

1. BACKGROUND

The *Companion Animals Act 1998* principal objective is to provide effective and responsible care and management of companion animals. Companion animals refers to dogs and cats as well as any other animals that is prescribed by the *Companion Animals Regulation 2018* as a companion animal. To help local councils administer the legislation, the Office of Local Government has provided a 'Guideline on the Exercise of Functions Under the Companion Animals Act'. It recommends that councils should have a policy for assessing applications to revoke menacing or dangerous dog declarations and communicate this policy to relevant dog owners. The policy should set out how representations by dog owners are evaluated.

In accordance with Part 5, section 34 of the *Companion Animals Act 1998* ('the Act'), an authorised officer may declare a dog to be a menacing or dangerous dog.

2. PURPOSE

The Evaluation of Menacing or Dangerous Dog Declarations Policy ('the Policy') provides a framework for a transparent and consistent review and assessment to determine requests, namely under:

- Section 37 of the Act, an authorised officer must consider dog owners' objections to a proposed declaration ('notice of intention') or
- Section 39 of the Act, Council can revoke a Menacing or Dangerous dog declaration.

The Policy is a local supplement to the provisions of the Act and Regulation.

3. POLICY OBJECTIVE

The objectives of this Policy are to:

- Ensure Council's statutory obligations and duty of care in relation to menacing or dangerous dog declarations are appropriately considered and maintained.
- Highlight with whom the authorisation to consider an objection of a proposed declaration or revoke a menacing or dangerous dog declaration lies.
- Set a clear framework of what owners and other Council staff involved with the menacing or dangerous dog declaration should expect in any applications made to Council for objections against a proposed declaration or a revocation of a declaration.

4. LEGISLATION

The Policy relates to the *Companion Animals Act 1998* and the *Companion Animals Regulation 2018*, in particular section 37 and 39 of the Act.

5. APPLICATION/SCOPE

This Policy applies at all times to dog owners residing within or visiting the Coonamble Local Government Area.

This Policy does not apply to any menacing or dangerous dog declarations made by the Local Court.

Under section 37 of the Act, the owner of a dog can provide representations within seven (7) days of the notice to object to the proposed menacing or dangerous dog declaration.

Under section 39(1) of the Act, the owner of a dog that has been declared menacing or dangerous by a local Council can apply to the Council in which the dog is ordinarily kept (whether or not it is the council whose authorised officer made the declaration) for the declaration to be revoked.

6. POLICY

6.1 Roles and Responsibilities

The following table outlines the roles and responsibilities of personnel. Noting that the position titles may change, however, the responsibilities remain the same.

Roles	Responsibility
The Elected Council	To be informed of Council staff recommendations and evidence provided to make a determination on the revocation application of a menacing or dangerous dog declaration under section 39 of the Act. Applications lodged to the elected Council will be based on those: <ul style="list-style-type: none">• Whereby the adjudication panel cannot agree on a recommendation.• Whereby the adjudication panel recommends for the revocation of the declaration to be removed. Refer to 6.3.3. for further information.
General Manager	The General Manger is responsible for the overall control and implementation of the Policy.

Roles	Responsibility
	<p>The General Manager is delegated as Council's Authorised Officer to approve or not approve objections to a proposed declaration/notice of intention under section 37 of the Act.</p> <p>The General Manager is delegated as Council's Authorised Officer to revoke a declaration under section 39 of the Act.</p>
<p>Executive Leader Environment, Strategic Planning and Community</p>	<p>To ensure that the representations received by dog owners are assessed according to this Policy.</p> <p>The Executive Leader is delegated as Council's Authorised Officer to approve or not approve objections to a proposed declaration/notice of intention under section 37 of the Act.</p> <p>The Executive Leader is delegated as Council's Authorised Officer to revoke a declaration under section 39 of the Act.</p>
<p>Manager Building and Compliance</p>	<p>To enforce this policy and to ensure that the Compliance Support Officer and / or Regulatory Officer has the training and required support to carry out public education relating to this policy.</p> <p>In the event of an incident and depending on the staffing resources at the time, act as the investigating officer.</p>
<p>Compliance Support Officer</p>	<p>The Compliance Support Officer is responsible for liaising with senior management during enforcement of this policy and to educate the public on the details of this policy and the Act.</p> <p>In the event of an incident and depending on the staffing resources at the time, act as the investigating officer.</p>
<p>Regulatory Officer</p>	<p>The Regulatory Officer (Ranger) is responsible for liaising with senior management during enforcement of this policy and to educate the public on the details of this policy and the Act.</p> <p>In the event of an incident and depending on the staffing resources at the time, act as the investigating officer.</p>
<p>Adjudication Panel</p>	<p>A panel of three persons consisting of the:</p> <ul style="list-style-type: none"> • Investigation officer or equivalent • Manager Building or Compliance or equivalent • One independent team leader/manager of another Council department determined by the Manager Building and

Roles	Responsibility
	<p data-bbox="614 315 1390 387">Compliance or Executive Leader Environment, Strategic Planning and Community.</p> <p data-bbox="515 416 1386 573">The adjudication panel's role is outlined in section 6.3.3 and does not have delegated authority to revoke a declaration. The panel is convened to provide a recommendation at the end of the panel meeting through a written report to the delegate.</p> <p data-bbox="515 602 1386 674">The adjudication panel is convened only for applications to revoke a declaration of a menacing or dangerous dog.</p>
General Public	The general public must act in accordance with this policy and abide by any determination made as a result of this policy.

6.2 Applications to Object Proposed Declaration/Notice of Intention of Menacing or Dangerous Dog Declaration

This section applies to assessing a representation made in relation to a notice of intention to declare a dog as a menacing dog or a dangerous dog.

Under section 35 of the Act, owners must be notified of Council's intention to declare a dog to be menacing or a dangerous dog and give the owner information of the requirements that would be required to be complied with if the declarations are made. The Authorised Officer must provide the owner the right to object to the proposed declaration in writing within seven (7) days after the date the notice is given.

6.2.1 Details of Information to be Provided by Owner in Objecting to Proposed Declaration

The following outlines the information Owners should include in their objections:

- Where possible, a behavioural assessment from a temperamental assessor or other qualified professional such as a behavioural vet, with an endorsed and signed report to support the representations.
- Where possible, photographic evidence or other evidence of the event that refutes the circumstances surrounding the proposed declaration.

6.2.2 Evaluation of Objection to Proposed Declaration

The information provided by the Owners will be considered in alignment with the investigation and evidence provided to Council prior to the notification of the proposed declaration. Either the Executive Leader Environment, Strategic Planning and Community or the General Manager are delegated as Council's Authorised person to make the final decision. All decisions must be done in consultation with the investigation officer(s).

A dangerous dog declaration made by a Council Officer can be appealed at the Local Court.

A menacing dog declaration made by a Council Officer cannot be appealed at the Local Court.

6.3 Applications to a Revocation of a Menacing or Dangerous Dog Declaration.

This section applies to assessing an application made to revoke a menacing or dangerous dog declaration.

Under section 39 of the Act, Council can revoke the declaration based on the following considerations:

- An application is made after the period of 12 months following the date on which the dog was declared to be a dangerous or menacing dog, and
- Council can revoke the declaration but only:
 - If satisfied that it is appropriate to do so, and
 - If Council determines that it is necessary – that the dog in question has actually undergone appropriate behavioural training.

As part of Council's risk management approach and duty of care obligation to the community, in all instances of a menacing or dangerous dog declaration, Council deems it necessary and will require the dog in question to undergo appropriate behavioural training.

Further, the Policy supports procedural fairness and by engaging the services of a Qualified Animal Behaviourist allows for the impartiality from a third party to be obtained and to inform the decision-making process if the owner applies to Council for revocation of a declaration.

In making a determination in relation to a menacing dog declaration, Council will have regard to the nature and extent of any behavioural training that the dog has undergone.

Council will not accept a request to revoke a declaration until after a period of 12 months since the declaration was made.

Applications made within the 12-month period and where behavioural training has been mandated and not carried out will be automatically rejected as per the Act.

6.3.1 Details of Information to be Provided by Owner in Application for Revocation of Declaration

The following outlines the information Owners must include in their revocation application, which is a letter to Council providing:

- Evidence or information on the circumstances under which the menacing or dangerous dog declaration was issued. If Council was not the Council that made the original dangerous or menacing dog declarations, it should contact the issuing Council for more information about the circumstances surrounding the making of the declaration.
- Current Temperament Assessment Report or information from a Qualified Animal Behaviourist with their recommendation.
- The dog's current circumstances and behaviour in relation to the original declaration, including any behavioural modification that may have been undertaken. This report is to include a diary of training, photos and videos over the 12-month period; which information is deemed necessary to understand the nature and extent of any behavioural training and changes that have occurred in this time.
- Information on the nature of the physical surroundings, adjoining premises, fencing and/or enclosures at the property and where the animal is normally kept.
- A certificate of compliance required for dangerous dog enclosures under s. 58H of the Act.
- Evidence of compliance to the requirements and/or responsibilities set out for owners who own a menacing or dangerous dog as set out in Division 4 of the Act. This includes photos (with time stamps) or receipts that show compliance to the following that is applicable to the dog:

Summary of Control Requirements by timeframe (MUST be read in conjunction with Division 4 of the Act for full details)		
Timeframe	Brief Description (must read Division 4 of the Act)	Section of the Act
Immediately	The dog must not at any time be in the sole charge of a person under the age of 18 as per the Act.	s.51 (1)(b) (Dangerous Dog)
Immediately	Enclosure requirements – Until an enclosure is provided within the 3 months of the declaration, the dog must be restrained to prevent a child from having access to the dog as per the Act.	s. 51(1)(c1) (Dangerous Dog)
Immediately	Enclosure requirements – Dog must be enclosed in a manner that is sufficient to restrain the dog and prevent a child from having access to the dog.	s. 51(1A)(b) (Menacing Dog)
Immediately	One or more signs of "Warning Dangerous Dog" in letters clearly visible from the boundaries of the property on which the dog is ordinarily kept as per the Act.	s. 51(1)(d) (Dangerous or menacing dog)
Immediately	Dog must at all times wear a collar of the kind prescribed by the regulations.	s. 51(1)(d)(d1)

Summary of Control Requirements by timeframe (MUST be read in conjunction with Division 4 of the Act for full details)		
Timeframe	Brief Description (must read Division 4 of the Act)	Section of the Act
		(Dangerous or Menacing dog)
Immediately	Dog must be kept on lead and be muzzled whenever outside of the enclosure as per the Act.	s. 51(1)(e) (Dangerous Dog) s. 51.(1A)(c) (Menacing Dog)
Immediately	The owner must notify the Council if the matters specified in the Act occur.	s. 51(1)(i) (Dangerous Dog)
Within 7 days of Declaration	The dog must be registered under the Act (if not already so registered) as per the Act.	s. 51(1)(k) (Dangerous Dog)
Within 28 days of Declaration	The dog must be desexed (if it is not already desexed) within 28 days after it is declared a dangerous dog as per the Act.	s. 51(1)(a) (Dangerous dog) s. 51(1A)(a) (Menacing Dog)
Within 3 months of Declaration	Enclosure requirements - while the dog is on the property on which the dog is ordinarily kept, the dog must be kept in an enclosure that complies with the requirements prescribed by the regulations. The owner has 3 months from the date on which the dog is declared dangerous to comply as per the Act. Under s. 58H, Council may issue a certificate of compliance in relation to the enclosure in which a dangerous dog is required to be kept.	S. 51(c) (Dangerous Dog) s. 58H (Dangerous Dog)

6.3.2 Details of Information to be Provided by Council Officers in an Application for Revocation of Declaration

Prior to review of the application for revocation, Council Officers involved in Animal Control must provide to the Adjudication Panel the following information for assessment:

- The history of the owner regarding responsible pet ownership. If applicable, this information can be obtained from other Councils and with the local NSW Police.

- History of any dog attacks or complaints received regarding the dog since the original declaration, including complaints received by the Council where the incident occurred.
- Information on any compliance checks undertaken at the property that the dog is ordinarily kept during the period of the declaration.

6.3.3 Adjudication Panel

The Adjudication Panel provides a recommendation to Council's Authorised Officers for final determination. The Adjudication Panel may request to inspect and witness the dog and its behaviour at a location acceptable to Council, e.g. park or owner's residence.

The Adjudication Panel is to review all available information and provide a recommendation whether to revoke the declaration or refuse the application. The recommendations should be provided in a report and be in alignment with the Office of Local Government's Guideline on the Exercise of Functions Under the Companion Animals Act.

Applications made within the 12-month period and where behavioural training has been mandated and not carried out will be automatically rejected as per the Act and signed off by the Delegate.

Applications whereby the adjudication panel cannot agree or makes a recommendation to have the revocation removed will automatically be referred to Council for their determination.

6.3.4 Determination of Application for Revocation

The decision to revoke a Dangerous or Menacing Dog declaration will only be made once the provisions of the Act are satisfied, i.e. Council is satisfied the dog is no longer a threat to the community based on the verification of a Qualified Animal Behaviourist and the information provided by the Owner and Council Officers regarding the dog as per section 6.3.1, 6.3.2 and 6.3.3.

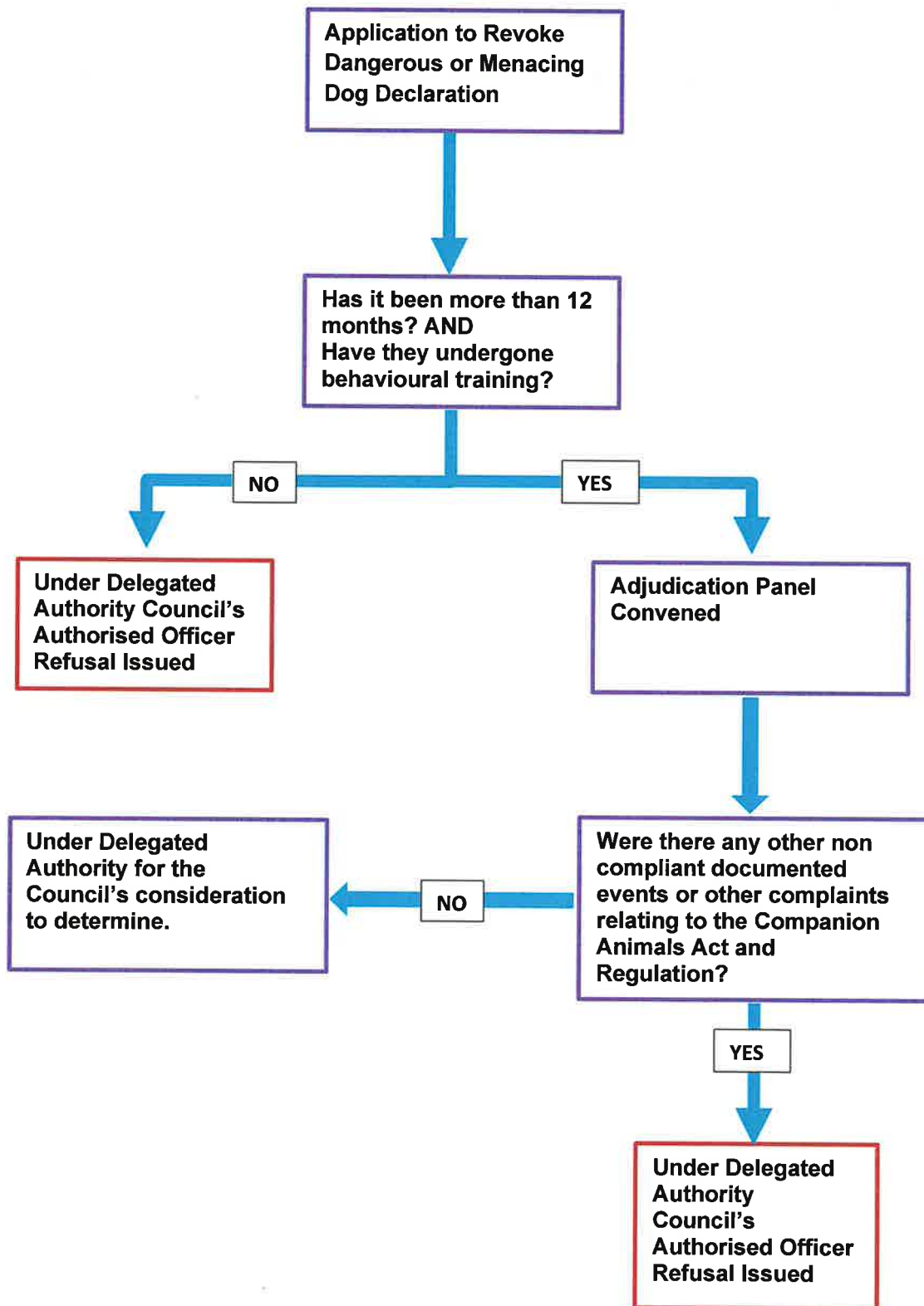
Where owners have failed to undertake their responsibilities set out in Division 4 of the Act and/or behavioural training has not been undertaken and Council's investigation officer can provide evidence of non-compliant responsibilities and events, Council's Authorised Officer, under delegated authority, can refuse these applications without referring the matter to Council.

Where the Adjudication Panel cannot reach a conclusion then this matter is to be referred directly to the Council. In all these instances, Council will have the final determination following consideration of a report included with the Business

Papers of an Ordinary Council Meeting. Owners do not need to make representations to the Council.

The following is a process flow chart to describe this policy in relation to revoking declarations.

Figure 1 – Process Flowchart for Revoking Declaration



6.3.5 Notice of Determination

A notice of determination to revoke or reject the application must be issued by an Authorised Officer and sent to the applicant / owner as soon as is practicable, but within 28 calendar days of the date receiving the application for revocation of a menacing or dangerous dog declaration.

Where matters are referred to the Council for their determination, the owner must be immediately contacted to let them know of the deferred decision. Following the Council's notice of determination, the Authorised Officer must write to the owner as soon as is practicable, but within fourteen (14) calendar days from the date of the Council meeting notifying them of the outcome.

6.3.6 Reporting

Where a revocation of a declaration has been made, Council must inform the Office of Local Government within seven (7) calendar days.

6.3.7 Opportunity to reapply again

Owners who have had their menacing or dangerous dog declared for a period of more than 12 months and have undertaken behavioural training and receive a refusal due to other non-compliant matters, can reapply again if it is demonstrated that the Act and Regulation have been complied with and section 6.3.1. of this Policy will need to be actioned.

7. RESPONSIBILITIES AND OBLIGATIONS OF OWNERS

Under no circumstances is an owner released from their responsibilities and/or obligations under the Act and Regulation if an Owner has made representations to the notice of intention for a menacing dog or dangerous dog declaration or requesting a revocation of the declaration. The responsibilities and obligations will remain until such time as the owners are notified in writing by Council's Authorised Officer of the outcome.

8. DEFINITIONS

Key Term	Meaning
Act	<i>Companion Animals Act 1998 (Act)</i>
Authorised Officer	Means an employee of Council authorised for the purpose of considering objections to a notice of intention or for the purpose of revoking a menacing or dangerous dog declaration under the <i>Companion Animals Act 1998</i> .
Council	Coonamble Shire Council.
Current Temperament Assessment	Means a temperament or behavioural assessment carried out no greater than 30 days prior to the date of the declaration.
Dangerous Dog	Means a dog that has been declared under the <i>Companion Animals act 1998</i> as a 'dangerous dog' and as defined by the meaning of "dangerous" under section 33 of the Act.
Menacing Dog	Means a dog that has been declared under the <i>Companion Animals act 1998</i> as a 'menacing dog' and as defined by the meaning of "menacing" under section 33A of the Act.
Qualified Animal Behaviourist	Means an assessor who holds a Certificate III in Dog Behaviour and Training as a minimum qualification.

Title: Evaluation of Menacing or Dangerous Dog Declarations Policy		
Department: Environment, Strategic Planning and Community		
Version	Date	Author
0.1	13/10/2021	Executive Leader Environment, Strategic Planning and Community
<p>This policy may be amended or revoked at any time and must be reviewed at least three (3) years since its adoption (or latest amendment). The Executive Leader of Environment, Strategic Planning and Community will be responsible for the review of this policy. Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.</p>		
Review Date: TBC		
Amendments in the release:		
Amendment History	Date	Detail
		Adopted 13 Oct 2021 Resolution 2021/216
Annexure Attached:		
Hein Basson General Manager		
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