
Cessnock City Council

Revocation of Dangerous/Menacing Dog Declarations Policy

Date Adopted 21/07/2021 Revision: 1

1. POLICY OBJECTIVES

- 1.1. To provide a framework for a consistent and transparent assessment and determination of requests received to revoke a Dangerous or Menacing dog declaration as outlined within section 39 of the *Companion Animals Act 1998* (NSW) (the Act).
- 1.2. To ensure Council's statutory obligations and duty of care in relation to Dangerous or Menacing dog declarations are appropriately considered and maintained.

2. POLICY SCOPE

- 2.1. This Policy applies to Council officers delegated to handle and deal with dogs declared as Dangerous or Menacing under the Act which are ordinarily kept in the Cessnock Local Government area (LGA).
- 2.2. This Policy does not apply to any Dangerous or Menacing dog declaration made by the Local Court.

3. POLICY STATEMENT

- 3.1. Council is committed to its statutory responsibilities in relation to promoting appropriate ownership of companion animals and to ensure it is notified or otherwise made aware of the existence of all Dangerous, Menacing or restricted dogs within the Cessnock LGA.
- 3.2. Council has statutory powers to make declarations in relation to Dangerous or Menacing dogs and will take the appropriate action to ensure such declarations are made, enforced and reviewed in accordance with the Act.
- 3.3. The authority to revoke a Dangerous or Menacing dog declaration has been sub-delegated by the General Manager to Authorised Officers which align with Council's Register of Delegations and Authorisations.

4. APPLICATIONS TO REVOKE A DANGEROUS OR MENACING DOG DECLARATION

- 4.1. The owner of a dog that has been declared as Dangerous or Menacing under the Act may apply to the council of the area in which the dog is ordinarily kept (whether or not it is the council whose authorised officer made the declaration) for the declaration to be revoked.

- 4.2. An application 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.
- 4.3. All applications seeking to revoke a Dangerous or Menacing dog declaration for dogs ordinarily kept within the Cessnock LGA can only be made by the registered owner of the dog as identified on the NSW Companion Animals Register.
- 4.4. The application must be supported by a Current Temperament Assessment provided by a Qualified Animal Behaviourist. Evidence confirming the qualification of the assessor is also required to accompany the application.

5. ASSESSMENT AND DETERMINATION OF APPLICATIONS TO REVOKE A DANGEROUS OR MENACING DOG DECLARATION

- 5.1. The application will be assessed by an adjudication panel having considered the following:
 - 5.1.1. Information provided within the application;
 - 5.1.2. The information within the temperament or behavioural assessment and decision of the Qualified Animal Behaviourist;
 - 5.1.3. The nature of, circumstances, evidence and reasons for the declaration originally made;
 - 5.1.4. The history of the owner regarding responsible pet ownership. History of any dog attacks or complaints received regarding the dog since the original declaration, including complaints received by the council where the incident occurred;
 - 5.1.5. The manner in which the dog has been cared for and managed since the declaration was made;
 - 5.1.6. The nature and extent of any behavioural training that the dog has undergone;
 - 5.1.7. The nature of the physical surroundings, adjoining premises, fencing and/or enclosures at the property and where the animal is normally kept.
- 5.2. The adjudication panel provides a recommendation to Council's Authorised officers for final determination.
- 5.3. The adjudication panel will comprise of the following Council officers, all of which will be required to declare conflicts of interest, if any:
 - 5.3.1. Principal Ranger;
 - 5.3.2. Compliance Services Manager; and
 - 5.3.3. One independent team leader/manager of another Council department determined by the Principal Ranger.
- 5.4. The adjudication panel may request to inspect and witness the dog and its behaviour at a location acceptable to Council, e.g. park or owner's residence.
- 5.5. The adjudication panel is to review all available information and provide a recommendation whether to revoke the relevant declaration or refuse the application.
- 5.6. In making their determination, the Authorised Officer must have regard to the recommendation by the adjudication panel and the Section 23A Guideline on the exercise of functions under the NSW Companion Animals Act developed by the Office of Local Government.

- 5.7. The decision to revoke a Dangerous or Menacing dog declaration will only be made once the provisions of the Act are satisfied, i.e. Council is satisfied the dog is no longer a threat to the community based on the verification of a Qualified Animal Behaviourist.
- 5.8. A notice of determination is to be signed by an Authorised Officer and sent to the applicant/owner within twenty eight (28) calendar days of receiving the application for revocation of a Dangerous or Menacing dog declaration.
- 5.9. Where a decision is made to refuse the application, the notice of determination is to include the reasons for the refusal. In addition, Council will continue to monitor and enforce where necessary, the requirements of the declaration.
- 5.10. The notice of determination is to include a statement that under the provisions of the Act, an owner may appeal to the Local Court against a Dangerous declaration or against Council's refusal to revoke such a declaration. An appeal to the Local Court must be made within twenty eight (28) calendar days after the date the owner was made aware of Council's determination.

Note. No appeal lies to the Local Court against a declaration by an authorised officer of a council that a dog is a Menacing dog or against a refusal by a council to revoke a declaration that the dog is a Menacing dog.

6. RESPONSIBILITIES

6.1. Compliance, monitoring and review

- 6.1.1. Council's Principal Ranger is responsible for monitoring the implementation of this Policy including the proper revoking of relevant delegations and authorisations, to ensure it remains consistent with government policy and relevant legislation and that as far as practicable, its objectives are achieved.

6.2. Adjudication Panel

- 6.2.1. Assess applications for revocation of Dangerous or Menacing dog declarations.

6.3. Principal Ranger and Compliance Services Manager

- 6.3.1. Are Authorised officers of Council and perform the functions delegated by the General Manager
- 6.3.2. Sit as member on the adjudication panel for assessing applications for revocation of Dangerous or Menacing dog declarations.
- 6.3.3. Determine applications for revocation of Dangerous or Menacing dog declarations.
- 6.3.4. Update the NSW Companion Animals Register if a Dangerous or Menacing dog declaration has been revoked.

6.4. Reporting

- 6.4.1. An Authorised Officer of a council who revokes a declaration under this Division must give notice of the declaration to the Office of Local Government within seven (7) calendar days.

6.5. Records management

- 6.5.1. Staff must maintain all records relevant to administering this Policy in accordance with Council's Records Management policy.

6. POLICY DEFINITIONS

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| Act | <u>Companion Animals Act 1998 (NSW)</u> |
| Council | Cessnock City Council |
| Current Temperament Assessment | means a temperament or behavioural assessment carried out no greater than 30 days prior to the date the declaration revoke application is received by Council. |
| Dangerous dog | means a dog is that has been declared under the <i>Companion Animals Act 1998 (NSW)</i> as a dangerous dog and as defined by the meaning of “dangerous” under section 33 of the Act. |
| Menacing dog | means a dog that has been declared under the <i>Companion Animals Act 1998 (NSW)</i> as a menacing dog and as defined by the meaning of “menacing” under section 33A of the Act. |
| Qualified Animal Behaviourist | means an assessor who holds a <i>Certificate III in Dog Behaviour and Training</i> as a minimum qualification. |
| Authorised Officer | means an employee council authorised for the purpose of revoking Dangerous/Menacing Dog Declarations under the Companion Animals Act. e.g. Principal Ranger or Compliance Services Manager |

7. POLICY ADMINISTRATION

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|---|---|
| Business Group | Planning and Environment |
| Responsible Officer | Compliance Services Manager |
| Associated Procedure (if any, reference document(s) number(s)) | Nil |
| Policy Review Date | Three years from date of adoption unless legislated otherwise |
| File Number / Document Number | DOC2020/121882 |
| Relevant Legislation (reference specific sections) | <p>This Policy supports Council's compliance with the following legislation:</p> <p><i>Companion Animals Act 1998 (NSW)</i></p> <ul style="list-style-type: none"> • Section 33 & 33A • Section 39 • Section 41 <p><i>Local Government Act 1993 (NSW)</i></p> <ul style="list-style-type: none"> • Section 377 • Section 378 |
| Relevant desired outcome or objectives as per Council's Delivery Program | <p><i>A connected, safe and creative community</i></p> <ul style="list-style-type: none"> • <i>Objective 1.3: Promoting safe communities</i> |
| Related Policies / Policys / Procedures / Documents (reference document numbers) | <ul style="list-style-type: none"> • Section 23A Guideline on the exercise of functions under the Companion Animals Act • Records Management Policy (DOC2019/038769) • Compliance and Enforcement Policy (DOC2017/083408) • NSW Companion Animals Register |

8. POLICY AUTHORISATIONS

| No. | Authorised Function | Authorised Business Unit / Role(s) |
|-----|---|------------------------------------|
| | Select an independent member to sit on an adjudication panel in accordance with this Policy | Principal Ranger |
| | Assess and provide recommendations regarding applications for revocation of Dangerous or Menacing dog declarations in accordance with this Policy | Adjudication Panel |

9. POLICY HISTORY

| Revision | Date Approved / Authority | Description Of Changes |
|----------|---------------------------|------------------------|
| 1 | 21/07/2021 | New Policy Adopted |

10. Appendices

Nil