

**ATTACHMENT B**

**COPY OF THE DANGEROUS  
DOG DECLARATION**

**City of Sydney**

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Mr Lawrence Gibbons



Dear Mr Gibbons

**DANGEROUS DOG DECLARATION**  
Section 34 Companion Animals Act 1998 (the Act)

This document contains important information about your obligations under the Act. Please read it carefully. Contact the council officer on the number below as soon as possible if you are unsure of your obligations or need further information.

It has come to Council's attention that you are the owner of a dog:

Name: (if known) Oscar

Microchip Number: (if known) 982009101067532

Description: German Shepherd /Cross, Male, Black and Tan

Kept at:



Council declares the dog to be a dangerous dog under section 34 of the Act

The dog is declared to be a dangerous dog because it:

Tick the suitable field below. By double clicking on the box and under Default Value field select 'checked'. Please delete this advice once completed.

- Has, without provocation, killed a person or animal (other than vermin)
- Has, without provocation, attacked a person or animal (other than vermin)
- Has, without provocation, repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin)
- Has displayed unreasonable aggression towards a person or animal (other than vermin)
- Is kept or used for hunting.

Details of alleged incident:

On Tuesday 6<sup>th</sup> September 2011 about 6:45pm, A male dog by the name of "Oscar" that was tied up to a window grill by its owner at the time. This was at the corner of Arnold Place and Crown Street Darlinghurst. The dog attacked a male person while he walked past the dog. The attack was unprovoked and left him with puncture wounds and torn clothing.

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This declaration:

- a) Has effect from the date of this declaration 20 December 2011 or the date on which the declaration is given (whichever is the later).
- a) Applies throughout NSW. It is not limited in its operation to the council area where the declaration was made.

## **What are the requirements of this declaration?**

Under section 51 of the Act, you must comply with all of the following requirements within the time periods specified below.

Note: Schedule A of this declaration contains detailed specifications about the control requirements outlined below. However, you may also wish to seek and be guided by independent legal advice. It is also recommended that you keep any related documentation for your records – for example, the Notice of Intention to Declare a Dog to be a Dangerous Dog.

## **What must you do immediately?**

1. Ensure that, while on the property on which it is ordinarily kept, the dog is kept in an enclosure that is sufficient to restrain the dog and prevent a child from having access to the dog.

Note: This requirement remains in force until the prescribed enclosure requirements in clause 24 of the Companion Animals Regulation 2008 are complied with (attached at Schedule A, Part 2).

1. Ensure that at all times when the dog is away from the property where it is ordinarily kept:
  - (a) it is under the effective control of some competent person by means of an adequate chain, cord or leash
  - (a) it has a muzzle securely fixed on its mouth that will prevent it from biting any person or animal.

Note: A dog is not considered to be under 'effective control' if a person has 2 dogs, one of which is the dog the subject of the declaration, under his or her control at the one time.

2. Ensure that the dog is not at any time in the sole charge of a person under the age of 18 years.

## **What must you do within 7 days of the date of this declaration?**

Register the dog, if it is not already registered. The dog must be microchipped before you can register it.

## **What must you do within 28 days of the date of this declaration?**

1. Ensure that the dog is desexed.
1. Ensure that one or more warning signs are displayed on the property where the dog is ordinarily kept showing the words 'Warning Dangerous Dog' in letters clearly visible from the boundaries of the property.

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Note: Refer to clause 26 of the Companion Animals Regulation 2008 excerpt (attached at Schedule A, Part 2) for specifications.

2. Ensure that the dog at all times wears the distinctive collar prescribed by the regulations.

Note: Refer to clause 27 of the Companion Animals Regulation 2008 excerpt (attached at Schedule A, Part 2) for specifications.

## **What must you do within 90 days of the date of this declaration?**

Ensure that the dog is kept in the prescribed enclosure, in accordance with the specifications set out in Schedule A, Part 2 (clause 24) to this declaration.

Note: The owner of a dangerous dog must obtain a one-off certificate of compliance issued by an authorised officer of this council for the prescribed enclosure (see Schedule A, Part 2 for more information). Also, until this requirement is complied with, the dog must, while on the property where it is ordinarily kept, be kept in an enclosure that is sufficient to restrain the dog and prevent a child from having access to the dog.

## **What changes must be notified?**

You are also required to notify the council of the area in which the dog is ordinarily kept of the following matters within the time specified:

- a) That the dog, with or without provocation, has attacked or injured a person or animal (other than vermin) – notice to be given within 24 hours after the attack or injury.
- a) That the dog cannot be found – notice to be given within 24 hours after the dog's absence is first noticed.
- b) That the dog has died – notice to be given as soon as practicable after the death.
- c) That the dog is no longer being ordinarily kept in the council area – notice to be given as soon as practicable after the change of location.
- d) That the dog is being ordinarily kept at a different location in the council area – notice to be given as soon as practicable after the change of location.

## **What happens if you do not comply with these requirements?**

There is a maximum penalty of \$16,500 for failing to comply with any of the requirements of this declaration.

An authorised council officer may also seize and immediately destroy the dog if:

- a) The dog attacks or bites a person or animal (other than vermin) without provocation (in accordance with section 58G(1)(a) of the Act). A dangerous dog that attacks or bites a person or animal has demonstrated that it cannot be kept safely in the community.
- a) The control requirements for the dog are not complied with on at least 2 separate occasions over any period of 12 months (whether or not each occasion relates to the same requirement). However, if the dog has been seized on this ground, the authorised officer may authorise the destruction of the dog only if they are satisfied that it is reasonable to do so after appropriate enquiries have been made into the circumstances that resulted in the dog being seized.

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If your dog is seized for any of these reasons, you cannot make a claim for the dog unless an authorised council officer is satisfied that each of the requirements set out in this declaration is capable of being complied with.

## **Can you appeal against this declaration?**

You may appeal to a Local Court within 28 days of the date of this declaration. If you choose to do this, you should seek independent legal advice. Free legal advice may be obtained by contacting the Chamber Magistrate of the Local Court or a Community Legal Centre.

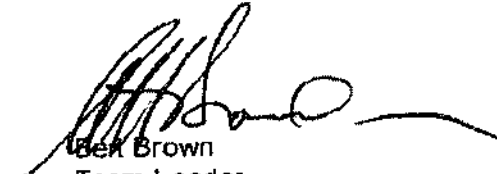
The fact that an appeal is pending will not affect your dog's status as a dangerous dog or your obligations under the Act as the owner of a dangerous dog, unless the Court orders otherwise.

## **Can this declaration be revoked?**

Yes, but not until 12 months after the date of this declaration. After that time, you can apply to the council of the area where the dog is ordinarily kept (whether or not it is the council whose authorised officer made this declaration) to have this declaration revoked. The council must consider your application and advise you of its decision as soon as practicable.

If you need any further information about this declaration, please contact Vijendra Kumar on (02) 9265 9333

Dated: 20 December 2011



Ben Brown  
Team Leader  
City Ranger Unit

## SCHEDULE A

### PART 1 CONTROL REQUIREMENTS FOR DANGEROUS DOGS UNDER SECTION 51 OF THE COMPANION ANIMALS ACT 1998

If your dog is declared by this Council to be a Dangerous dog you must comply with the following control requirements:

#### Section 51 - Owner of Dangerous dog must comply with control requirements

1. The owner of a Dangerous dog must ensure that each of the following requirements is complied with:

a) **Desexing**

In the case of a dog declared by a council under Division 6 of Part 5 to be a Dangerous dog, the dog must be desexed within 28 days after it is declared to be a Dangerous dog.

a1) **Enclosure requirements**

While the dog is on 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.

*(See clause 24 of the Regulation as set out under Part 2 of this Schedule for specific enclosure requirements.)*

The owner has 3 months from the date on which the dog is declared to be a Dangerous dog under Division 6 of Part 5 to comply with this paragraph.

a2) Until such time as the requirement under paragraph (a1) is complied with in relation to the dog, the dog must, while on property on which it is ordinarily kept, be kept in an enclosure that is sufficient to restrain the dog and prevent a child from having access to the dog.

b) The dog must not at any time be in the sole charge of a person under the age of 18 years.

c) One or more signs must be displayed on that property showing the words "Warning Dangerous Dog" in letters clearly visible from the boundaries of the property on which the dog is ordinarily kept or, if the regulations provide for the signs required by this paragraph, complying with the regulations.

*(See clause 26 of the Regulation as set out under Part 2 of this Schedule for specific signage requirements.)*

c1) **Distinctive collar must be worn**

The dog must at all times wear a collar of the kind prescribed by the regulations.

*(See clause 27 of the Regulation as set out under Part 2 of this Schedule for specific collar requirements.)*

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## a) Dog must be kept on lead and be muzzled

Whenever the dog is outside its enclosure, the dog:

- (i) must be under the effective control of some competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the person, and
- (ii) must be muzzled in a manner that is sufficient to prevent it from biting any person or animal.

For the purposes of this paragraph, a dog is not considered to be under the effective control of a person if the person has more than 2 dogs (one of which is the Dangerous dog) under his or her control at the one time.

## e), f) (Repealed)

## g) The owner must notify the council of the area in which the dog is ordinarily kept of the following matters within the time specified in relation to each of those matters:

- (i) that the dog (with or without provocation) has attacked or injured a person or animal (other than vermin)—notice to be given within 24 hours after the attack or injury
- (ii) that the dog cannot be found—notice to be given within 24 hours after the dog's absence is first noticed
- (iii) that the dog has died—notice to be given as soon as practicable after the death
- (iv) (Repealed)
- (v) that the dog is no longer being ordinarily kept in the area of the council—notice to be given as soon as practicable after the change of location
- (vi) that the dog is being ordinarily kept at a different location in the area of the council—notice to be given as soon as practicable after the change of location.

## h) Registration of dog

In the case of a dog declared by a council under Division 6 of Part 5 to be a Dangerous dog, the dog must, regardless of its age, be registered (if not already registered) within 7 days after it is declared to be a Dangerous dog.

2. An owner of a dog who does not comply with any of the requirements of this section is guilty of an offence.

Maximum penalty: 150 penalty units (\$16,500).

3. The requirements imposed under this section on the owner of a Dangerous dog are additional to the other requirements of this Act imposed on the owner of a dog.

4. In the event of an inconsistency between this section and the provisions of any agreement, covenant or instrument, this section is to prevail, but to the extent only of the inconsistency.

## **PART 2 CONTROL REQUIREMENTS FOR DANGEROUS DOGS UNDER THE COMPANION ANIMALS REGULATION 2008**

If your dog is declared by this Council to be a dangerous dog you must comply with the following control requirements:

### **Clause 24 Enclosure requirements for dangerous dogs**

1. For the purposes of section 51(1)(c) of the Act, the requirements set out in subclauses (2)–(4) are prescribed as the requirements that must be complied with in relation to an enclosure for a dangerous or restricted dog.
2. The enclosure must:
  - a) be fully enclosed, constructed and maintained in such a way so that the dog is not able to dig or otherwise escape under, over or through the enclosure, and
  - b) be constructed in such a way so that a person cannot have access to it without the assistance of an occupier of the property who is above the age of 18 years, and
  - c) be designed to prevent children from having access to the enclosure, and
  - d) not be located on the property in such a way so that people are required to pass through the enclosure to gain access to other parts of the property, and
  - e) have a minimum height of 1.8 m and a minimum width of 1.8 m, and
  - f) have an area of not less than 10 square metres for each dangerous or Restricted dog kept on the property, and
  - g) have walls that are fixed to the floor and constructed to be no more than 50 mm from the floor, and
  - h) have walls, a fixed covering and a gate that are constructed of:
    - (i) brick, timber, iron or similar solid materials, or
    - (ii) mesh that complies with subclause (4), or
    - (iii) a combination of the materials referred to in subparagraphs (i) and (ii), and
  - i) have a floor that is constructed of sealed concrete and graded to fall to a drain for the removal of effluent, and
  - j) provide a weatherproof sleeping area of sufficient dimensions to enable each dangerous or restricted dog kept on the property to shelter from the weather.
3. Any gate to the enclosure must:
  - a) contain a self-closing and self-latching mechanism that enables the enclosure to be securely locked when the dog is in the enclosure, and
  - b) be kept locked when the dog is in the enclosure, and
  - c) display the warning sign referred to in clause 26
4. Mesh used in the construction of an enclosure must be:



## **Certificate of Compliance for dangerous dog enclosures**

Owners of dangerous or restricted dogs must obtain a one-off certificate of compliance issued by an authorised officer of this council for the prescribed enclosure (sec 58H).

The certificate will verify that the enclosure for the dangerous or restricted dog required under section 51(1)(c) of the Act is compliant with the specifications for building such enclosures that are set out in clause 24 of the Regulation.

The fee for the issue of a certificate of compliance (after inspection) is currently prescribed by clause 25 of the Regulation and set at a maximum of \$100.

The certificate must be obtained within the time limit for construction of the enclosure under section 51(1)(a1).

## **Clause 26 Warning signs for dangerous dogs**

For the purposes of sections 51(1)(d) of the Act, a sign to be displayed on the property on which a dangerous dog or restricted dog is ordinarily kept must comply with the following requirements:

- a) the sign must be no smaller than 40 cm × 40 cm
- b) the sign must be made of durable materials
- c) the sign must show the words "Warning Dangerous Dog" in letters:
  - (i) that are of sufficient size so as to be clearly visible from the boundaries of the property, and
  - (ii) that are, in any case, at least 50 mm high and 10 mm wide.

## **Clause 27 Distinctive collars for dangerous dogs**

For the purposes of sections 51(1)(d1) of the Act, a collar is of the prescribed kind if:

- a) it consists of red stripes alternatively spaced with yellow stripes each being a width of 25 mm and set diagonal to the rim of the collar at an angle of 45 degrees, and
- b) at least one of the 2 colours reflects light in the dark, and
- c) it is made of durable materials, and
- d) it is able to be securely fastened, and
- e) it has a device or other facility that enables it to be attached to a leash, and
- f) it has a minimum width of:
  - (i) 25 mm for a dog weighing less than 20 kg or
  - (ii) 40 mm for a dog weighing between 20 kg and 40 kg or
  - (iii) 50 mm for a dog weighing more than 40 kg.