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## **SUBMISSION ON THE DOG CONTROL AMENDMENT BILL (NO 2)**

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### **1. Purpose of Report**

To seek Committee approval to the attached submission on the Dog Control Amendment Bill (No 2) to the Local Government and Environment Select Committee.

### **2. Recommendations**

It is recommended that the Committee:

- 1. Receive the information.*
- 2. Agree to the submission on the Dog Control Amendment Bill (No 2) attached as Appendix 1.*
- 3. Note that the Department of Internal Affairs is consulting (separately to the proposed Bill) on options for improving public safety under the Dog Control Act. Consultation closes March 31 and officers will prepare a submission for consideration by the Strategy and Policy Committee.*
- 4. Authorise the Chief Executive and Social Portfolio Leader to make any minor editorial changes to the submission required as a result of SPC discussion.*

### **3. Background**

#### **3.1 Overview**

In April 2007 the Minister of Local Government, Hon Nanaia Mahuta, asked the Department of Internal Affairs to consider options to improve the dog control regime in response to a fatal dog attack.

Cabinet agreed to a package of initiatives in late October 2007 which included:

- an amendment to the Dog Control Act 1996, and;
- the publication of a discussion document with policy options to improve dog safety.

### **3.1.1 Dog Control Amendment Bill (no 2)**

The Local Government and Environment Select Committee is calling for submissions on the Dog Control Amendment Bill (No 2) by 29 February. A proposed submission is attached as Appendix 1.

### **3.1.2 Improving public safety – policy options paper**

The Department of Internal Affairs (DIA) is consulting on a policy options document entitled *'Improving Public Safety under the Dog Control Act 1996'*.<sup>1</sup> This paper has a wider focus than the proposed Bill and will help the Government determine whether further legislative measures are required for the control of dogs. Consultation closes March 31. A draft submission will be prepared for consideration by the Strategy and Policy Committee.

## **3.2 The Dog Control Act 1996**

The object of the Dog Control Act 1996 (the Act) is 'to make better provision for the care and control of dogs:

- by requiring the registration of dogs; and
- by making special provision in relation to dangerous and menacing dogs; and
- by imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person, stock, poultry, domestic animal, or protected wildlife; and
- to make provision in relation to damage caused by dogs'.<sup>2</sup>

The Act requires local authorities to have a Dog Control Policy (s10) and empowering Bylaw (s20) in place. The Council's current Dog Control Policy was adopted in September 2004. The policy is due for review in 2009, (i.e. 5 years after its adoption) or sooner in response to legislative changes.

There are 8,500 registered dogs in Wellington. Sixty-five dogs or 0.7% of registered dogs are classified as menacing.

### **3.2.1 The Council's Dog Control Policy & Bylaw**

The Council's Dog Control Policy:

- identifies public places and parts of the district where dogs are prohibited, either generally or at specified times, places where dogs need to be controlled on a leash, and dog exercise areas where dogs may be exercised at large
- sets out criteria for achieving a responsible dog owner status
- sets out Council's commitment to educating residents about dogs
- lists offences under the Act and outlines enforcement
- specifies the nature of the bylaw

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<sup>1</sup> See: [http://www.dia.govt.nz/diawebsite.nsf/wpg\\_URL/Resource-material-Dog-Control-Index?OpenDocument](http://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Dog-Control-Index?OpenDocument)

<sup>2</sup> Section 4, Dog Control Act 1996.

- requires mandatory neutering of menacing dogs by virtue of breed / type in accordance with schedule 4 of the Act, and discretionary neutering for dogs classified as menacing due to behaviour
- outlines how fees will be set.

The Council's Animals Bylaw:

- empowers dog control officers to issue a notice to abate a dog nuisance
- prohibits diseased dogs or dogs on heat from being in a public place
- requires dog owners/handlers to remove and dispose of dog faecal matter
- identifies public places where dogs are allowed
- provides for the impounding of roaming dogs
- requires any owner who keeps more than three dogs (other than on a rural property) to obtain a licence.

## 4. Discussion

### 4.1 *The Dog Control Amendment Bill (No 2)*

Through the Bill the Government is seeking to address the following matters:

- provide flexibility for the Government to prescribe dog policy matters for councils to consider and address
- make it mandatory for dogs classified as menacing by virtue of belonging to a breed or type of dog (listed in schedule 4) to be neutered
- simplify the process for adding a breed or type of dog to schedule 4.

The scope of the proposed amendment is fairly narrow with the most significant change, the mandatory neutering of dogs classified as menacing due to breed / type, bringing the statutory regime into line with the Council's policy. A brief description of what's proposed in the amendment and a summary of key points in the Council's submission are set out below.

#### ***4.1.1 Provide flexibility for government to prescribe dog policy matters for councils to consider and address***

The Government proposal is to use regulations to prescribe dog control issues that the Council will need to consider and address through its Dog Control Policy. Where a regulation requires a change to be made to the Council's policy / bylaw the Council must employ the special consultative procedure within 12 months of the regulation being issued.

The use of regulations provides administrative ease for the Government, but arguably does not subject matters in proposed regulations to the same level of debate and scrutiny as an amendment to the Act might. The attached submission emphasises the importance of consultation with local government in the development of regulations.

#### **4.1.2 Make it mandatory for dogs classified as menacing by virtue of belonging to a breed or type listed in schedule 4 of the Act to be neutered.**

Under the Act a dog may be classified as menacing by a local authority due to its:

- breed or type (Schedule 4) or;
- behaviour / deed (threatening).

Local authorities presently have discretion under the Act to adopt a policy requiring all dogs classified as menacing (whether due to breed or type, or, behaviour) to be neutered. The proposed amendment will make it mandatory for dogs classified as menacing according to schedule 4 (due to breed or type) to be neutered.

The submission is supportive of the amendment which is consistent with the Council Dog Control Policy, and adopts a precautionary approach to reducing risks associated with aggressive dog breeds and types. The amendment also creates consistency across the country and thereby simplifies the registration system as menacing dogs are moved into the district and registered with the Council.

It is also noted in the submission that although neutering may reduce the likelihood of a dog demonstrating aggressive behaviour it can never eliminate the possibility entirely. Other factors are also significant, such as how the dog is raised, trained and the level of understanding of the dog behaviour by the owner and general public. Education and training are therefore important.

#### **4.1.3 Simplify the process of adding a breed or type of dog to schedule 4 (menacing dogs)**

Under the Act dogs are classified as menacing due to their breed or type; and may be classified as menacing due to demonstrating threatening/aggressive behaviour. Schedule 4 of the Act identifies the following breeds and types of dog as menacing:

- Breed: Brazilian Fila, Dogo Argentino, Japanese Tosa
- Type: American Pit Bull Terrier

The Bill proposes to make it easier for dogs to be added to schedule 4 via an Order in Council by removing the requirement for the House of Representatives to approve dog breeds/types dogs. The Act (s78C) includes a balancing measure that requires the Government to consult with local government and other stakeholders over a range of factors prior to adding or amending schedule 4.

The proposed submission supports the Governments plans to have the Perro de Presa Canario breed of dog added to Schedule 4 as a precautionary measure.<sup>3</sup> It also highlights that better data on dog attacks is needed to help inform any additions to schedule 4.

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<sup>3</sup> No dogs of the Perro de Presa Canario breed are known to be in New Zealand or Australia. (source: DIA)

## **5. Conclusion**

The Local Government and Environment Select Committee is consulting on an amendment to the Dog Control Act 1996. A proposed submission is attached for consideration by the Committee.

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## **Supporting Information**

### **1) Strategic Fit / Strategic Outcome**

*The Council has a statutory duty under the Dog Control Act 1996 to adopt a policy and bylaw on the control of dogs in Wellington and this paper supports Council's outcome '6.5 Healthier - Wellington's population will enjoy a healthy lifestyle and high standards of public health'.*

### **2) LTCCP/Annual Plan reference and long term financial impact**

*The Dog Control Policy and bylaw are monitored and enforced by the Property, Consents and Licensing Directorate under Activity 6.5.3 and are funded from the operating project C478 Public Health Inspection and Control. No long term financial impacts have been identified.*

### **3) Treaty of Waitangi considerations**

*No Treaty of Waitangi implications have been identified.*

### **4) Decision-Making**

*A proposed submission to the Local Government and Environment Select Committee is attached for consideration and approval by the Committee.*

### **5) Consultation**

*The proposed submission has been drafted by Council Officers.*

### **6) Legal Implications**

*No legal implications have been identified.*

### **7) Consistency with existing policy**

*The proposed submission is consistent with the Council's existing policy and comments on proposed government policy*

## **APPENDIX ONE**