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1. Introduction

The Wellington City Council welcomes the opportunity to comment on the discussion document *Improving public safety under the Dog Control Act 1996: Policy Options*. Wellington is a vibrant city and a great place to live, work, and play and the Wellington City Council wants to maintain and enhance Wellington's reputation as an internationally competitive city.

As a territorial authority the Wellington City Council (the Council) has a statutory duty to promote the environmental, economic, social and cultural well-being of the city and its people, and facilitate democratic local decision making. The Council recognises that the regulation of dogs is important to the safety and wellbeing of the whole community.

The Council believes that responsible dog control legislation and associated regulations, coupled with appropriately resourced enforcement and education is crucial for effective dog control. This submission reflects the Council's commitment to promoting the four well-beings (noted above) by advocating for a responsible dog control framework on behalf of the city's 180,000 residents.

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'.¹

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. There are 8,500 registered dogs in Wellington.

3. Overview

The Council considers that the Dog Control Act 1996 (and subsequent amendments in 2003, 2004, and 2006) generally provides the necessary range of tools to manage dogs in Wellington. The Council notes that the vast majority of dog owners in Wellington are responsible and abide by the Act and the Council's policy and bylaw. It is important therefore that a reasonable balance is struck between minimising harm and enabling responsible dog owners to 'get on' and enjoy their dogs.

The key issue with any legislative change is whether the intent of the proposal will have the desired effect, in essence, the improvement of safety around dogs and the minimisation of serious dog attacks. In this context, further legislative changes require careful examination of potential benefits against administrative difficulty and cost. As noted above the Council's view is that the legislative framework is generally sound and is effective when coupled with appropriately resourced enforcement. Further amendments to the legislation is unlikely to result in any significant gains in public safety.

The Council considers that improved safety outcomes can be achieved by focusing on consistent enforcement of the Act by Councils, improving data collection, and educating dog owners and the general public about how to stay safe around dogs.

¹ Section 4, Dog Control Act 1996.

4. Submission

The Wellington City Council submits the following matters:

The dog control legislation is adequate

1. The Dog Control Act 1996 and subsequent amendments provides the Council with a workable framework for the control of dogs in Wellington. The Council believes that additional legislation, apart from some minor amendments, will not result in improved safety around dogs (this is because the necessary controls already exist) but will instead impose further costs onto Councils and responsible dog owners.

Submission

The Council believes the Dog Control Act 1996 generally provides adequate controls to manage dogs.

A focus on education is required

2. The Council notes that more needs to be done to educate people about how to stay safe around dogs. While the Council focuses on grassroots education it lacks the resources to access mass media such as television. Central Government, therefore, has a vital role to play in raising general awareness about dogs in the community.

Submission

The Council recommends that the Department of Internal Affairs explore ways to raise awareness about dog behaviour and how to stay safe around dogs.

Improved information gathering

3. The Council shares the Department of Internal Affairs concern about the lack of robust data to support policy decisions. The Council notes information gathering requirements included in the 2003 Dog Control Amendment Bill were subsequently 'watered down' through the legislative process. The resulting legislation has left a gap in information needed to support robust policy interventions.

Submission

The Council recommends that the DIA consult with local government about information requirements to support policy decisions.

Option 1: Include Additional Breeds in Schedule 4 of the Dog Control Act

Q 1.1 What additional breeds of dog should be added to Schedule 4 of the Dog Control Act? Why?

4. The Council considers that a cautious approach should be adopted with respect to including any additional breeds or types of dogs to Schedule 4 of the Act.
5. Dog breeds and types listed in Schedule 4 are classified as menacing and are subject to import bans and muzzling requirements. Section 10 enables territorial authorities to adopt a policy that requires schedule 4 dogs to be neutered as a precautionary measure to help reduce (not eliminate) the risk of attack. This has been the Council's policy since 2004.² Neutering stops aggressive dogs breeding, reducing the number of aggressive dogs in the community.
6. Although the Council lends its support to the notion of neutering of menacing dogs due to their breed or type (identified in Schedule 4), it is not an unqualified support. Any dog has the potential to demonstrate aggressive behaviours. Any additions to the schedule, therefore, must be supported by robust data about dog attacks and aggressive tendencies in specific breeds.
7. The Department of Internal Affairs recently acknowledged that inadequate data is a significant issue which undermines the Government's ability to understand the overall nature and extent of the problem.³ Any move to include specific breeds or types of dogs to the schedule in this context would be unfounded and somewhat arbitrary.

Q 1.2 What should be the basis for identifying which breeds should be included in Schedule 4?

8. The Act (s78C) sets out a number of matters the Minister must have regard to and seek advice when considering adding a dog to schedule 4 – the matters are:
 - the tendency of the breed or type to exhibit aggressive behaviour; and
 - the tendency of the breed or type to attack; and
 - the risks to public safety if the breed or type is not listed in Schedule 4 (if any); and
 - the companion value of the breed or type (if any); and
 - the classification and experience of the breed or type in any other country; and
 - any other matters that the Minister considers relevant.
 - The Minister must consult with a range of stakeholders, including local government.

The Council considers that the requirements placed on the Minister are reasonable.

9. However, as already noted, better data is required to help inform any decisions made by the Minister in consultation with local government and other stakeholders. Data must be collected locally and collated nationally to determine trends in dog attacks, and breeds associated with attacks. The Council is supportive of further consultation about measures (and likely costs) to improve data collection.
10. A close watch needs to be kept on any studies that help to better understand particular dogs and breeds predisposition towards aggression.

² The Dog Control Amendment Bill (No 2) proposes mandatory neutering of all dogs included in Schedule 4.

³ Paper to the Cabinet Business Committee – October 2007

11. The Council notes that 33 dogs (out of 8500 registered dogs in Wellington) are classified as menacing by virtue of belonging to a breed or type listed in Schedule 4. Should further breeds / or types of dogs be added to the schedule the costs and administrative complexity for the Council will increase. Such measures may also result in some dog owners purposely registering their dog as another breed, or failing to register altogether to avoid the impact of the schedule.

Submission on option 1

The Council submits that better information (robust data such as trends in dog attacks and breeds associated with attacks) is necessary before any further breeds are added to schedule 4.

The Council believes the matters the Minister must consider, including the requirement to consult with local government and other stakeholders, are appropriate for determining which breeds to add to Schedule 4.

The Council submits that the Department of Internal Affairs must keep a 'watching brief' on scientific research relating to aggression in dogs.

Option 2: Destruction of Dogs Classified as Dangerous

Q 2.1 Do you think the current controls imposed on dangerous dogs are sufficient to control such dogs? Q 2.2 Are the behaviours that determine whether a dog is dangerous appropriate as a measure of the risk the dog poses to society? Does the list of behaviours need to be changed? If so, what would you propose?

12. The Council considers that the Act generally provides a robust set of controls to manage risks associated with dangerous dogs. The current controls (s 32) for dogs classified as dangerous are:
 - Owner must ensure it is securely fenced
 - Dog must be muzzled in a public place
 - Dog must be controlled on a leash (except in a dog exercise area)
 - Dog must be neutered
 - Owner must not transfer the dog to another owner without written consent of the territorial authority
 - Owner must pay a fee at 150% of level that would apply if the dog was not classified as dangerous.
 - A dog classified as dangerous applies across the country

13. However, the Council considers that more could be done to identify dangerous and menacing dogs to the public, and recommends that two further controls be introduced:
 - *Visual marker* – the Council recommends that a visual marker, such as a coloured collar, that helps to identify dangerous and menacing dogs be introduced.
 - *Signage – dangerous / menacing dog at address* - The Council recommends that owners of menacing and dangerous dogs be required to display a notice at the gate / main entrance to a property that a dangerous or menacing dog is kept at the address.
 - *Dog owner may be required to undertake dog obedience / behaviour training*- territorial authorities have discretionary powers to require a dog owner with a probationary status to undergo dog obedience training. The Council recommends this discretionary power be extended to cover owners of menacing and dangerous dogs.

14. Dogs are classified as dangerous as a precautionary measure, where the dog's observed behaviour (e.g. rushing), is considered to be threatening. The Council considers the behaviours that trigger a dangerous classification, set out in section 31 below, provides appropriate criteria for the classification of dangerous dogs. Councils must classify as dangerous, any dog:
 - in respect of which the owner has been convicted of an offence under section 57A(2) of the Act (i.e. rushing at persons, animals or vehicles)
 - which the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions, reasonable grounds to believe constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife
 - that the owner admits in writing constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

15. It is the Council's experience that once a dog is classified as dangerous the dog owner generally takes responsibility to comply with the obligations of the dangerous classification. Further, there has been no evidence gathered that the Council is aware of that suggests that dogs classified as dangerous cause recurring problems. Further analysis is required in this area.

Q2.3 Do you support or oppose the mandatory destruction of all dogs classified as dangerous? Why or why not?

16. The Council considers that the prevailing legislation provides a robust process for the classification of dangerous dogs and places strict controls on the dog owner to manage a dangerous dog at home and in public places. The classification is a precautionary measure and should not be applied to lead to mandatory destruction.
17. If a dangerous classification with a mandatory destruction was adopted, it would be a very difficult policy for the Council to implement and enforce – as dogs would likely go ‘underground’.
18. The Council notes that where any dog attacks and causes serious harm the Courts may make a destruction order for the dog.

Submission on option 2

The Council considers the criteria that determine whether a dog is dangerous are generally appropriate, but that more could be done to alert the public to dangerous and menacing dogs. The Council recommends that:

- Menacing and dangerous dogs be required to wear a visual marker such as a coloured collar
- owners of menacing and dangerous dogs be required to display a notice at the gate / main entrance to a property that a dangerous or menacing dog is kept at the address
- local authorities be granted discretionary powers to require a dog owner (with a menacing or dangerous dog) to undergo dog obedience training.

The Council does not support the mandatory destruction of dogs classified as dangerous.

Option 3: Increase the controls on dogs classified as menacing to the level of controls for dogs classified as dangerous

Q 3.1 Do you think the current obligations on owners of dogs classified as menacing are sufficient? Q 3.2 Do you support or oppose elevating the level of control on dogs classified as menacing to the level of control on dogs classified as dangerous?

19. The distinction between a dog classified as menacing or dangerous is based on an assessment of risk to public safety of a particular dog. For menacing dogs this is a consideration of its breed or type, or its observed behaviour. For dangerous dogs, the assessment is based on the observed behaviour of the dog (including a conviction for rushing at a person, animal or vehicle) or the dog owner advising in writing that the dog represents a threat to public safety.
20. The current obligations on owners of dogs classified as dangerous and menacing are set out in the table below. The degree of risk to public safety is intended to be reflected in the level of controls placed the dog owner for each classification.

Controls for dangerous dogs (section 32)	Controls for menacing dogs (Section 33E)
Owner must ensure it is securely fenced	
Dog must be muzzled in a public place	Dog must be muzzled in a public place
Dog must be controlled on a leash (except in a dog exercise area)	
Dog must be neutered	Discretionary (Dog may be required to be neutered by virtue of its breed or type identified in schedule 4 – depending on local authority policy or because of demonstrating aggressive behaviour (33A))
Owner must not transfer the dog to another owner without written consent of the territorial authority	
Owner must pay a fee at 150% of level that would apply if the dog was not classified as dangerous.	

21. The Council considers that the containment controls for menacing dogs should match those of dangerous dogs, i.e. that the owner must ensure that a menacing dog is securely fenced to provide added certainty for the community that menacing dogs are adequately contained on private property.

Submission on option 3

The Council recommends that the containment standard for menacing dogs match that of dangerous dogs in order to provide certainty for the community that menacing dogs are adequately contained on private land.

Option 4: Mandatory Neutering of Dogs Classified as Menacing under Section 33A

Q 4.1 Should dogs classified as menacing under section 33A of the Dog Control Act also be required to be neutered? Why or why not?

22. The Council's policy, since 2004, has been to require the mandatory neutering of dogs classified as menacing due to breed (s33C), while retaining discretion for neutering due to 'deed' (behaviour – s33A). Of course, neutering of a dog is not an instant cure all for behavioural issues, and other factors such as owner education and the environment the dog is raised in are important. However, neutering of dogs is deemed to have benefits in terms of health, behaviour and population control. Neutered dogs are generally less likely to roam, demonstrate territorial behaviours such as marking, and other less desirable behaviours such as aggression.
23. The Council considers that mandatory neutering for dogs classified as menacing by virtue of demonstrating aggressive behaviour is, in the majority of circumstances,⁴ an appropriate precautionary measure to help prevent harm. However, the Council considers it useful to retain discretion to neuter, as every case is judged on its own merits. In some cases a dog may be too old, or in poor health, or the situation is such that neutering is not considered beneficial.

Submission on option 4

The Council supports the retention of discretionary neutering of dogs classified under section 33A, as each case is judged on its own merits.

⁴ Council acknowledges however that in some circumstances mandatory neutering may not be appropriate, for instance due to a dog's age or health etc.

Option 5: Owner Licensing

Q 5.1 Do you support owner licensing? Q5.2 Should all owners be licensed? Q.5.2B Should licensing be targeted in some way?

24. All dogs owners are required to register their dogs annually. The vast majority of dog owners comply with this requirement. However, in any regulatory environment there will be those who attempt to avoid and/or subvert the system and dog control is no exception.
25. In this context the proposal to introduce a licensing regime for dog owners is essentially targeted at a very small population of dog owners who fail to take their responsibilities towards dog ownership seriously. Such dog owners attempt to avoid registering their dog(s) and seek to operate outside the framework of the Act. A licensing system would not prevent this behaviour from occurring or improve public safety; instead the Council considers the proposed requirement for all dog owners to be licensed will introduce administrative complexities and significant costs for little/no benefit.
26. Licensing owners effectively penalises responsible dog owners and any costs associated in operating a licensing system would likely fall to local government and would need to be passed on to dog owners.
27. The Council notes that the idea was previously considered in 2003 by an Ad Hoc Ministerial Group on Dog Control and discarded on the basis that it would make it 'more difficult to legally own a dog and could increase illegal dog ownership'.
28. The Council considers that the Act provides the necessary tools and penalties for dog owners who fail to register their dogs and notes that the Act provides other tools to target irresponsible dog owners, such as disqualification.

Q 5.3 Should dog breeders be licensed?

29. No. Most people do not get their dogs from a breeder, rather they purchase through the local paper, website, their neighbours etc. Established breeders are in effect already licensed through the New Zealand Kennel Club.

Q.5.4 Should the licence administration be carried out by individual councils or by a central authority? Q 5.5 How should owner licensing be funded?

30. The Council does not support a licensing system for the reasons outlined above. If a licensing system was introduced the Council considers that the dog owners should apply for their licence at the time of registering their dog, and therefore each Council should licence owners. However, the system of licensing should be maintained centrally and be funded by a levy on dog owners.

Submission on option 5

The Council does not support owner licensing and believes it will not improve public safety; rather it will introduce administrative, monitoring and compliance costs for Councils while unfairly penalising the majority of dog owners who abide by the Act.

The Council notes that the Act provides other tools to target irresponsible dog owners, such as disqualification. The Council submits that the Department of Internal Affairs investigate how to better capture this classification in the National Dog Database so that disqualified owners are more easily identified across territorial boundaries.

Option 6: Councils may require proof of breed

Q 6.1 Do you support this approach?

31. The Council does not support this approach. Dog owners note the dog's breed at the point of registration and supplying false information is an offence under the Act.
32. Where a dog is purchased through a local paper, website, or from friends, dog owners are unlikely to be able to produce official papers stating the breed. Determination of a breed in such cases relies on the expertise of animal control officers.
33. The current listing of 3 dog breeds and 1 type of dog in Schedule 4 makes the administration of breed specific legislation manageable.
34. The Council notes that DNA is used in some Australian jurisdictions to determine breed. This approach provides reliable information, but would require investigation into the feasibility and costs of using it in New Zealand.

Q 6.2 In what circumstances would it be appropriate for councils to require evidence of breed, or to determine the breed of a dog if no evidence is produced?

35. In cases where an animal control officer considers that a dog's breed has been incorrectly stated on the registration. The use of a centrally determined matrix is a useful tool for animal control officers when making a decision about a crossbreed dog.

Q 6.3 Would a broader threshold for breed and type classification of a Schedule 4 breed or type of dog, such as "significantly" or "noticeably", enable councils to improve public safety around dogs?

36. The Council considers that the current wording which states 'wholly or predominately of 1 or more breeds or types listed in schedule 4' provides the necessary threshold for determining a dogs breed or type. The Council also supports provisions in s33D for a dog owner to object to a classification made under s33C and notes that the onus is on the dog owner to provide evidence to support their objection.

Q 6.4 Can you suggest alternative ways of resolving difficulties in identifying a dog's breed?

37. The most conclusive method appears to be DNA noted above.

Submission on option 6

The Council considers that proof of breed is adequately managed on an exceptions basis by animal control officers.

The Council notes that DNA testing is used in other jurisdictions – the Department of Internal Affairs should consider investigating feasibility of DNA technology in the New Zealand dog control regime.

Option 7: Probationary owners to surrender dogs classified as dangerous or menacing

Q7.1 Should owners who have been placed on probation retain responsibility for dogs classified as dangerous or menacing?

38. Where a dog owner is convicted of a dog related offence (other than an infringement offence) that person may be disqualified for up to 5 years from owning a dog and be required to dispose of the dogs within his or her care within 2 weeks. Alternatively, under the current law, the dog owner may be given a probationary status which prevents the person from taking on new dogs for up to two years and requires that unregistered dogs in the care of the owner be disposed of. Dogs already registered with the owner remain with the owner.
39. The Council considers the proposed requirement for probationary owners to surrender dogs classified as dangerous or menacing to be an appropriate measure to reduce potential harm. Such dogs need to be managed in a responsible manner.
40. As a general comment it has been the Council experience that the vast majority of dog owners are responsible and take their duty of care towards their dog(s) seriously.
41. However, it is important that the Act provides tools to remove dogs from irresponsible owners. The Council notes that in this regard the probationary status is seldom used (if ever) by Councils in the Wellington region. Rather the preference is to disqualify dog owners that are identified as being unfit for the care of dogs. This could suggest that the probationary status, intended as a 'softer' option to disqualification, is considered redundant in practice.

Submission on option 7

The Council supports the requirement for probationary owners to surrender dogs classified as dangerous or menacing.

The Council notes that the probationary status is seldom used. It seems that Councils are opting for the harder hitting effects of the disqualification status.

Option 8: Increase dog containment standard

Q 8.1 Should dog owners' responsibilities for ensuring the security of their dogs be made clearer and more explicit?

42. The Council considers the responsibility of owners to control dogs is clearly stated in the Act. The Act places an obligation on dog owners to keep their dogs under control at all times (s52). The act also requires dog owners to provide proper care and attention of their dogs, ensuring that their dog receives sufficient food, water, shelter and exercise.
43. When a dog is on an owner's property it is required to be under the direct control of a person or confined to the land or premises so that it cannot freely leave. If a person fails to comply with this requirement a dog control officer may seize and impound the dog. A dog owner may also be liable for fines for failing to control/contain a dog.
44. The dog containment standard provides flexibility for dog owners to contain dogs in such a way that fits the nature of the property. However, more certainty could be provided about acceptable methods for containing dogs. Note that the Council considers it an unreasonable requirement for all dog owners to fence their properties. Such a requirement would load unnecessary costs onto responsible dog owners and the Council in form of compliance and monitoring work.
45. Where containment of a dog is considered inadequate, for example, where dog control officers respond to complaints of a roaming dog, the Council works with the dog owner to ensure measures are put in place to prevent the dog freely leaving the property.

Q 8.2 Should the standard for containment of dogs be increased?

46. As noted above the Council believes the dog containment standard is generally adequate, but that more guidance and educational material could be provided to dog owners about best practice for containing dogs.
47. As noted in option 3, the Council considers that the containment standard for dogs classified as menacing should be increased to the standard of dangerous.

Submission on option 8

The Council believes the Act makes it clear that dog owners must contain their dogs and provide proper care to the dog in doing so. However the Council recommends that the Department of Internal Affairs develop dog containment guidelines which set out best practice options for dog owners.

Option 9: Round up and faster destruction of unregistered dogs

Q 9.1 Should councils be required to round up unregistered dogs?

48. The Act places clear obligations on dog owners to register dogs and provides territorial authorities with the necessary tools to manage unregistered dogs. For example it is an offence under the Act (s42) to fail to register a dog, and territorial authorities have powers to issue infringement fines, and dog control officers may enter on to private land to seize and impound unregistered dogs. The Council considers it has a duty to follow up on unregistered dogs in the district as the Act is presently drafted.

Q 9.2 Should councils be able to destroy unclaimed, unregistered dogs in less than seven days? Q 9.3 If not, what should the minimum period be?

49. The holding period for an impounded dog has progressively reduced over time from 21 days, to 14 days, and presently stands at 7 days. The Council considers that 7 days is a reasonable period of time for the recovery of an impounded dog. Any further reduction in time may result in dogs being destroyed before their owners can retrieve them.

50. Further, the Council notes that important issue about impounding is that it results in roaming, unregistered dogs and dangerous dogs being taken out of the public domain. In this context the focus is on public safety, not on how quickly a Council can destroy a dog.

Submission on option 9

The Council considers that territorial authorities already have a duty to follow up on unregistered dogs and that this is a reasonable expectation implied in the current legislation.

The Council recommends that the minimum period of 7 days be retained before an unclaimed dog can be legally destroyed.

5. Conclusion

The Wellington City Council is supportive of measures to improve dog control in the interests of community wellbeing. This submission outlines the Council's views on how the framework for Dog Control in New Zealand can be improved.

Thank you for the opportunity to comment on the consultation document.

Yours Sincerely

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