

5. DOG CONTROL AMENDMENT ACT 2003 - NEUTERING OF MENACING DOGS

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The purpose of this report is to ask the Council to decide whether or not it requires the neutering of dogs that are classified as menacing under sections 33A or 33C of the Dog Control Act 1996.

BACKGROUND

On 17 November 2003 the Dog Control Amendment Act 2003 was passed. This Act amends the Dog Control Act 1966 by giving territorial authorities greater powers to deal with a wide range of dog control matters. Amongst other things it empowers them to classify dogs as menacing. These powers are contained in sections 33A and 33C.

Section 33A empowers a territorial authority to classify a dog as menacing where the dog -

- (a) *has not been classified as a dangerous dog under section 31; but*
- (b) *the territorial authority considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of -*
 - (i) *any observed or reported behaviour of the dog; or*
 - (ii) *any characteristics typically associated with the dog's breed or type.*

Section 33C directs territorial authorities to classify as menacing any dog which it believes belongs wholly or predominantly to one or more breeds or types listed in the 4th Schedule to the Act.

The relevant new sections of the Dog Control Act are set out in Appendix 1 attached to this report. The 4th Schedule (which lists the breeds or types of menacing dogs) is set out in Appendix 2 (attached).

If a dog is classified as menacing under section 33A or section 33C, the Council may in the notice of classification it is required to give to the owner, require the dog to be neutered. If, in that notice, the Council does not require the dog to be neutered then it has no power to make that requirement at a later time. The only exception to this is where the dog, as a result of its subsequent behaviour, is reclassified as a dangerous dog. In that case neutering is mandatory.

DOGS CLASSIFIED AS MENACING UNDER SECTION 33A

The previous report (Clause 4) reviews all the delegations made by the Council in respect of dog control. This report has been necessitated by the recent amendments to the Dog Control Act. That report recommends that the power to classify a dog as a menacing dog under section 33A be delegated to the Team Leader Animal Control. This is consistent with the power already delegated to him to classify a dog as a dangerous dog.

It is recommended that the Team Leader Animal Control also be delegated the power to require, as he sees fit, the neutering of any dog which he may classify as menacing under section 33A. This would enable him to consider each dog on an individual basis and in light of the circumstances which led to its classification as menacing under section 33A.

DOGS CLASSIFIED AS MENACING UNDER SECTION 33C

Section 33C now requires the Council to give notice to each of the owners of the dogs belonging to the breeds or types listed in the 4th Schedule advising them that their dogs are classified as menacing.

The Council presently has, on its dog registration database, 268 dogs belonging to the breeds or types listed in the 4th Schedule. Three of these are registered as Dogo Argentino and 265 are registered as American Pit Bull Terriers.

Three options have been identified in respect of the power to require neutering of these dogs. They are:

1. The Council may require all dogs belonging to breeds or types listed in Schedule 4 to be neutered. Currently that would comprise three dogs registered as Dogo Argentino and 265 dogs registered as American Pit Bull Terriers.
2. The Council may decide that none of these dogs be neutered.
3. The Council may require the neutering of only those particular dogs in respect of which it has a record of having been a problem in the past. If this option was chosen it is recommended that decisions be made on a case by case basis by the Team Leader Animal Control by way of delegated authority.

Animal Control staff favour option 1 because these breeds can have a natural tendency to be aggressive. Compulsory neutering may lead to the ultimate phasing out of these breeds.

Staff

- Recommendation:**
1. That the Council delegate to the Team Leader Animal Control the power, under section 33E(1)(b) of the Dog Control Act 1996, to require the neutering of any dog classified as a menacing dog under Section 33A of that Act where the Team Leader is satisfied that by reason of its past behaviour that dog may pose a threat to any person, stock, poultry, domestic animal or protected wildlife.
 2. That the Council require all dogs classified as menacing under Section 33C to be neutered.

Chairman's

- Recommendation:** For discussion.