

**TWEED SHIRE COUNCIL  
MEETING TASK SHEET**

**User Instructions**

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

**Action Item - COUNCIL MEETING Thursday, 12 December 2013**

Action is required for Item **22** as per the Council Resolution outlined below.

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**TITLE: [PR-CM] Update on Council's Animal Management Practices**

**Cr G Bagnall  
Cr M Armstrong**

**RESOLVED** that Council:

1. Defers consideration of the report until the March 2014 meeting.
2. Adopts the changes to fees listed in the '*The Companion Animals Amendment Act 2013*', and amend Item 77 of the Fees and Charges 2013/2014 Revenue Policy document accordingly and notes that these are fees set by legislation and do not require the 28 day advertising period.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**  
**AGAINST VOTE - Cr C Byrne**

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## Agenda Report

**TITLE:** [PR-CM] Update on Council's Animal Management Practices

**SUBMITTED BY:** Regulatory Services

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## Supporting Community Life

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
  - 1.1.2 Create a sustainable, social and environmentally aware community through education?????
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### SUMMARY OF REPORT:

In response to a Notice of Motion, Council resolved the following at its meeting of 16 May 2013:

***"RESOLVED*** that a report be submitted to Council detailing Council's current Companion Animal Regulation functions, in order to determine the suitability of preparing a new Council Policy on animal management procedures, including a preferred process for handling barking dog complaints."

As an initial response to this resolution, a Councillors Workshop was held on 5 September 2013 for which Council officers presented an explanation of a range of animal management matters, including the current operational approach to the NSW Companion Animals Act 1998, Companion Animals Regulation 2010, and Council's Companion Animals Management Plan (adopted by Council on 16 March 2010); more specific advice on Council's current procedures for dealing with dog complaints, the management of off-leash dog areas, and Council's Pound operations at Stotts Creek.

The officers have since further investigated the dog complaint practices of other councils, including the Gold Coast Council. In this regard, it is further reported that the Regulatory Services Unit responded to more than 1000 customer requests relating to animals, during the 2012 calendar year, and 448 of these were complaints of barking dogs. The Unit investigates the majority of these complaints, and investigations can be both complex and time consuming. Relative to the activities of other councils, including the Gold Coast City Council, it is considered that Council provides a thorough, timely and comprehensive response to complaints of this nature, and that community needs for appropriate companion animal management is currently being achieved.

It was also considered a good opportunity to identify within this report the recent changes to *The Companion Animals Act* that have been introduced by the NSW State Government, and as a consequence animal registration fees, which Council collects on behalf of NSW State Government, increase as of 1 January 2014. It is recommended that these changes, to registration fees, be adopted by Council.

**RECOMMENDATION:**

**That Council:**

- 1. Receives and notes the information presented in this report in terms of Council's current animal management practices; and**
- 2. Adopts the changes to fees listed in the *'The Companion Animals Amendment Act 2013'*, and amend Item 77 of the Fees and Charges 2013/2014 Revenue Policy document accordingly and notes that these are fees set by legislation and do not require the 28 day advertising period.**

## REPORT:

### Background

In response to a Notice of Motion, Council resolved the following at its meeting of 16 May 2013:

*"**RESOLVED** that a report be submitted to Council detailing Council's current Companion Animal Regulation functions, in order to determine the suitability of preparing a new Council Policy on animal management procedures, including a preferred process for handling barking dog complaints."*

As an initial response to this resolution, a Councillors Workshop was held on 5 September 2013 for which Council officers presented an explanation of a range of animal management matters, including the current operational approach to the NSW Companion Animals Act 1998, Companion Animals Regulation 2010, and Council's Companion Animals Management Plan (adopted by Council on 16 March 2010); more specific advice on Council's current procedures for dealing with dog complaints, the management of off-leash dog areas, and Council's Pound operations at Stotts Creek.

The officers have since further investigated the dog complaint practices of other councils, including the Gold Coast Council.

This report further addresses the above issues, as well as more recent changes to the NSW Companion Animals Act.

### Nuisance Animal Management

Council's Regulatory Services Unit (Rangers) responds to a range of customer complaints in relation to animals. Most of the complaints are about nuisance dogs, and can be regulated under the provisions of the *NSW Companion Animals Act 1998* (the *Act*) and *Companion Animals Regulation 2008* (the *Regs*).

The *Act* describes nuisance dogs as:

- (a) *is habitually **at large**, or*
- (b) *makes a noise, by **barking** or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises, or*
- (c) *repeatedly **defecates** on property (other than a public place) outside the property on which it is ordinarily kept, or*
- (d) *repeatedly **runs at or chases** any person, animal (other than vermin and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock) or vehicle, or*
- (e) ***endangers the health of any person or animal** (other than vermin and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock), or*
- (f) ***repeatedly causes substantial damage** to anything outside the property on which it is ordinarily kept*

### Complaints to Council

In the 2012 calendar year, Council Rangers responded to more than 1000 animal complaints, comprised of 106 'dog attacks', 448 'barking dogs' and 591 'roaming dogs'. Each of the complaints is investigated, and the more serious the complaint the greater the level of investigation and follow-up action required.

### Nuisance Dog Investigation

Nuisance dog investigation is carried out in accordance with Council's responsibilities under the *Act* and *Regs*, and with consideration given to Tweed Shire Council's Companion Animals Management Plan – Policy (version 1).

Investigations can be triggered by one complaint or complainant only, and investigation can initially involve attempts by Council staff to substantiate the complaint by conducting 'door knocks' of adjacent and nearby properties. Complaint investigations can be complex and time consuming, but in order to gather sufficient information (to take further action) must be thorough.

As such, Council Rangers are required to gather evidence, which can involve all of the following:

- Providing affected parties with information in relation to their legal rights and responsibilities;
- Conducting interviews and taking witness statements;
- Gathering photographs and other supportive information such as 'barking dog diaries'; and
- Collating evidence and preparing court documents.

Where a clear breach of the law (*prima facie*) can be demonstrated, further action is considered, and all parties are advised of Council's proposed action.

#### Investigation Example

A 'barking dog' investigation would typically require the following:

- i. Single complaint received and CRM lodged.
- ii. Ranger will doorknock adjacent properties to (attempt) substantiate the complaint.
- iii. Provide 'barking dog diaries' for the recording of supportive evidence.
- iv. Issue a letter to the owner of the dog advising that a complaint was made, and that Council is investigating (Information, on controlling barking dogs, is provided to the owner of the dog at this stage).
- v. If the complaint is substantiated and there has been no improvement in animal behaviour, a Notice of Council's intention to issue a Nuisance Dog Order is sent to the owner.
- vi. Any representations received from the animal owner (why the Order should not be issued) are considered.
- vii. A Nuisance Dog Order is issued with terms of compliance. The Order remains in force for six months.
- viii. Breaches of the Order are investigated, and penalty infringements or cautions are issued where proven.
- ix. Multiple breaches of the Order result in the matter being referred to the Local Court.
- x. Court briefs are drafted by Regulatory Services staff, and forwarded to Council's solicitors for the mention or hearing. The court may or may not impose further penalties as a consequence of a successful prosecution.

#### Conclusions Relating to Current Practice

No change is proposed to the way in which Council staff manages *Nuisance Animal* complaints and investigations. Current procedures satisfy our obligations under the 'Act' and 'Regs', and also concur with regulatory action taken by neighbouring Councils.

**Note:** Other Councils, including Gold Coast City Council and Byron Shire Council, require two independent complainants (i.e. from different properties) to lodge complaints prior to commencing investigative action.

## **Animal Registration Fees**

Council is authorised to register companion animals (cats and dogs) under the provisions of the *NSW Companion Animals Act 1998* (the 'Act') and *Companion Animals Regulation 2008* (the 'Regs'). Council charges a fee for this service, and collects registration fees in accordance with section 17 of the Act. Animal registration income (fees) is transferred to NSW State Government, and registration details are entered into the NSW Companion Animals Register.

State Government reimburses Council for the registration fees collected on its behalf. Under the current system eighty percent (80%) of this money is refunded to Council to part fund Companion Animal Management.

Recent changes to legislation, *The Companion Animals Amendment Act 2013* (the 'Amendment Act'), has been adopted by NSW Parliament, and the 'Amendment Act' alters the 'Act' and the 'Regs'. Changes include increases to animal registration fees, and are listed in Schedule 2 of 'Amendment Act'.

The 'Amendment Act' changes registration fees as of 1 January 2014. It is recommended that Council adopts the new fees, and amends Item 77 of the Fees and Charges 2013/2014 Revenue Policy document accordingly.

**Note:** A revenue reduction will result if the new charges are not adopted, as NSW State Government will continue to collect a percentage of revenue based on the new charges.

### **OPTIONS:**

The officers recommend that Council:

1. Receives and notes the information presented in this report in terms of Council's current animal management practices; and
2. Adopts the changes to fees listed in the '*The Companion Animals Amendment Act 2013*', and amend Item 77 of the Fees and Charges 2013/2014 Revenue Policy document accordingly.

### **CONCLUSION:**

NSW Legislative changes require a minor change to Council's Fees and Charges 2013/2014 Revenue Policy document.

Over 1000 'animal complaints' were received in the 2012 Calendar year, which placed a high demand on the staff of the Regulatory Services Unit. Response to complaints often requires complex investigation in order to substantiate a complaint, and to ensure that Council fulfils its obligations under the *NSW Companion Animals Act*. It is considered that Council staff provide a thorough, timely and comprehensive response to this type of complaint, and that community needs for appropriate companion animal management is being achieved.

No change to existing animal complaint handling procedure or policy is proposed.

### **COUNCIL IMPLICATIONS:**

#### **a. Policy:**

No changes - Companion Animals Management Version 1.0.

#### **b. Budget/Long Term Financial Plan:**

No impact if changes to fees is adopted as per the legislative changes.

**c. Legal:**  
Not Applicable.

**d. Communication/Engagement:**  
Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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