

PUBLIC INFORMATION PAPER

PROPOSED WAGAIT SHIRE COUNCIL (DOG MANAGEMENT) BY-LAWS

DISCLAIMER

This Public Information Paper is a summary of the proposed Wagait Shire Council (Dog Management) By-laws. The Paper does not purport to cover all matters covered by the proposed By-laws, nor does it accurately reflect every detail. For comprehensive information it is necessary to read the proposed By-laws. While care has been taken, there are, by the nature of summarising, generalisations and simplifications. No responsibility is taken for the accuracy of this Paper as the proposed By-laws should be referred to for accuracy.

Introduction

The proposed Wagait Shire Council (Dog Management) seek to control dogs in the Wagait Shire Council (the Council) area through:

- registration of dogs;
- licensing of premises where more than the maximum number of dogs can be kept;
- a regime for the declaration of dangerous dogs;
- declaration of dog exercise and dog restriction areas;
- seizure of dogs;
- the establishment of pounds; and
- the release or disposal of impounded dogs.

It is anticipated that the By-laws will commence on 1 September 2018.

General exemption for assistance dogs

Assistance dogs may be brought into and kept in a dog restriction area. An assistance dog is a dog that is trained by an assistance dog training institution recognised by the Council and used as an assistance dog by a person who is wholly or partially blind or deaf, or has another form of disability requiring the use of an assistance dog.

Registration of dogs

All dogs kept at a premises classified as residential or commercial within the Council area for a period of three months or more must be registered.

A dog kept at premises other than residential or commercial within the Council area for a period of three months or more may be registered.

The Chief Executive Officer (CEO) of the Council must keep a register containing details of:

- dogs kept at a premises classified as residential or commercial within the Council area;
- any dog kept at premises other than residential or commercial within the Council area whose owner has requested the Council to register the dog;
- licensed premises classified as residential or commercial within the Council area; and
- offences committed by dog owners against the By-laws.

The CEO must also keep any other registers as determined by the Council.

The Council must register a dog within 14 days after receiving an application. Registration can be subject to conditions. Registration of a dog under the By-laws does not require annual renewal.

The Council can refuse to register a dog. If Council refuses to register a dog or imposes conditions on the registration of a dog, the Council must provide a written explanation.

A dog cannot be registered if:

- the dog is not microchipped or does not have a tag on its collar
- it is an additional dog which will exceed the maximum allowed at premises; or
- the address is in a restricted area and the dog has not previously been registered and kept there.

The Council can refuse to register a dog if:

- the owner of the dog has committed more than 2 offences against the By-laws in the last 12 months;
- it is a dangerous dog and the CEO believes, on reasonable grounds, that the owner of the dog has contravened the By-laws more than once in 12 months before the date of an application to register the dog.
- the dog has been impounded more than twice in the last 12 months before the date of application;
- the Council is satisfied that the dog is destructive, dangerous, savage or consistently the cause of nuisance to members of the public; or
- the premises on which the dog is usually kept are not secured to a degree that is satisfactory to the Council.

If the Council registers a dog that is not implanted with a working microchip, the Council must issue an identification tag that can be fitted to a collar on the dog. It is a condition of registration of a dog that the dog must have a microchip implanted or must wear a collar (or other device such as a harness) displaying an identification tag when the dog is outside the premises where it is normally kept.

An owner may have to show cause to the Council why a dog's registration should not be cancelled or the conditions of registration varied. If an owner is requested to show cause and does not reply within 14 days, the Council may cancel the registration or vary the conditions of the registration of the dog 14 days after it sends a second notice to the owner. The Council can also vary the conditions of registration or cancel the registration of a dog at the owner's request.

If the registration of a dog is cancelled, the dog can only be re-registered by making a new application for registration and meeting the requirement of the By-laws.

A dog owner must notify the Council of a change of address within 14 days.

The registered owner of a dog must, within 14 days after ownership is transferred, notify the CEO of the name and address of the new owner of the dog.

Licensing of Premises

The Council can determine the maximum number of dogs that may be kept without a licence at premises classified as residential or commercial.

The Council can also determine the maximum number of dogs of a class of dog that may be kept without a licence at premises classified as residential or commercial.

The Council must grant a licence or refuse to grant a licence in respect of premises, either conditionally or unconditionally within 14 days of receiving an application. In considering the application, the Council must consider:

- the facilities for controlling dogs at the premises;
- the number of dogs kept or to be kept at the premises; and
- the likely impact on residents in the locality where the premises are situated if the licence is granted.

If the Council refuses to grant a licence, grants a licence subject to conditions or renews a licence subject to conditions not imposed on the original licence, a written statement must be provided to the applicant giving reasons for its decision.

A council must not grant a licence in respect of premises that is not fenced in accordance with Council's determination.

An owner may have to show cause to the Council why a licence for premises should not be varied, cancelled, or suspended. If an owner is requested to show cause and does not reply within 14 days, the Council may cancel, suspend or vary conditions of the licence 14 days after it sends a second notice to the owner. The Council can also cancel, suspend or vary the conditions of a licence at the request of the licensee.

Declaration of dangerous dogs

A dog may be declared a dangerous dog if:

- the dog attacks a person or animal;
- the dog menaces a person or animal; or
- an authorised person (e.g. council ranger) believes, on reasonable grounds, that the dog is destructive, dangerous, savage or a threat to the safety of the community.

If a dog is declared dangerous, Council must serve a dangerous dog notice on the owner of the dog.

If a dog is declared to be a dangerous dog, the owner can apply for the declaration to be revoked. Council must provide the owner with its decision on the application, in writing.

A dangerous dog that is kept within the Council area must be registered. The conditions of registration of a dangerous dog are that the dog must:

- be properly contained at the address where it lives; and
- be controlled by a suitable leash and muzzle when away from its home and be under the control of a person over 18 years who is competent to restrain the dog.

The owner of the dangerous dog must erect signage on the premises where the dog is usually kept with the words “Warning Dangerous Dog” clearly visible and legible from the boundary of the premises.

If the owner of a dangerous dog intends to keep the dog at a different location for a period exceeding 14 days, the Council must be notified of the new address.

An owner of a dangerous dog must inform a prospective purchaser that the dog is a dangerous dog.

An owner of a dangerous dog must notify the Council within 24 hours:

- if the dog attacks or is alleged to have attacked a person or animal;
- if the dog is missing; or
- of the name and address of the new owner if ownership of the dog is transferred.

An owner of a dangerous dog must notify the Council of any other matters required and must notify the Council of the death of the dog within 14 days.

An owner may have to show cause to the Council why a dangerous dog’s registration should not be cancelled. If an owner is requested to show cause and does not reply within 14 days, the Council may cancel the registration or vary the conditions of registration of the dog 14 days after it sends a second notice to the owner.

Dog exercise and dog restriction areas

Council can declare a dog exercise area. Council must specify the times when dogs can exercise in the area and any other conditions which apply.

Council can declare a dog restriction area and prohibit:

- the keeping of all dogs;
- the keeping of more than a specified number of dogs;
- the keeping of all or more than a specified number of dogs of a specified breed;
- any dog from being brought into the area; or
- any dog from being brought into the area at specified times.

At least 28 days before declaring a dog exercise or dog restriction area, the Council must publish, in a newspaper circulating in the Council area, a notice of its intention to declare the area. The Council must consider any responses from members of the public before declaring the area.

Seizure of dogs

An authorised person (e.g. Council ranger) may seize an apparently diseased, injured, savage, destructive, stray or unregistered dog, a dog that is at large or a dog suspected on reasonable grounds to have attacked a person. An authorised person may also seize a dangerous dog if the owner of the dog has not complied with the conditions of the dog's registration.

If a seized dog is diseased, injured, savage or destructive, the authorised person may destroy the dog if it is necessary to do so. In any other case, authorised person must return the dog to its owner or deliver the dog to a pound as soon as possible.

Pounds

The Council may establish pounds.

If a registered dog with a microchip or with a collar on which an address is displayed is delivered to a pound, the Council must give the registered owner a notice of the impounding of the dog.

If an impounded dog is not microchipped or does not have a collar on which an address is displayed, the council must attempt to identify and contact the dog's owner and notify the owner of the impounding; and place a notice of the impounding that includes a photograph of the dog in the Council offices, on the Council website and in one or more shops in the Council area.

An impounded dog must only to be released:

- to the owner or owner's agent; and
- if it is registered; and
- after payment of the appropriate release fees.

If an impounded dog is suspected of being diseased, the dog must be isolated from other dogs in the pound.

The owner of the diseased dog, if known, must be given written notice that the dog is suspected of being diseased and that the Council requires the dog to undergo a course of treatment specified in the notice; or that the Council requires the dog to be destroyed. The owner may also be required to get a specific report from a veterinarian. The owner must pay for the cost of treatment provided to a diseased dog, and any other dog in the pound that was infected or was at risk of being infected. The diseased dog may be released from the pound, subject to any conditions the Council considers appropriate.

The CEO may arrange for a dog in a pound to be destroyed if it is so diseased or injured that it is humane to destroy it.

After a dog has been impounded for 72 hours, the CEO may pass the property in the dog to an approved incorporated body that provides services relating to an animal welfare or arrange for the destruction of the dog.

If the dog is to be destroyed, it is to be destroyed by a veterinarian or another person who is, in the opinion of the CEO, qualified to destroy the dog and in a manner that is approved by the Australian Veterinary Association.

If an investigation is initiated in relation to the impounded dog (for example, if the dog is alleged to have attacked a person or another animal), the dog must not be destroyed or disposed of until the investigation is complete.

Other matters

The Council may charge a fee for any service provided under the By-laws. If the Council considers it appropriate, the Council may waive, reduce or refund a fee.

The Council may arrange for the remains of a dead animal that is found in a public place to be removed or disposed of. Where the Council incurs expense in doing so, the Council may recover the expense from the owner of the animal.

The Council may, by written notice, exempt a person or body from either the requirement to properly contain a dog in premises or ensure that a dog is not at large:

- for the purposes of a dog race, dog trial or dog show;
- while taking part in the activities of a dog obedience club;
- while using a dog to drive cattle or stock on a road; or
- for any other purpose or event as the Council may determine.

The exemption may relate to a particular event or to a class of events and can be subject to any conditions.

Offences

The Table below indicates the offences, the maximum penalty for the offences and the prescribed amount in penalty units for infringement notices. Of note, for 2017-18, one penalty unit is equivalent to \$154, however, this value may change from year to year. The penalty for the offences described in the table below will not apply before the effect date of this by-law.

Offence	Maximum penalty in penalty units	Infringement notices (penalty units)
Keeping an unregistered dog at premises classified as residential or commercial within the Council area for three months or more	20	1
Failure to comply with a condition of registration of a dog	20	1
Failure to notify the Council of a change of address by the registered owner of a dog	20	1
Failure to notify the Council of a change of ownership of a registered dog by the person giving up ownership	20	1
Keeping more dogs than the maximum number of dogs, or dogs of a class of dog, that may be kept at premises classified as residential or commercial without a licence	20	1
Failure to comply with a condition of the licence	20	2
Keeping a dog in a dog restriction area where keeping the dog is prohibited	20	1
Bringing a dog into a dog restriction area where bringing the dog is prohibited	20	1
Failure by an owner to comply with a notice of the isolation of his/her impounded dog that is or is suspected of being diseased	20	Not applicable
Failure to comply with a condition of release of an impounded dog that is or is suspected of being diseased	20	Not applicable
Dog not properly contained when it is on the premises where it is usually kept	20	2
Dog at large	20	1
Intentionally and recklessly engaging in conduct that results in the owner of a dog being liable to prosecution for an offence against the By-laws (enticement)	20	Not applicable
Failure by an owner to ensure that his/her dog does not menace a person or animal	20	3
Failure by an owner to ensure that his/her dog does not attack a person or animal	20	6
Failure by an owner to ensure that his/her dog does not chase a vehicle	20	2
Failure by an owner to ensure that his/her dog, either by itself or together with other dogs, is not a nuisance	20	2
Abandoning a dog in the Council area	20	2
Intentionally obstructing a Council officer, person-in-charge of a pound or employee of a contractor or subcontractor of the Council while he/she is acting in an official capacity	20	Not applicable
Intentionally giving misleading information, verbally or in a document, to a Council officer or a person-in-charge of a pound while he/she is acting in an official capacity	20	Not applicable