

3. PROPOSED CHANGES TO THE DOG CONTROL ACT 1996

Officer responsible Director of Policy	Authors Terence Moody, Environmental Health Policy Leader, DDI 941-8834 Mark Vincent, Team Leader Animal Control, DDI 941-7041
--	---

The purpose of this report is to report on the proposed amendments to the Dog Control Act 1996 and the effects these may have on dog control operations by this Council and suggest matters on which submissions may be made.

CONTEXT

Some high media coverage attacks by dogs led to the Minister of Local Government, the Honourable Chris Carter, proposing some urgent amendments to the above Act through a Supplementary Order Paper. This was introduced into the House on 29 April 2003 this is associated with the Local Government Reform Bill (No 2), which contained provisions for the restrictions on certain breeds of dogs, notably at that time American Pit Bull Terriers. This Council made submissions on these provisions and requested that other breeds of dogs be included in the provisions. Most of these have now been included in the Supplementary Order Paper. The other matters raised at that time, a charge for persons objecting to classifications has been included in the attached draft submission, and the increase in the level of fines is included in the Order Paper. The closing date for submissions to the Local Government and Environment Select Committee has been set as 20 June 2003.

Local Government New Zealand has set up a Local Government Dog Control Project Team to examine the matter of increased dog control measures and Mr Vincent (one of the authors of this report) is a member of that group. To date the Project Team has considered a number of matters and is working on three main streams. The development of education programmes which will be taken up by the Department of Internal Affairs on a nation wide basis, subject to finance being made available by the Government. A "Best Practice Guide" including national procedures, for territorial authorities is being prepared by Local Government New Zealand. The third stream is examining the proposed legislative changes. It is expected that the Project Team will have completed its work, with the Guide and the public education campaign able to be used towards the end of 2003 or early in 2004.

PROPOSED CHANGES TO THE DOG CONTROL ACT 1996

There are a number of significant changes proposed to the Act at this time some of which may require additional resources within the Animal Control Section if they are to be implemented. It is expected the above Local Government Dog Control Project Team will have some input into the further development of the legislative changes.

There are a number of changes to the levels of penalties for a number of offences under the Act and in the infringement fees. In most cases the first have doubled, from fines of up to \$1,500 to \$3,000 but in a few cases the fines have risen much more. In the case of a dog causing serious injury to a person or protected wildlife upon conviction the possible term of imprisonment rises from three months to three years and the fine from \$5,000 to \$20,000. In the case of infringement fees these have been raised from a range of \$100 to \$400 to a range of \$250 to \$1,000 depending on the offence set down.

The suggested amendments include a change to section 10 of the Act suggesting new criteria, which the local authority must consider in adopting a policy on dogs. The clause requires that any existing policy or bylaw must be reviewed by 1 July 2004 in light of the new criteria. The words that are proposed to be added and which the Council must have regard to are as follows:

- (b) *the need to avoid the inherent danger in allowing dogs to have uncontrolled access to places that are frequented by children, whether or not the children are accompanied by adults; and*
- (c) *the importance of enabling the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs;*

The requirement to have regard to the exercise and recreational needs of dogs and their owners remains.

The category of probationary dog owners has been abolished but a new category of potentially dangerous dogs has been introduced. Dogs so classified are required to be muzzled in public and the category includes any of the prohibited breeds, either wholly or predominantly. These four breeds are the American Pit Bull Terrier, the Brazilian Fila, the Dogo Argentino and the Japanese Tosa. The prohibition on the import of such breeds, their semen or embryos came into effect on 28 April 2003. Provisions exist to enable further breeds or types to be added to the list by Order in Council. Provisions remain for the muzzling requirement on classified dangerous dogs that applies to any breed of dog with a record of aggressive behaviour or a conviction of its owner for the dog attacking persons or animals.

From 1 July 2006 it is proposed that all dogs registered for the first time will require to be implanted with a microchip transponder for permanent identification. Also from that date it will be a requirement for dogs on an owner's land to either be under the direct control of a person or contained within a securely fenced portion of the property. This requirement will apply to all dogs and the fenced portion must be such as to allow free access to one door of the dwellinghouse where any person does not become accessible to the dog.

The proposed amendment also changes a number of sections to allow dog control officers or dog rangers to enter onto private property to seize and impound dogs. This will apply in cases where dogs are unregistered; where the dog has been at large in a public place or on someone other than the owner's property; where on the owner's property it is not under control of a person or is not securely contained on the property; and where the dog has attacked a person or animal. In the latter case the Act already allows a person being attacked to destroy the dog, as can any person witnessing an attack on a person or animal, or a dog control officer or dog ranger if seizure is not possible.

DISCUSSION

The proposal to increase the level of fines and infringement fees should probably be supported as these increases more clearly indicate the seriousness the offences are considered. The levels, at least of the fines, depend ultimately on Judges hearing the cases and such levels often set on factors related to the ability to pay of the offender. In the case of the infringement fees some are at such a level that it is likely that the offender would be unable to pay and hence the cases may have to be dealt with by the Court. Currently approximately just over 3% of infringement notices are paid without further action and around 68% have gone to Court. This therefore may be an area where, if serious enforcement is undertaken, the Council through its Animal Control Section may face increased expenditure.

In regard to the suggested changes to producing a dog control policy it is unclear what effects this may have on the Council. Currently the Council is examining amendments to its dog control policy in which the matters now proposed to be included in section 10 have been considered. These suggested amendments are already in the public arena and the special consultative procedure required by the current Act is underway. Depending on how one defines the term "uncontrolled access" and what is meant by "without fear of attack or intimidation" it may well be that the work that the Council already has done would satisfy the criteria. It has been suggested at a previous Committee meeting that provisions should be included to enable dogs to be controlled on a leash in all public places and this could be included in the submissions on the amendments. It is not clear how the fulfilment of the requirement to make provision for the recreational needs of dogs and their owners would be satisfied in such circumstances. Given the wide use of extendable dog leashes (which appear to allow dogs to be some metres away from the person "controlling" the dog) it is unclear how this would minimise the "fear of attack and intimidation". It would possibly allow those dog owners who wish to appear intimidating (many with large dogs) to argue compliance with the word of the law despite not being in compliance with the spirit of the law.

The provision enabling the classification of potentially dangerous dogs which would require to be muzzled in public places could lead to a significant increase in sales of dog muzzles. The four prohibited breeds, and their crosses, will be included, as a requirement of the Act and the survey undertaken by the Department of Internal Affairs has identified at least 10 other breeds involved in attacks on people.¹ It should be noted that only about half the responses to that survey regarding dog attacks on people mentioned the breed involved but the number of breeds mentioned include the following: Staffordshire Bull Terriers; German Shepherds; Labradors; Bull Terriers; Rottweilers; Pit Bull Terriers; Fox Terriers; Collies; Jack Russell Terriers; Bull Dogs; Boxers; Rhodesian Ridgebacks; Mastiffs; and Australian Cattle Dogs. In Christchurch the breeds involved in attacks on people are similar but with the addition of Siberian husky and Doberman. The criteria for classifying "potentially"

¹ Department of Internal Affairs, *Survey Of Territorial Authorities On Dog Control Issues – Interim Report*, March 2003

dangerous dogs include not only an objective one of “observed or reported behaviour of the dog” but also a rather subjective measure “characteristics typically associated with the dog’s breed or type”. On the basis of the reported attack data all of the above breeds would seem to have such characteristics and could therefore be described as “potentially dangerous”. As this is a matter that has appeal rights associated with it certainty as to the criteria would be needed. It may be that the Local Government New Zealand Dog Control Project Team will be examining some measurable objective criteria to be used in applying this requirement.

The provisions requiring micro chipping of all newly registered dogs from 1 July 2006 will also have some financial implications for the Council. It is not clear at present how the entry of the records will be undertaken or where the national database will be housed and what on-going costs will be placed on access to that. If it were only applying to newly registered dogs it would take a considerable time to cover the total dog population. Currently new dog registrations in Christchurch City per year are about 16% of total registered dogs. On that basis it would take about six years before all registered dogs were covered from the currently proposed start date of 2006. It may be that it should apply to all dangerous dogs and those classified as potentially dangerous dogs much sooner than 2006. Most reading devices for microchips require close approaches to the animal and this is seen as a limiting factor in the usefulness of the process. If it required veterinarians to undertake implantations this may be an expensive process for owners but quite lucrative for the industry. The identification of the appropriate nationwide registration system, the type of microchip and reader, and the cost of maintenance of the register and the ability to access these have not yet been determined.

The requirements for fencing have very large financial implications, both to the property owners and the Council. The Council will be aware of the significant costs involved in enforcing the swimming pool fencing legislation. In examining this latter matter a survey² of 200 properties (where the property was inspected and the pool made to comply or removed, including some re-inspections) the time involved ranged from 25 to 195 minutes with an average per property of 53 minutes. If every premises housing dogs (24,000 estimated) was inspected on the above average basis the time involved would be in the order of about 21,200 hours or 16 FTEs to undertake the work. At an hourly rate of \$50 this could cost in the order of \$1M! As a similar level of fencing requirement exists under the criteria for Responsible Dog Owner Status the inspection time may be significantly reduced. If the average inspection time was halved it could still be in the order of 8 FTEs to do the work. These costs do not take into account the possibility of undertaking legal action in cases of non-compliance. The Local Government Dog Control Project Team has expressed some concern regarding this requirement, not only on the basis of the resource implications, but also on the basis that it is likely to bring negligible benefits. They point out that the presence of a fence or enclosure will not force owners to keep their dog within that area. The reduction of the quality of life for dogs through such containment is perceived and the concern has been expressed that this treatment may contribute to increased behavioural problems that could exacerbate dog problems rather than ameliorate them.

Staff

Recommendation: That the attached submissions be approved for sending to the Select Committee by the 20 June 2003 with a request to be heard in regard to these.

Chairman’s

Recommendation: For discussion.

² User Charges in Relation to the Administration of the Fencing of Swimming Pools Act, Regulatory and Consents Committee, Christchurch City Council, 2 December 2002