers will be available to serve the public outside these hours by appointment only.
- The contact number for the shelter is **0482 791 213**. Rangers may be unable to take calls during dog attacks and investigations but will return any missed calls as soon as possible. Please note that Rangers only respond to emergency situations over weekends and after hours.

Note: The public is always urged to contact Council on **0482 791 213** prior to attending the shelter to ensure the shelter is attended and open. The shelter may be closed during the above times if Rangers are called out to an emergency e.g. dog attack.

10. IMPLEMENTATION

10.1 Roles and Responsibilities

The following Council officers are responsible for the implementation and the adherence to this policy:

Manager Planning Development and Compliance

10.2 Communication

This Policy will be communicated to the community and staff in accordance with Council's Policy, Procedure and Process Framework and Council's Business Paper process. Following adoption by Council the Policy will be made available on Council's website.

10.3 Associated Documents

The following documentation is to be read in conjunction with this policy.

Nil

11. REVIEW

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be within each term of Council following the Local Government Elections, or as required to ensure that it meets legislation requirements and the needs of the community and Council. The responsible Council officer will be notified of the review requirements three months prior to the expiry of this policy.

The Manager Planning Development and Compliance is responsible for the review of this policy.

12. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- *Companion Animals Act 1998*
- *Companion Animals Regulation 2018*

13. 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;

- has, without provocation, attacked or killed a person or animal (other than vermin),
- 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:

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

Restricted Breed Dog: is a dog of the following breed:

- American pit bull terrier or pit bull terrier,
- Japanese tosa,
- dogo Argentino,
- Perro de Presa Canario or Presa Canario,
- fila Brasileiro,
- any other dog of a breed, kind or description whose importation into Australia is prohibited by or under the *Customs Act 1901* of the Commonwealth,
- any dog declared by an authorised officer of a council under Division 6 of this Part to be a restricted dog,
- any other dog of a breed, kind or description prescribed by the regulation

14. APPENDIX 1 - DAILY REGISTER OF IMPOUNDED ANIMALS

Imp No.	Date	Sex	Colour	Breed	Location	Microchip No.	Owner/address	Contact	How	Disp date	How

BHCC POUND ANIMAL RECORD CARD

IMPOUND NUMBER:		DATE:	
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COLOUR:		GENDER:	
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BREED:	
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MICROCHIP NUMBER:		LOCATION FOUND:	
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BHCC POUND ANIMAL RECORD CARD

IMPOUND NUMBER:		DATE:	
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COLOUR:		GENDER:	
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BREED:	
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MICROCHIP NUMBER:		LOCATION FOUND:	
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		REGISTER OF ANIMALS IMPOUNDED - month - year								
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DATE	Impound Number	Colour	Sex	Breed	Location Seized	Micro Chip Number	Owner	Address	Contact No.	Disposal Status	Date

COMMENTS: NOTE: Reference must be made to impound number

STATUS CODES **RET - Returned** **R - Released** **EUTH - Euth/Feral** **EUA - Euth/Aggressive** **ESC - Escaped**
EUOR - Euth/ owners Request **PR - Pet Rescue** **DOA - Dead on Arrival** **S - Surrendered** **ST - Stolen** **D - Died in Pound**

15. APPENDIX 2

PROTOCOL FOR THE INVESTIGATION OF DOG ATTACKS

1. Introduction

Council Protocol for the Investigation of dog attacks is called up under the Broken Hill City Council Companion Animals Management Plan.

2. Purpose

The purpose of this Protocol is to provide direction to Broken Hill City 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) Broken Hill City Council Companion Animals Management Plan 2019.
- 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;

- has, without provocation, attacked or killed a person or animal (other than vermin),
- 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 any injury is caused to the person or animal.

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

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

5. First Response

5.1 Upon notification of a dog attack proceed to location.

5.2 Upon arrival at the scene assess the situation.

5.3 Seize the dog and secure if possible.

5.4 Should the dog attack still be in progress attempt to stop the attack by seizing the dog if safe to do so.

- 5.1 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.
- 5.2 If the attacking dog is still at large and is posing a threat to any person or animal and cannot be secured, the authorised officer shall take all reasonable actions to prevent injury to any person or animal from the actions of the dog.
- 5.3 Assess if anyone requires medical attention or first aid. Call an ambulance if required.
- 5.4 If the attack has ceased speak to the person who generated the call and or witnessed the attack and record the following:
 - Time, date and location of the attack
 - Details of the attack
 - Description of the dog, the owners name and address if known.
 - Names and contact details of the person who generated the call, any person who was attacked and any witnesses.
 - Obtain a signed written statement outlining the details of the attack from the complainant and any witnesses.
 - For a minor attack - If the owner of the dog is present at the scene, the animal may be returned provided the owner can demonstrate that animal will be secured.
 - Should the dog have left the scene attempt to locate and seize it.
 - Should the dog have left the scene attempt to locate the alleged owner on the information provided by the complainant or witnesses and undertake an investigation.
 - For a serious attack - If the owner of the dog is present at the scene advise him/her that the dog will be seized in accordance with section 18 of the *Companion Animals Act 1998* and will be impounded at the Broken Hill City Council 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.
 - 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.

16. APPENDIX 3

PROTOCOL FOR THE DETERMINATION PROCESS TO DECLARE A DOG AS A DANGEROUS DOG, A MENACING DOG OR RESTRICTED BREED 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 Section 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 always consider the importance of public safety and interest.

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;

- the dog is dangerous, or the dog has been declared a dangerous dog under a law of another State or a Territory that corresponds with this Act.
- the dog is menacing, or the dog has been declared a menacing dog under a law of another State or a Territory that corresponds with this Act.
- 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 seven 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 seven 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 Dangerous or Menacing

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 Manager Planning Development and Compliance, as to why the proposed declaration should not be made. Any submission or representation must be received by Council or occur within seven days of date that the Intention to Declare Notice.
3. Before making a dangerous or menacing dog declaration, authorised officers must consult with the Manager of Planning Development and Compliance and consider all representations made by the owner within the seven day period after they have received the Intention to Declare Notice.
4. 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 seven days.
5. 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 (Dangerous dog only, does not include Menacing Dog).

Assessment Factors

When considering declaring 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.

Declaration Process for Restricted Breed Dogs

If in the opinion of an Authorised Officer that a dog is a restricted breed dog, a Notice of Intent to declare the dog a Restricted Breed Dog may be issued to the owner of the dog.

The owner of the dog may have a breed assessment. If the animal is assessed to be a Restricted Breed or class of restricted breed dog, they may then choose to have a temperament assessment carried out on the dog. If the dog passes either of the assessments, the dog's owner shall be notified that the dog will not be declared a Restricted Breed Dog.

If the dog fails the assessments, the dog is to be declared a Restricted Breed Dog

The dog's owner has 28 days from the date of the Notice to arrange for assessments to be done. An authorised officer may extend this period in reasonable circumstances.

17. APPENDIX 4

PROTOCOL FOR THE ASSESSMENT OF APPLICATIONS TO REVOKE A DANGEROUS DOG OR MENACING DOG DELARATION

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 behavioral specialist certifying that in their opinion the dog has received appropriate behavioral training resulting in the correction of the dog's aggressive and dangerous behavior and outlining the nature and extent of the training that the dog has undergone to achieve this.

Council to Make Decision

A dangerous or menacing dog declaration can only revoke by the Manager Planning Development and Compliance.

Any application to revoke a dangerous or menacing dog declaration will be submitted to the Manager Planning Development and Compliance for determination.

The Manager Planning Development and Compliance resolution to approve or to refuse to revoke a dangerous or menacing dog declaration will be final.

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 behavioral assessment obtained by the owner from an animal behaviour specialist.
- d) report from the Council's Ranger.

Informing Dog Owner of Resolution

Council will, 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 seven 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'.

18. 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 assessor that the dog is not a restricted dog. or
3. If the dog is a restricted breed dog, a temperament assessor that the dog is not a danger to the public and is not likely, without provocation, to attack or bite any person or animal.

Council to Make Decision

Any application to revoke a restricted dog declaration will be submitted to the Manager Planning Development and Compliance for determination. A Restricted dog declaration can only be revoked by the Manager Planning Development and Compliance.

The Manager Planning Development and Compliance resolution to approve or to refuse to revoke a restricted dog declaration will be final.

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 Ranger.

Informing Dog Owner of Decision

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 Decision

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



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