

POLICY: DANGEROUS AND MENACING DOGS

DATE ADOPTED: Director Corporate Services and Finance Report #8.1.1
Policy Committee Meeting 3 July 2024
Resolution No. POL2024-23

Director Environmental, Planning & Building Services Report #8.2.11
Council 17 November 2021
Resolution Number ORD2020-401

ORIGINAL ADOPTION: Director Environmental, Planning & Building Services Report # 3
Policy 7 June 2017
Council 21 June 2017
Minute Book No. 12531

FILE REFERENCE: 02.00006

OBJECTIVE: This policy describes how Council will assess the appropriate regulatory response regarding an alleged dog attack.

1. BACKGROUND

Attack or harassment by dogs can have serious public safety consequences. Councils are required to promptly investigate incidents and settle complaints. Its purpose is to ensure the consistent and accurate application of relevant legislation.

2. APPLICATION

This policy applies to the investigation of an alleged dog attack or dog displaying unreasonable aggression in the Bathurst Regional Council local government area.

3. LEGISLATIVE FRAMEWORK AND GUIDELINES

The Companion Animals Act 1998 (the Act) and associated regulation provide the legislative framework for the management of dogs and cats in NSW. The Division of Local Government has issued the *“Guidelines for the Exercise of Functions under the Companion Animals Act (2015)”*(guideline) and this policy must be considered in conjunction with these guidelines. As is stated in the guideline section 9.5.1 :
“Authorised officers have discretion in the application of dangerous and menacing dog declaration provisions to suit the individual circumstances of incidents to which they are responding. The dominant factor is public interest and the safety of the community”.

Further, Council has adopted an Enforcement Policy which must be given consideration in any enforcement action.

4. ASSESSMENT MATRIX

The assessment matrix which is located at Appendix 1 must be completed by the Authorised Officer investigating an alleged dog attack or dog displaying unreasonable

aggression. The Authorised Officer must seek endorsement of the completed risk assessment matrix from a supervisor. The risk assessment matrix must be recorded on the appropriate file in Council's records system.

The risk assessment matrix must be completed based on an unbiased assessment by the Authorised Officer of the available evidence.

The Authorised Officer must then prepare a brief of evidence for review by the Manager Environment (or other senior staff) which includes the completed risk assessment matrix.

Approval to proceed with any regulatory action must be sought from the Director Environmental Planning and Building Services in writing.

5. CONSIDERATION OF REPRESENTATIONS IN RESPONSE TO A NOTICE OF INTENTION TO DECLARE A DOG TO BE DANGEROUS OR A NOTICE OF INTENTION TO DECLARE A DOG TO BE MENACING

The Act requires that Authorised Officers consider all representations made by the owner within 7 days of the issue of a notice of intention.

Representations must be considered by a panel of staff with a demonstrated understanding of the Act and whom have not been directly involved in the investigation. Typically this should include the Director Environmental, Planning & Building Services, a Manager from the Environmental, Planning & Building Services Department and an unbiased staff member.

The Act requires that Council notify the owner within 7 days of making a decision on whether or not to declare the dog dangerous or menacing.

6. REVOCATION OF A DANGEROUS OR MENACING DOG DECLARATION

The Act allows an owner to make an application to Council to revoke a dangerous or menacing dog declaration but not until at least 12 months have passed since the declaration was issued.

An owner may apply to the Local Court to revoke a Dangerous Dog declaration. A menacing dog declaration can only be the subject of an appeal to the Supreme Court.

APPENDIX 1 – RISK ASSESSMENT MATRIX



Civic Centre:
158 Russell Street
Correspondence:
Private Mail Bag 17
BATHURST NSW 2795

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www.bathurst.nsw.gov.au

OFFICE USE ONLY

DOG ATTACK (HUMAN) RISK ASSESSMENT

Section 34 Companion Animals Act 1998

File No: 05.00004 and

CCS No:

Section 1 Owner/dog details

Owners Name: Dogs Name:

Address: Work: Home:

Contact Nos: Mobile:

CRITERIA	Control		Provocation		Actions of Dog		History		Degree of Injury	
	5	4	3	2	4	3	2	1	5	10
Forced exit/entry to get to victim	5	4	3	2	4	3	2	1	5	10
Straying	4	3	2	1	3	2	1	0	2	8
Legally Off Leash	3	2	1	0	2	1	0	0	1	6
On Leash	2	1	0	0	1	0	0	0	0	4
On Dog's Property	1	0	0	0	0	0	0	0	0	2
On Dog's Property - Trespassing	0	0	0	0	0	0	0	0	0	0
Criteria Score										
Multiplier	1	2	3	4	5	6	7	8	9	10
Total										

NOTE: This table is a guide to assist in the decision making process

TOTAL ASSESSMENT SCORE

Assessment Score	Risk Level	Action to be considered unless mitigating circumstances exist
> 65	Unacceptable	Declare the dog dangerous and seek destruction order
40 – 64	High	Declare the dog as a dangerous dog
20 – 40	Medium	Declare the dog as a menacing dog
< 20	Low	Nuisance Dog declaration

The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.

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DOG ATTACK (ANIMAL) RISK ASSESSMENT

Section 34 Companion Animals Act 1988

File No: 05.00004 and

CCS No:

Section 1 Owner/dog details

Owners Name: Dogs Name:
Address:
Contact Nos: Mobile: Work: Home:

CRITERIA	Control		Provocation		Actions of Dog		History		Degree of Injury	
	Forced exit/entry to get to victim	Straying	No Provocation	Instinct/Natural Prey drive	Mauling/ Multiple Bite	Bite (Puncture)	Previously declared Menacing/Dangerous	Previous reports of aggression	Multiple Fatalities or Serious Injuries	Fatality
Legally Off Leash	3	3	1	2	2	2	1	1	1	3
On Leash	2	2	0	0	1	1	0	0	0	2
On Dog's Property	1	1								1
On Dog's Property - Trespassing	0	0								0
Criteria Score										
Multiplier	1	2	3	4	5	6	7	8	9	10
Total										

NOTE: This table is a guide to assist in the decision making process

TOTAL ASSESSMENT SCORE	Assessment Score	Risk Level	Action to be considered unless mitigating circumstances exist
	> 65	Unacceptable	Declare the dog as a dangerous dog and seek destruction order
45 – 64	High	Declare the dog as a dangerous dog	
20 – 44	Medium	Declare the dog as a menacing dog	
< 20	Low	Nuisance Dog declaration	

The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.

Comments: _____ Date _____

Officer Name: _____ Signature: _____

Comments: _____ Date _____

Team Leader Name: _____ Signature: _____

Comments: _____ Date _____

Manager Name: _____ Signature: _____

Definition

Forcible Exiting	Dog escapes from property, whether that is by jumping over, digging under, or pushing through the property
Wandering	Dog is out of its property with no responsible person around
Legally Off Leash	Dog is in an off leash area with the owner present
On Leash	Dog is on a leash with owner
On Dog's Property	Dog is on its own property
No Provocation	No factors present or identified that may have caused/led to the attack
Instinct/Natural Prey Drive	Factors present that could be considered as instinctive (e.g. chasing a cat, chicken)
Provoked	Factors present or identified that may have caused/led to the attack
Unknown provocation	Not able to be identified/no witnesses to the incident
Mauling or Repeat Lunging	Multiple Puncture wounds/ripping and tearing. Also loss of tissue
Bite (Puncture)	Single bite (in most cases) with puncture wounds
Bite (No Puncture)	Single bite (in most cases) with no puncture wounds
Circle/Rush/No Contact	Dog may not have bitten or may have tried but no contact was made.
Declared Dangerous/Menacing/Restricted Dog	Dog is a Dangerous/Menacing/Restricted Dog at the time of the incident
History of Attacks (Bite)	Council records contain previously reported attacks but not declared
History of Complaints (Major)	Council records contain a large number of previously reported complaints but not attacks (e.g. wandering)
History of Complaints (Minor)	Council records contain a small amount of previously reported complaints of a minor nature (e.g. barking)
No History	No previously reported complaints for the dog
(Human) Fatality	Death of a human
(Human) GBH**	Grievous Bodily Harm
(Human) Actual Bodily Harm* - Admitted to Hospital	Actual Bodily Harm with a stay in hospital
(Human) Actual Bodily Harm* - Medical Treatment	Actual Bodily Harm with Doctor's certificate regarding injuries
(Human) Injury - Medical Treatment	Injuries but no Doctor's certificate or no Doctor seen
(Human) Injury - First Aid Treatment	Injuries with first aid treatment (e.g. bandaids)
(Human) No Treatment	Minor injuries with no treatment
(Human) No Injury	No injury received
(Animal) Fatality	Death of an animal
(Animal) Serious Injury - Vet Treatment Overnight	Serious injury to an animal with Vet certificate, overnight stay required
(Animal) Serious Injury - Vet Treatment	Serious injury to an animal with Vet certificate but overnight stay not required
(Animal) Injury - No Treatment	Injury to animal but no vet treatment
(Animal) No Injury	No injury received

Legal Definitions

	any hurt or injury calculated to interfere with the health or comfort of the victim, but such hurt or injury need to be permanent but more than merely transient and trifling. R V
*Actual Bodily Harm	<i>Dorovan</i> [1934] 2 KB 488 at 509
**Grievous Bodily Harm	Crimes Act 1960 s4 includes: (a) the destruction (other than in the course of a medical procedure) of the foetus of a pregnant woman, whether or not the woman suffers any other harm, and (b) any permanent or serious disfiguring of the person, and (c) any grievous bodily disease (in which case a reference to the infliction of grievous bodily harm includes a reference to causing a person to contract a grievous bodily disease).