

3.3: DOG ACT 1976

File Number (All Wards) : PE.AUT.1
Proponent : City of Albany
Responsible Officer(s) : Community Services Leader (L Hill)

IN BRIEF

That Council delegates to the Chief Executive Officer (CEO) authority to declare a dog “dangerous” and give consent for that dog to be destroyed.

RECOMMENDATION

ITEM 3.3: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR SUTTON

THAT Council:

- 1. APPOINTS the CEO as an authorised person to declare a dog dangerous (*Dog Act 1976, Section E and F*).**
- 2. APPOINTS the CEO as an authorised person to give consent for a dog to be destroyed (*Dog Act 1976, Section G (2) – (6)*).**

CARRIED 8-2
ABSOLUTE MAJORITY

Record of Vote

Against the Motion: Councillors J Bostock and D Bostock

BACKGROUND

- Local Government officers are required to enforce state wide and local legislation. As it relates to the management and treatment of dogs, the *Dog Act 1976* and the City of Albany *Animals Local Law 2001* are the two guiding documents.
- Under the provisions of the *Dog Act 1976*, Section 9.10 of the *Local Government Act 1995* and the *Interpretation Act 1984*, Council has delegated to City of Albany Rangers the functions of registering, seizing, detaining and disposing of dogs.

DISCUSSION

- There is no provision currently for any City of Albany staff member to declare a dog “dangerous”. Only the local government has the ability to declare a dog to be dangerous. While a rare occurrence, the delegated ability to make this administrative declaration in a timely fashion is required.
- The *Dog Act 1976* identifies that a local government, or on behalf of the local government, an authorised person may by a notice in writing, declare a dog to be dangerous.
- The *Dog Act 1976* identifies an authorised person as a person who is appointed by a local government, to exercise powers on behalf of the local government. The local government

****REFER DISCLAIMER****

shall, in writing, appoint a person to exercise, on behalf of the local government, the powers conferred on an authorised person.

6. Appointing the CEO as the authorised person will ensure timely declaration and management of dangerous dogs.
7. The CEO's decision to declare a dog dangerous will be made on the advice of the Rangers on the basis of conditions in the *Dog Act 1976* Section 33E. If approved the owner of the dog will be notified of the declaration and control requirements, as per the *Dog Act 1976* Section 33F.
8. While the Rangers have the delegation to "dispose" of a dog, it may be challenged whether "disposal" includes the destruction of a dog. To rectify any ambiguity it is considered prudent to provide administrative delegation to the CEO to authorise the destruction of a dog.
9. The *Dog Act 1976* (Section 33G (2)) states an authorised person may give notice in writing to the owner that the local government proposes to cause a dog to be destroyed.

GOVERNMENT CONSULTATION

10. N/A

PUBLIC CONSULTATION / ENGAGEMENT

11. N/A

STATUTORY IMPLICATIONS

12. Section 9.10 of the Local Government Act 1995 stipulates that:

"The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions."

13. Should Council support the proposed authorisations, a notice is required to be published in the Government Gazette.

STRATEGIC IMPLICATIONS

14. This item directly relates to the following elements from the “Albany Insight- Beyond 2020” Corporate Plan

City of Albany Mission Statement:

At the City of Albany we are results driven and accountable, and we foster leadership. We provide best value in applying council and community resources, apply Council funds carefully and develop and empower our people to deliver on expectations and promises.

POLICY IMPLICATIONS

15. Policy review will occur if Council so delegates to ensure City Administrative policy and processes are relevant and contemporary.

RISK IDENTIFICATION & MITIGATION

16. The risk identification and categorisation relies on the City’s Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
(Individual) community member backlash against Council if dog is declared dangerous or destroyed.	Minor	Minor	Low	Ensure appropriate processes are in place for Ranger recommendations and CEO approval for declaring dogs dangerous and destroying dogs.

FINANCIAL IMPLICATIONS

17. There are no financial implications of this proposal beyond dog impoundment and management which the City already budgets for.

LEGAL IMPLICATIONS

18. N/A

ALTERNATE OPTIONS

19. Council may decide not to delegate this authority to the CEO, and choose to deal with dangerous dogs and their destruction at each Council meeting.

SUMMARY CONCLUSION

20. Recommend that Council appoint the CEO as an authorised person to declare a dangerous dog and to destroy a dog pursuant to the Dog Act 1976, Sections’ 33 F and G.

Consulted References	Register of Delegations
File Number (All Ward)	PE.AUT.1
Previous Reference	Nil