4. COUNCIL SUBMISSION ON IMPROVING PUBLIC SAFETY UNDER THE DOG CONTROL ACT 1996

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PURPOSE OF REPORT

1. The Department of Internal Affairs has instituted a review of the Dog Control Act 1996, the purpose of the Act being to make for better provision for the control of dogs. As part of the review public comment has been sought seeking input as to how to further improve dog control and public safety around dogs.

2. Council staff have reviewed the discussion documentation and staff advice is attached (see Appendix A) in the approved submission format for consideration by the Council.

EXECUTIVE SUMMARY

3. In response to recent dog attacks the Department of Internal Affairs was directed by the Minister of Local Government to consider options to improve dog safety and control, while maintaining a balance between the interests and freedoms of responsible dog owners with the need to protect the general public from harm from dogs. In October 2007 the Government decided on a package of initiatives, one of which was to publish a discussion document summarising a number of ideas that have been identified to improve dog safety and control and requesting public feedback on these ideas. The ideas presented in the document relate to measures to manage risks to the public associated with dogs. Should any of these ideas be pursued they would likely require further changes to the Dog Control Act 1996. They would also be likely to create costs for councils and therefore dog owners and/or ratepayers. The Government is seeking input about these ideas before it decides to develop them further. The discussion document outlines nine options and with each option raises questions respondents are asked to consider. The options and associated questions are worked through below.

4. It is recommended that, as a general principle, the Council should not support breed specific legislation. However, as the current legislation identifies three dog breeds and one dog type (as specified in Schedule 4) of the Dog Control Act 1996, that have been banned from importation into New Zealand, it is recommended that the dog breed, Presa Canario, be added to Schedule 4 of the Dog Control Act. This recommendation is based on the fact that as there is expert overseas evidence of extensive aggression demonstrated by dogs of this breed and on the basis of the evidence presented to DIA. In addition this breed is not currently in New Zealand and based on the evidence it would be opportune to discourage it entering the country.

5. It is recommended that Council should not support the mandatory destruction of dogs classified as dangerous. The current controls imposed on dangerous dogs are sufficient to control such dogs and these would be more effective if there was a consistent application of those controls across the country. Mandatory destruction of dogs classified as dangerous is not supported as it may result in enforcement officers scaling down the classification from a “dangerous dog classification” to a “menacing dog classification” to avoid the destruction option as proposed. The current legislative framework provides a range of options to staff to deal with dogs classified as dangerous such as neutering, secure fencing, muzzling and leashing in public, higher registration fees and Council approval of dog being given to other people. Staff suggest that the legislation should be amended to specify that all dangerous dogs are required to wear a distinctive reflective collar and that the owners property be required to have clear signage indicating a dangerous dog ‘in residence’. Both the collar and signage would be required to meet nationally set standards.

6. It is recommended that the Council should not support an elevation of the controls on dogs classified as menacing to the level of controls for dogs classified as dangerous. Staff consider the current ‘risk factor matrix’ utilised by officers to determine the classification is very effective. With this approach officers review factors such as degree of injury, type of victim (ie human, animal etc) situation of incident, impact on the victim, circumstances relating to the offence, minimum action the officer will take.

7. It is recommended that Council should not support the mandatory neutering of all dogs classified as menacing as this issue is not breed specific. However it is recommended that the Council should support the mandatory neutering of all dogs classified as menacing as long as the classification is based on dog behaviour not breed; this would require a change in the legislation. Dogs that demonstrate aggressive tendencies should be neutered to stop them breeding. There is also supportive evidence indicating that neutering can reduce the aggressive tendencies in some dogs.

8. It is recommended that the Council should not support the initiative of licensing all owners, as responsible dog owners would have to pay for the cost of this scheme primarily for irresponsible dog owners. Licensing all owners is impractical and would not have any real enforcement benefits and would not enhance public safety. Effectively the dog owner is licensed now, as they provide their details on registration of their dog and information through responsible dog owner application. Targeted owner licensing, focused on 'high risk' dogs which demonstrate aggressive tendencies, is considered a more appropriate approach as this would focus animal control staff on the problem dogs and their owners and thereby provide for better utilisation of Council resources. Should the Government introduce owner licensing then staff recommend that this be funded and operated by Central Government as there are insufficient local resources to implement such a scheme and its lack of outcome value would make it a very low priority for Animal Control Enforcement.

9. It is recommended that the Council should not support the proof of breed requirement. The only time breed matters is when a dog is classified on breed; breed per sé does not determine if a dog is menacing or dangerous. Evidence of breed may only be appropriate where there is discussion on whether the dog is considered a Schedule 4 dog, and in such circumstances the owner can object to this and would need to provide proof of breed. Animal Control staff recommend to the Council that a broader threshold for breed and type of classification would not enable the Council to improve public safety round dogs. Such an approach dilutes a breed based classification.

10. It is recommended to the Council that an owner placed on probation should be able to retain their dog(s), as any alternative actions may be in conflict with a court decision where they are permitted to retain the dog (unless that part of the Act was also amended). In addition it is considered that the surrender of dogs by probationary owners may have the negative impact of driving the ownership of high-risk dogs underground.

11. It is recommended that the Council should support a general initiative to increase dog containment standards for dogs classified as menacing or dangerous. Section 52A is sufficiently clear and gives dog owners options on how to contain their non classified dogs (ie not classified as menacing or dangerous). Staff believe that dog owner education is the key to generally resolving wandering dog matters for unclassified dogs. However in relation to dogs classified as menacing or dangerous, there is a need to decrease the potential contact and intimidation between menacing and dangerous dogs and the public. It is recommended to the Council that a new clause 52A(2A) under section 52A(2) be included to read:

    (2A) If a dog has been classified as dangerous or menacing then the owner of the dog must, at all times, ensure that it is controlled on a leash or confined within a securely fenced portion of the owner's property, set back from the street frontage or public access areas.

    Section 52A(2) would also need to be amended to read: The owner of a dog [that has not been classified as dangerous or menacing] must, at all times, ensure that ....

12. It is recommended to the Council that the current legislation is adequate and there is no need for a change in the Act to include round-up and faster destruction of unregistered dogs. To improve the application of the Act it is considered that territorial authorities need to enforce the legislation relating to unregistered dogs properly and consistently across the country. It is recommended that the current timeframe of a minimum of seven days for destruction of unclaimed unregistered dogs is not changed, as this is currently working effectively and has the ability to accommodate a wide range of situations faced in the animal control process.

FINANCIAL IMPLICATIONS

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

13. The submissions as recommended with no significant financial implications for the Council.

LEGAL CONSIDERATIONS

Have you considered the legal implications of the issue under consideration?

14. Yes. There are no legal implications arising from the DIA discussion document, and for the Council in making submissions on the discussion document. The Legal Services Unit has considered whether any issues arise under the New Zealand Bill of Rights Act 1990 in relation to the suggestions in the document around the licensing of dog owners, but consider that none arise. In any event this is an issue that must be considered by Central Government before implementing any changes to the legislation, such as introducing licenses for owners. When, and if, amendments to the Dog Control Act are made following this process then the exact nature of the amendments will be clear and there will be the ability for the Council to make further and, where necessary, more detailed submissions.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

15. Yes. The submission detailed supports the Council's Regulatory Services activities, which includes minimising potential hazards and nuisances from dogs (page 145 of the LTCCP, level of service under Regulatory Services).

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

16. Not applicable.

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17. Not applicable.

CONSULTATION FULFILMENT

18. Not applicable on the basis that the report is responding to a request for response from Central Government.

STAFF RECOMMENDATION

It is recommended that the Council:

(a) Adopt the recommendations from staff as attached (refer Appendix A), in relation to each of the policy options identified in the discussion document "Improving Public Safety under the Dog Control Act 1996: Policy Options".

(b) That the attached recommendations (Appendix A) be submitted to the Department of Internal Affairs as the CCC response to the discussion document "Improving Public Safety under the Dog Control Act 1996: Policy Options".

COMMITTEE RECOMMENDATION

It is recommended that the staff recommendation be adopted.