

# Regulatory impact statement: Additional proposals to amend the Dog Control Act 1996

## Agency disclosure statement

This regulatory impact statement has been prepared by the Department of Internal Affairs (the Department).

The Government is reviewing the policy settings around dog control to determine if more can be done to improve public safety around dogs. This is to address concerns that serious dog attacks continue to happen, with lasting impacts for victims and families.

This regulatory impact statement analyses options for amendments to the Dog Control Act 1996 (the Act) based on specific Cabinet direction on 19 September 2016. It follows on from the September 2016 regulatory impact statement *Proposals to amend the Dog Control Act 1996*. The same data limitations outlined in that paper, including limitations on the types of breeds involved in dog attacks, exist for the current analysis. Due to these limitations, a comparative analysis of options has been undertaken that draws on available data.

Cabinet directed the Department to look into further proposals to:

- introduce a licensing system for owners of classified dogs;
- adjust the current infringement regime to allow councils to take greater punitive action against irresponsible owners; and
- improve the quality of data about dog attacks.

Options are analysed relating to these three proposals. Three other specific proposals based on further ministerial direction are considered:

- provide local authorities with the discretion to set different registration fees for owners of menacing and dangerous dogs;
- extend all existing regulatory requirements that apply to dangerous dogs to menacing dogs; and
- create voluntary code for breeder licensing.

Not all options that have ministerial and stakeholder support are supported by the analysis in this document.

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## Executive summary

1. The Government is reviewing the policy settings around dog control to determine if central and local government can do more to improve public safety around dogs. This is to address concerns that serious dog attacks continue to happen, with long lasting impacts for victims and families.<sup>1</sup>
2. Cabinet approved the national strategy to reduce the risk and harm of dog attacks on 19 September 2016 (Cabinet Minute CAB-16-MIN-0485 refers). Cabinet direction on three additional areas of consideration form the basis of the analysis in this regulatory impact statement, which are to:
  - 2.1 introduce a licensing system for owners of classified dogs;
  - 2.2 adjust the current infringement regime to allow councils to take greater punitive action against irresponsible owners; and
  - 2.3 improve the quality of data about dog attacks.
3. Three additional specific proposals are also considered based on further ministerial direction.
4. Based on the analysis in this document, we make the following recommendations:
  - 4.1 A mandatory licensing system for owners of classified dogs should be introduced nationally. The details of the licensing should be implemented by council policy, and must include owner testing, property inspections and a dog temperament test. Licensed owners should also be able to acquire classified dogs from dog shelters.
  - 4.2 The infringements and prosecutions regime under the Dog Control Act 1996 should be adjusted to extend the 'rushing' offence under section 57A to include private property, and a new offence should be created for animal shelters that re-home classified dogs.
  - 4.3 Territorial authorities' reporting requirements should be adjusted to ensure they report on (in relation to acts of dog aggression) information on the breed of the dog, and whether the dog was registered, neutered, or classified at the time of the attack.
  - 4.4 Territorial authorities should be granted the discretion to set registration fees at a different rate for menacing and dangerous dogs, the existing requirement that they must set registration fees for dangerous dogs at 150 percent of standard dog registration fees should therefore be removed, and all existing regulatory measures that apply to dangerous dogs should be extended to menacing dogs.

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<sup>1</sup> Serious dog attacks can be defined as an interaction with a dog which results in serious injury (i.e. requiring emergency/hospital treatment) or death or which has the potential for such.

# Status quo and problem definition

## Dog Control in New Zealand

5. Any interaction between dogs and humans involves some risk. The central objective of dog control policy is to strike an appropriate balance between the advantages to individuals and communities of dog ownership and the protection of individuals and communities from dog attacks. In New Zealand, dog control is regulated by the Dog Control Act 1996 (the Act), which is implemented by territorial authorities.
6. The Act provides for the management of increased levels of risk associated with dogs and dog owners by means of classification. Classification of dogs (as menacing or dangerous) and of owners (as probationary or disqualified) allows for appropriate controls to be put in place for the protection of the community.
7. A territorial authority:
  - 7.1 **Must** classify a dog as dangerous where an owner is convicted of an offence under 57A of the Act, or where, on the basis of sworn evidence, the council believes a dog is a threat to public safety or where the owner records in writing that it is a threat to public safety;
  - 7.2 **Must** classify a dog as menacing if there are reasonable grounds to believe it belongs wholly or predominantly to one or more of the breeds or types of dog that it is illegal to import into New Zealand (under Schedule 4 of the Act). There are four listed *breeds* (Dogo Argentino, Brazilian Fila, Japanese Tosa, Perro de Presa Canario) and one *type* (American Pit Bull Terrier); and
  - 7.3 **May** classify a dog as menacing if it believes the dog poses a threat to public safety because of its behaviour or any characteristics typically associated with the dog's breed or type.
8. Dogs classified as dangerous **must** be kept in a fenced part of the owner's property, **must** be muzzled, on a leash in public and neutered. Dogs classified as menacing **must** be muzzled in public, and councils **may** require them to be neutered. Approximately two-thirds of councils have adopted mandatory neutering. Where such a policy is adopted, a non-compliant owner can be fined (upon conviction) and the territorial authority can seize the dog and retain it until the owner is willing to comply, or dispose of the dog.
9. Most councils have a policy of 'no rehoming' of classified dogs, meaning that classified dogs that are impounded by the council are destroyed.
10. There were 552,236 dogs registered in the National Dog Database (NDD) in 2016. The total number, including unregistered dogs, is unknown but is estimated to be nearly double this number. In 2016 there were 8519 dogs classified as menacing (1.54 percent of the total dog population) and 603 dogs classified as dangerous (0.1 percent of the total dog population).

11. Dog owners have a number of obligations under the Act. These include registering their dog with the local council before it is three months old or when the owner receives the dog, and micro-chipping their dog when it is registered for the first time (except for farm dogs), or if it has been classified as dangerous or menacing. Dog owners must also make sure the dog does not startle or injure any person or any other animal and is kept under control at all times; and care for their dog (providing adequate food, water, shelter and exercise).
12. Dog owners must take all reasonable steps to ensure that the dog does not:
  - 12.1 cause any nuisance to any other person, for example by constant barking, howling or roaming;
  - 12.2 injure, endanger or cause distress to any stock, poultry, domestic animal or protected wildlife;
  - 12.3 damage or endanger any property belonging to another person.
13. The penalty for owning a dog involved in an attack causing serious injury is up to three years' imprisonment and/or a fine of up to \$20,000. The penalty for not registering a dog is \$300 as is the penalty for not micro-chipping a dog if required to do so.
14. There were 415,144 owners of registered dogs in New Zealand in 2016 meaning there were 1.33 registered dogs per registered owner. This number has increased by 7 percent since 2013. Currently dog owners do not require a licence.
15. Evidence from councils and animal management officers is that irresponsible dog ownership is largely attributable to (i) a lack of owner education about dog behaviour and how to be responsible (ii) socio-economic factors resulting in an inability to meet extra costs associated with responsible ownership, and (iii) unwilling non-compliant attitudes among members of society. Public perception of this issue was highlighted in the Associate Minister of Local Government Hon Louise Upston's recent public survey on reducing dog attacks, where 62 percent of respondents considered the dog owner to be the single biggest contributing factor towards dog attacks.<sup>2</sup>

## Overall problem: Dog attacks continue to occur

16. Despite the improvements to the dog control regime over the years, serious dog attacks continue to occur in New Zealand.
17. Ministry of Health data shows that the number of hospitalisations for dog bites<sup>3</sup> has increased by 53 percent from 457 in 2005 to 724 in 2015. The rate of hospitalisations by population is also increasing, with a rate of 15.8 hospitalisations per 100,000 people in 2015. The annual rate of change is variable with discharges in the last three years showing little change.

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<sup>2</sup> These results should be treated with some caution as only interested parties took part in the survey.

<sup>3</sup> MoH analysis is for publicly funded hospital discharges with the cause code 'W54: Contact with dog', using ICD10 classification.

18. Otago University's Injury Prevention Unit's (IPU) data shows that the number of hospitalisations for dog bites<sup>4</sup> increased by 72 percent from 276 in 2000 to 474 in 2014.<sup>5</sup> Both the IPU and MoH data show a significant increase in discharges in 2011, and a slowing/reduction in the rate of growth of hospitalisations over the last few years.
19. ACC data on dog-related injury claims shows a 25 percent increase in the number of active claims from 10,196 in 2006 to 12,695 in 2015.<sup>6</sup> The total pay-out for dog-related injuries from 2006 to 2015 was \$34.860 million. In 2015, the average cost per claim was \$407, and while there has been more annual variation in the average cost per claim than for the number of active claims, the cost of the average claim still increased by 72 percent from 2006 to 2015.
20. Both ACC claims and hospitalisation data show that most dog-related injuries and incidents occur in the home, followed by those that occur on the street. This finding is supported by findings overseas.<sup>7</sup>
21. According to the IPU data, just under 30 percent of the patients discharged were under the age of 10. In contrast the ACC claims data shows the peak rate of claims is for clients in the 50-54 age range. This suggests that while more people may claim for ACC injuries requiring treatment at older ages, the impact of dog-related injuries appears to be greater on younger people.

## Additional status quo: Decisions to date

### National strategy to reduce dog attacks

22. The Government is reviewing the policy settings around dog control to determine if central and local government can do more to improve public safety around dogs. This is to address concerns that serious dog attacks continue to happen, with long lasting impacts for victims and families. The Government is developing a national strategy to reduce the risk and harm of dog attacks (the strategy).
23. Cabinet approved the first tranche of proposals that form part of the strategy on 19 September 2016, including proposals to:
  - 23.1 require that all menacing and dangerous dogs are neutered;

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<sup>4</sup> IPU analysis is for publicly funded hospital discharges with the cause code 'W54: Contact with dog', using ICD10 classification.

<sup>5</sup> IPU analysis also originates from data collected and supplied by MoH. But as well as being subject to other selection criteria, IPU data excludes day patients. Hence, the much lower numbers than for MoH data presented here.

<sup>6</sup> It should be noted that the ACC claims data is for dog related injuries and includes more than just 'attacks' or 'bites'.

<sup>7</sup> Australian Veterinary Association "Dangerous dogs – a sensible solution: Policy and model legislative framework" (August 2012).

- 23.2 extend the requirement to keep dogs in a fenced area at home, which allows visitors dog-free access to at least one house entrance, to menacing dogs (this only applies to dangerous dogs currently);
  - 23.3 display signs at the front of properties to alert people to the presence of menacing and dangerous dogs;
  - 23.4 ensure that dangerous or menacing dogs wear collars that identify them as high-risk; and
  - 23.5 prohibit the re-homing of menacing and dangerous dogs.
24. When Cabinet approved the first tranche of proposals, it also noted that the Associate Minister of Local Government would report back in November 2016 with further details on proposals relating to:
- 24.1 introducing a licensing system for owners of classified dogs;
  - 24.2 adjusting the current infringement regime to allow councils to take greater punitive action against irresponsible owners; and
  - 24.3 improving the quality of data about dog attacks.
25. This second tranche of proposals forms the basis for this analysis. The first tranche of proposals will be considered to be in effect in this analysis to allow the strategy to be considered in its entirety.

## **Additional non-legislative components to support legislative change**

26. Alongside the legislative changes, Cabinet also agreed to three supporting non-legislative components to the strategy described below.

### **Review of best practice guidance to support council delivery of dog control services**

27. Cabinet agreed the local government sector will work with central government to produce best practice guidance for territorial authorities' administration of the dog control regime. Materials will be produced in light of best practice in dog control from around New Zealand and overseas jurisdictions. It was agreed that this guidance be centred around the proposed legislative changes, and implementation of the Act more generally, such as ways to:
- 27.1 increase uptake of registration, neutering, and micro-chipping;
  - 27.2 promote responsible dog ownership; and
  - 27.3 improve information-sharing and enforcement (including identifying breeds for classification as menacing).
28. All options in this analysis are considered on the basis that best practice guidance will be developed and available, particularly when the options are:
- 28.1 better suited to be a part of this best practice work as opposed to regulatory change; or

28.2 effective only when supplemented by guidance from the best practice work.

### **Education campaign about responsible dog ownership and safety around dogs**

29. Cabinet noted as part of the strategy that an education campaign will be developed which will be led by central government and either in partnership with, or supported by, local government and with input from non-government organisations. The finer details of this campaign are still to be developed. It is expected to begin following the passage of the legislative changes, and continue for up to 12 months, to:
- 29.1 inform all owners about their responsibilities (immediately following the legislative changes); and
  - 29.2 promote responsible dog ownership by normalising appropriate behaviour, and improving the ability of adults and children to interact safely with dogs.
30. All options in this document are considered alongside this education workstream.

### **A nationwide neutering programme to increase uptake of neutering by owners menacing dogs**

31. Lastly, Cabinet agreed to provide \$0.850 million to subsidise fees for the neutering of menacing dogs<sup>8</sup> nationwide. Although the key drivers of this programme were to ensure that more menacing dogs were neutered and reduce the overall supply of these dogs (when they are classified by breed), it is also expected to have a secondary benefit of increased registration and microchipping.<sup>9</sup>
32. The neutering programme is expected to launch by the end of 2016.

### **Cabinet direction forms the basis for this analysis**

33. Cabinet direction on the three matters to be considered in the second tranche of proposals outlined previously forms the basis for the analysis in this document. These decisions limit the options considered, and mean there is no consideration of the status quo. Because the areas of direction are distinct, the problems and objectives for each are established and considered separately.
34. Ministerial direction was for the Department to look into three additional matters, which are considered collectively in the fourth section of this document.

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<sup>8</sup> “Menacing dog” in this instance includes: any dog that has been classified as menacing under the Act, including any dogs of breeds and types listed in Schedule 4 the Act, and any dog that would be classified as menacing but has not yet been classified as it is not registered.

<sup>9</sup> Auckland Council ran a similar 10-week amnesty in 2016 which resulted in in around 1500 unregistered dogs being brought forward for registration, microchipping and neutering.



## Area of direction 1: Licensing of owners of classified dogs

35. The first area of Cabinet direction was to explore a requirement that owners of dogs classified as menacing or dangerous obtain a licence. Cabinet was informed that such a licensing regime could include:
- 35.1 minimum education requirements and owner testing;
  - 35.2 mandatory property inspections; and
  - 35.3 dog temperament checks.
36. For the purpose of this analysis, assumptions made around the functionality of the licensing are made that:
- 36.1 a fee would be payable for a licence, territorial authorities would set and collect licensing fees in order to achieve cost recovery in the same way they do with dog registration fees currently;
  - 36.2 a licence would be required to own any classified dog and any owner of a classified dog who does not obtain a licence would have their dog seized by the relevant territorial authority; and
  - 36.3 implementation will be 'phased' in over time to allow owners time to ensure they meet their new requirements.

### Problem

37. The Act currently does not impose substantial requirements on dog owners apart from requirements around how they must handle their dog, or restrictions that are imposed after multiple infringements or a prosecution (i.e. reactive measures rather than preventative measures). Councils have stated that currently if a dog is removed from an unwilling non-compliant owner, that owner will often just get another dog and issues are likely to continue. As such, there are efficiency gains for councils in being able to focus regulatory efforts on the owner rather than the dog.
38. Owner licensing systems internationally tend to focus on the suitability of the owner to handle the dog and the owner's understanding of their legal obligations in relation to dog ownership. For example, the German state of Lower Saxony introduced an owner licensing system in 2011 which required owners to complete theoretical and practical tests. Tests included knowledge of animal welfare standards, social behaviour of dogs, and legal obligations of the owner. The practical component also involves assessment of the temperament of the dog to assess its level of risk.<sup>10</sup> Note that the Department could not identify any evaluation of these interventions to date.

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<sup>10</sup> Parry, S. (2013). Howling at the Moon: Does the law provide adequate protection to the public from the dangers posed by dogs not under effective control?

39. Owner licensing typically yields significant public support, particularly from animal welfare agencies who consider it plays a role in emphasising owner responsibility rather than solely the actions of the dog. The New Zealand Veterinary Association (NZVA) and the Royal New Zealand Society for the Prevention of Cruelty to Animals (SPCA) both strongly support an owner licensing system that incorporates an education element.
40. Hon Louise Upston, Associate Minister of Local Government released a public survey in August 2016 on the best ways to reduce dog attacks. When prompted, seventy-five percent of the over 3000 respondents submitted that the Government should introduce a licensing system for dog owners.

## Objectives and criteria

41. We have identified the following objectives for a licensing system for owners of classified dogs, which are to:
  - 41.1 ensure that the owners of classified dogs are suited to own that dog; and
  - 41.2 ensure that owners of classified dogs understand their legal obligations under the Act.
42. Options for a licensing system for owners of classified dogs are assessed against the following criteria:<sup>11</sup>
  - 42.1 **Effective:** the option achieves the desired outcomes and addresses the problems identified;
  - 42.2 **Efficient:** the requirements minimise compliance costs and are no more than necessary to achieve the outcomes sought;
  - 42.3 **Equitable:** the requirements are fair and are consistently applied;
  - 42.4 **Clear and transparent:** people understand what is required of them and the basis of decisions; and
  - 42.5 **Cost-effective:** the option is a cost-effective expenditure of public funds.
43. The criterion of 'effectiveness' provides an assessment of how the option meets the two objectives above.

## Analysis

44. Analysis of components of a licensing regime is split into four parts, and options under each part are assessed individually. The areas of assessment are:
  - 44.1 The method of implementation
  - 44.2 The target groups
  - 44.3 The intervention components

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<sup>11</sup> Criteria for the assessment of the licensing system for owners of classified dogs replicate criteria under the previous regulatory impact statement *Proposals to amend the Dog Control Act 1996*

44.4 Impact of the licensing system

45. A table of the analysis is attached as Appendix 1.

**Part 1: Method of implementation (Options are mutually exclusive)**

46. Many councils already have an existing Responsible Dog Owner licence<sup>12</sup> (RDO) for which owners must meet various requirements. Licensees are often rewarded with a reduction in the registration fees. Requirements vary between jurisdictions, but sometimes centre around property inspections, dog temperament tests and an assessment of the owner's competence. They often have other prerequisites where the licensee must have paid all registration fees on time and have received no complaints in the period leading up to licensing. RDOs can be considered distinct from the proposed licensing scheme as they are solely rewards-based and are not a prerequisite for dog ownership. In considering implementation of a national licensing system for owners of high-risk dogs, it is important that any licensing system operates effectively with existing council policies given the council role in implementation.
47. The New Zealand Institute of Animal Management (NZIAM) has raised concerns about inconsistent application of the Act currently where some territorial authorities adopt a minimal and ineffective approach. Options for implementation are therefore assessed along a spectrum of discretion for local authorities and national consistency.

***National implementation***

48. The licensing system could be implemented nationally. This would be a prescriptive approach where the requirements are set nationally and councils are unable to alter the components of the licensing system.
49. This would have two distinct advantages in that it will see consistency across the country in owner expectations and responsibilities, and would also be cost-effective for councils as it would not require them to develop their own licensing systems through a policy/bylaw.
50. However, national implementation would create some difficulties where councils with an existing RDO would be required to either:
- 50.1 administer two licensing systems that, depending on the agreed components of the licensing system, would likely involve similar interventions; or
  - 50.2 adjust their existing RDO policy so that it matches the requirements of the owner licensing system (potentially removing additional criteria that the territorial authority currently applies).
51. This approach is not preferred.

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<sup>12</sup> Auckland, Wellington, Christchurch, Dunedin, South Taranaki, Waimate and Queenstown-Lakes (among others) have some form of a responsible dog owner licence with a wide range of interventions.

### ***Local implementation***

52. The licensing system could be implemented locally. This would make it mandatory for councils to develop a licensing system, but they would have complete discretion on what components to include in their licensing system.
53. This would have an advantage of allowing councils to fully implement the system in accordance with any existing RDO. It would also permit councils with unique populations to adopt policies that suit their needs (e.g. areas with high populations of working dogs). Disadvantages would include the resulting large variation between council policies creating confusion for dog owners, particularly when they move between jurisdictions. Additionally, resourcing constraints for some councils may limit their ability to develop effective policies that achieve the policy intent. However, limitation could be addressed by supplementing policy development with the local government sector's best practice guidance which will support policy development. This approach is not preferred.

### ***Joint implementation***

54. The licensing system could be implemented in a 'joint' approach. This would involve introducing minimum requirements for the licensing system nationally, but requiring councils to adopt the licensing system as part of their existing dog control policies. Councils would then be able to adjust these components of the licensing system as they see fit.
55. This approach would see nationwide consistency on the key issues that the Government considers to be appropriate for a licensing system, but would also allow councils to adopt the licensing system as part of any existing RDO policy. Although this would create some costs for councils that would be required to develop a policy, this cost could be supplemented by the local government sector's best practice guidance which will support policy development. This is the preferred approach.

## **Part 2: Target groups (Options are mutually exclusive)**

56. Cabinet direction was to consider a licensing system for owners of classified dogs. For the purposes of a robust analysis, we have considered whether the target groups could be expanded or further limited. We have considered whether the target groups should be the lowest risk and above (all dogs), medium risk and above (menacing and dangerous dogs), or highest-risk (solely dangerous dogs).

### ***All dog owners***

57. The licensing system could cover all dog owners. This would have the advantage of normalising the expectations to have a licence across all dog owners. It would also encourage compliance from high-risk owners as they may be less inclined to perceive themselves as being 'targeted'. This would also see consistency across all dog owners, and would allow for measures to be placed on dogs before they show aggressive tendencies (i.e. before classification by deed).

58. However, given there were 415,144 owners of registered dogs in New Zealand in 2016, there would be significant administration costs associated with licensing each owner. This would not be proportionate to the risk this group poses. Additionally, this approach does not target the groups perceived to be of higher risk, and would likely lead to non-compliance from owners that consider these measures unnecessary. This may, in turn, lead to fewer dogs being registered and reduced council control over their local dog populations. This approach is not preferred.

#### *Owners of dogs classified as menacing or dangerous*

59. The licensing system could cover all classified dogs. This ensures the group considered to be 'high-risk', including all dogs under Schedule 4 of the Act, are specifically targeted.
60. As classified dogs only occupy 1.6 percent of the total dog population, this would have significantly reduced costs compared to the population-wide licensing system described above. This group also captures all dogs that have considered to be a threat to public safety, or dogs belonging to an owner that has been convicted of an offence under section 57A(2). This is the preferred approach.

#### *Owners of dogs classified as dangerous*

61. The licensing system could cover owners of dogs classified as dangerous. This would have the advantage of only targeting the highest-risk dogs and imposing the smallest cost on councils given there are only 603<sup>13</sup> dogs classified as dangerous nationwide.
62. However, this approach is limited in that it is not preventative. Because councils typically classify a dog as dangerous following an incident that results in a conviction for the owner, this approach would only targets dogs and their owners after an incident has already occurred. Because we consider that the owner licensing system would be effective for preventing future attacks, it should ideally be implemented before incidents occur. This approach is not preferred.

### **Part 3: Intervention components (Options are not mutually exclusive)**

63. As noted earlier, owner licensing systems typically comprise of owner testing on dog behaviour, owner testing on legal obligations for dog ownership, property inspections, and a dog behaviour assessment. These options are considered in the analysis below.

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<sup>13</sup> Based on NDD data from early 2016.

### *Owner testing on dog behaviour*

64. Owner testing on knowledge of dog behaviour has been shown to be effective at reducing dog aggression.<sup>14</sup> This therefore seems a compelling option for intervention as part of an owner licensing system, particularly if the system targets high-risk dogs. A disadvantage of this option is that it may require the animal control officer to work extensively with the owner in order for them to demonstrate that they have the required knowledge as part of a test.
65. We understand that some councils already carry out owner testing as part of their rehoming scheme. Councils may also currently require probationary owners<sup>15</sup> to undertake owner education training and/or a dog obedience course. Councils that frequently undertake such training will already have internal capacity to carry out testing.
66. A disadvantage to this approach is that anecdotally, there appears to be inconsistency in knowledge of dog behaviour between councils which may create barriers to implementation. For example, some councils have animal behaviourists on staff that are capable of carrying out tests, whereas others do not. However, these kinds of services could be contracted out to experts if necessary. Whatever approach is deemed to be most effective would be supported centrally by the local government sector's best practice guidance to supplement council capability. This option is recommended.

### *Owner testing on knowledge of responsibilities under the Act*

67. Owner testing on knowledge of legal responsibilities under the Act would be an effective way to increase compliance. This would likely include ensuring they are aware of leashing requirements, requirements to have their dog under control at all times, and the effects of any classification that may apply to their dog. This may also prevent owners from inadvertently breaching requirements, reducing the need for future council enforcement action.
68. We would expect all councils to be able to administer such a test effectively given their enforcement role under the Act. This option is recommended.

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<sup>14</sup> Cameron, D.B. (1997). Canine dominance-associated aggression: concepts, incidence, and treatment in private behaviour practice.

<sup>15</sup> Territorial authorities may classify anyone as a 'probationary owner' if they are issued with three or more infringement notices within a two-year period, or are convicted of any offence under the Act.

### ***Property inspections***

69. Many animal control officers already carry out property inspections under the Act, as do SPCA shelters prior to re-homing. We consider that this option would be effective and could be combined with any other testing done as part of the licensing system so that tests could be carried out 'on-site' where the dog resides. We consider that this inspection would only need to be done once at the point of registration and at the point of any address change. Section 49 of the Act already requires owners to notify their territorial authority of any change in address, at which point a follow-up inspection would be administratively simply to arrange.
70. This would be most effective if the licensing system is targeted at classified dogs because it would enable animal control officers to ensure they meet, or will meet, the fencing requirements imposed as part of their classification. This option is recommended.

### ***Dog temperament test***

71. A dog behaviour assessment is the only intervention considered that relates to the dog, rather than the owner. This creates some difficulties where owners of multiple dogs may have to have multiple behaviour assessments carried out. However, we consider that this is not a barrier to implementation.
72. The SPCA currently temperament tests all dogs prior to re-homing as do some council shelters (e.g. Hamilton). Implementation of a nationwide temperament testing approach for dogs owned by licensed owners would therefore be relatively simple. The SPCA uses a seven-item behaviour assessment called SAFER, which is easily administered in around 10 minutes. Council nationwide implementation of a temperament test of this nature could easily be supplemented by the local government sector's best practice guidance. This option is recommended.

## **Part 4: Additional consequences for a licence (Options are not mutually exclusive)**

73. When the first tranche of proposals were agreed at Cabinet, the Government had not yet considered how an owner licensing system might function. In developing proposals for the owner licensing system, we have considered how a licensing system might better achieve earlier policy decisions made.
74. The first tranche of proposals included a prohibition on the re-homing of classified dogs from shelters. We consider that as currently proposed, this prohibition could have unintended consequences such as:
  - 74.1 creating disincentives for owners of menacing dogs in uncontrolled environments to surrender those animals to shelters if they know they are likely to be euthanized;
  - 74.2 discouraging owners to make themselves known to territorial authorities if they fear their dogs will be taken and euthanized;
  - 74.3 creating an incentive for some shelters to mis-classify menacing dogs to allow rehoming;

- 74.4 increasing conflicts between animal control officers and owners of menacing dogs, who might resist seizure of their dogs to a greater extent; and
  - 74.5 increasing the number of appeals from owners relating to the classification of their dogs, increasing the costs for territorial authorities to defend their decisions.
75. Options for how this prohibition might be modified by the licensing system are considered below.

#### *Allowing licensed owners to acquire classified dogs from shelters*

- 76. The prohibition on the re-homing of classified dogs from shelters could remain, unless the prospective owner has a licence. This would ensure that classified dogs are only re-homed to suitable owners (although 'suitability' would depend on which intervention components are included).
- 77. This approach also addresses concerns from welfare agencies about the severe consequences of the prohibition given the current lack of evidence about which breeds are involved in dog attacks in New Zealand.
- 78. However, this option would see dogs classified as dangerous rehomed to new owners. Because these dogs have been involved in a specific incident and have been demonstrated to be high-risk, we do not consider that this appropriate. This option is not recommended.

#### *Allowing licensed owners to acquire menacing dogs from shelters*

- 79. This approach yields the same benefits outlined in the proposal above, but does not allow for dogs classified as dangerous (i.e. the highest risk dogs) to be re-homed. We considered this nuanced approach to the modification to be more appropriate. This option is recommended.

## Area of direction 2: Review of infringements and prosecutions

- 80. The second area of Cabinet direction was to review the infringement regime under the Act. Due to timing constraints, we have not explored options for establishing alternative tribunal or judicial procedures for taking prosecutions under the Act as suggested by stakeholders.

### Problem

- 81. Overall, engagement with stakeholders has not revealed significant problems with the current infringement and prosecutions regime. Animal control officers have identified some technical issues with the offence provisions that often hinder animal control officers' abilities to take appropriate enforcement action under the Act.
- 82. New offences are also needed to give effect to new requirements under the strategy, such as owner licensing.



83. Lastly, if the proposals are implemented in their current form, the regulatory measures imposed on menacing and dangerous dogs will be identical.<sup>16</sup> Given dangerous dogs are considered to be higher risk than menacing dogs due to their history of behaviour, ministerial direction was to consider differentiating the classifications by way of penalties.

## Objectives and criteria

84. The objectives for the review of the infringements and prosecutions regime are to:
- 84.1 ensure that effective enforcement action can be taken under the Act; and
  - 84.2 ensure that the infringement and prosecutions regime creates an effective deterrent for unwanted behaviour by dog owners.
85. Options for the review of infringements and prosecutions are assessed against the following criteria:
- 85.1 **Effective:** the requirement assists the enforcement of the Act, and deters unwanted behaviours by dog owners;
  - 85.2 **Suitable:** the requirement is proportionate to the conduct it addresses; and
  - 85.3 **Necessary:** the requirement is needed and is not covered by existing provisions.

## Analysis

86. The analysis of options for the review is limited to suggestions from stakeholders, and gaps that the Department has identified in the current regime.
87. A table of the analysis is attached as Appendix 2.

### Extend the 'rushing' offence to include private property

88. Section 57A of the Act makes it an offence for any dog to rush at a person, animal, property, or vehicle that causes death, injury, damage, or endangerment. An animal control officer or dog ranger who believes on reasonable grounds that such an offence has been committed may seize the offending dog, the owner can be fined up to \$3,000 plus damages, and the court may order the destruction of the dog.
89. Currently, this offence only applies to incidents that occur on public property. The clear rationale as to why this limitation applies is unclear. As both ACC claims and hospitalisation data show that most dog-related injuries and incidents occur in the home, we consider it reasonable that this offence should be extended to include private property. This would allow councils to take enforcement action in a much wider range of circumstances. Although there may be evidence limitations around proving whether a rushing incident took place, these limitations would be similar to those that would occur in public (although there may potentially be fewer witnesses).

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<sup>16</sup> Ministerial direction was to extend regulatory measures that apply to dangerous dogs to menacing dogs as well. This is considered under 'Area of direction 4' in this analysis.

90. There may be some concerns that rushing is a key part of a dog's territorial nature. We note that 'rushing' as defined under section 57A must result in death, injury, damage, or endangerment. This requirement for there to be potential (or real) harm differentiates it from rushing in a general sense. This option is recommended.

### Increase fees for infringement offences

91. Ministerial direction was to consider increasing all infringement offences under the Act to allow animal control officers to take greater enforcement against noncompliant owners.
92. There is inconsistent evidence that increased fines are effective at deterring anti-social behaviour. Additionally, infringement fee regimes are only effective when offenders are willing and able to pay their fines rather than simply not pay or contest fines in court. Anecdotally, we have heard from animal control officers that irresponsible owners who are issued an infringement offence often simply do not pay. This would recur at a greater rate if infringement fees under the Act were increased across the board. Generally, there has not been a demand for such an increase from animal control officers. This option is not recommended.

### Increase fees for failure to comply with dangerous dog classification relative to menacing dog classification

93. If the proposals are implemented in their current form, the regulatory measures imposed on menacing and dangerous dogs will be identical.<sup>17</sup> Given dangerous dogs are considered to be higher risk than menacing dogs due to their history of behaviour, it is arguable that owners of dangerous dogs should be held to account to a greater degree.
94. Although dangerous dogs are the group most 'at-risk' for future dog attacks, as outlined above, there is inconclusive evidence that increasing penalties and fees are not strong incentives for deterring unwanted behaviour. Additionally, because the two classifications impose identical requirements on owners, it is arguable that the consequences for a breach should be the same. This option is not recommended.

### Create an infringement offence for rushing and attacking

95. Offences exist for dogs that attack, or 'rush', under sections 57 and 57A of the Act respectively. These offences are prosecutable and there is no corresponding infringement fee. It has been suggested that these offences could be made infringement offences to allow immediate action to be taken without going through a full prosecution.

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<sup>17</sup> Ministerial direction was to extend regulatory measures that apply to dangerous dogs to menacing dogs as well. This is considered under 'Area of direction 4' in this analysis.

96. These are high-level offences, with only an offence under section 58 providing a higher penalty (for dogs causing serious injury). A conviction under this section if there was a threat to public safety or literal injury/damage. 2014 Legislation Design and Advisory Committee Guidelines state that “Infringement offences should be reserved for matters regarded as being of concern to the community and should be prohibited, but do not justify the imposition of a criminal conviction, significant fine, or imprisonment.” We consider that a conviction and seizure of the dog is more appropriate for offences of this nature.
97. Low-level rushing incidents that do not result in public endangerment can already be captured by the existing infringement offence for ‘failure to keep dog under control’. This option is not recommended.

### Create a new offence for reckless ownership

98. Section 58 provides for imprisonment for a term not exceeding 3 years where a dog causes serious injury. The Department has identified that other jurisdictions often have a more ‘severe’ version of this offence. For example, Victoria, Australia has an offence which relates to owners who engage in reckless conduct so that the dog is not under control, placing another person in danger of death.<sup>18</sup>
99. An offence relating to ‘reckless ownership placing another person in danger of death’ could be created in New Zealand with higher penalties than the current offence for dogs causing serious injury. Such an offence would recognise the culpability of the owner of the dog, rather than simply focusing on the dog involved. It would also send a clear message about owners’ responsibilities and their role in preventing attacks. A higher penalty would be appropriate for such an incident because the owner’s reckless conduct must have contributed to the incident (differentiated from situations where an owner takes precautions but an attack occurred regardless).
100. We have not heard from stakeholders that such an offence is required at this time. Existing offences seem to be adequate for covering current conduct, and the maximum penalty of 3 years imprisonment is not often handed down by the courts. Additionally, any *intentional* use of a dog to cause injury is captured by ‘assault with weapon’ under s202C of the Crimes Act 1961, carrying a maximum term of imprisonment of 5 years. We therefore do not consider that creating such an offence should be pursued at this time. This option is not recommended.

### Create a new offence for animal shelters that re-home classified dogs

101. The current proposals include a prohibition on the re-homing of classified dogs for all animal shelters. An offence must therefore be introduced for enforcement action to be taken against shelters that continue to re-home menacing or dangerous dogs.

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<sup>18</sup> Section [319C](#) of the Crimes Act 1958 (State of Victoria, Australia).

102. Penalties against companies exist under many different regimes, for example the Sale and Supply of Alcohol Act 2012 creates fines of up to \$10,000 for any premises that sells alcohol to a minor. We consider that an offence with an identical fine of up to \$10,000 for shelter organisations will be a strong deterrent for shelters to re-home classified dogs. This option is recommended.

## Area of direction 3: Improve the quality of data about dog attacks

103. The second area of Cabinet direction was to explore options to improve the quality of data about dog attacks. This is considered to be crucial for monitoring the effects of the strategy.

### Problem

104. The Department outlined significant data limitations on dog attacks in its previous regulatory impact statement *Proposals to amend the Dog Control Act 1996*. Specifically, the Department noted there was unreliable data on:
- 104.1 the actual number of dogs in New Zealand due to the large number of unregistered dogs; and
  - 104.2 the characteristics of dogs involved in attacks (e.g. breed of attacking dogs and classification of dogs prior to attack) and circumstances surrounding attacks.
105. There is significant debate in the dog control and animal welfare sectors about whether specific breeds are inherently more likely to be involved in attacks. A lack of information of this nature hinders the Government's ability to target regulatory action towards specific areas.
106. Improving the information will enable the Government to evaluate whether legislative measures, such as menacing or dangerous classifications, are effective at reducing dog attacks.

### Objectives

107. We have identified the following objectives for improving the quality of information on dog attacks, which are to:
- 107.1 improve the national picture on the number of dogs in New Zealand;
  - 107.2 increase the information collected and reported on dog attacks in order to better understand the circumstances surrounding them; and
  - 107.3 remove unnecessary regulatory barriers preventing the collection of information.

## Analysis

108. The analysis of options to improve the quality of data about dog attacks is provided below.<sup>19</sup>

### Allowing third parties to carry out dog registration (e.g. veterinarians, SPCA)

109. Anecdotally, we have heard that dogs are often not registered with their council in situations where owners get their first dog checkup (e.g. vaccinations, neutering, microchipping) and then do not follow up with their local council to get their dog registered on the NDD. Stakeholders have suggested that allowing veterinarians or SPCA clinics to register dogs on the NDD during the initial check-up would increase registration. SPCA considers that owners may be more inclined to register their dog at their SPCA or veterinary clinic given the focus of those organisations on animal welfare rather than dog control.
110. Although veterinarians and SPCA staff cannot complete a 'full' dog registration, the Department has identified no regulatory barriers to these organisations carrying partial completion of registration. For example, some local councils already provide registration forms to their local SPCA, who fill them out with prospective owners and pass them back to the council at the point of adoption. The council then reimburses the SPCA for their costs.
111. The Department considers that promoting such practice nationwide to allow for a 'one-stop shop' for microchipping, neutering, vaccinations, and registration will increase uptake of registration. However, we consider that this should be promoted as part of the local government sector's best practice work rather than made a mandatory requirement (particularly as these organisations are often privately owned businesses). Because regulatory change is not required to essentially achieve the policy intent, this option is not recommended.

### Changes to council reporting requirements under section 10a of the Act

112. Section 10A of the Act currently requires each territorial authority to publicly report each financial year on its dog control policy and practices, and a variety of dog control-related statistics, including infringements issued, prosecutions undertaken, and complaints received. The requirements in this section form the structure of information that councils collect on dog attacks. Therefore, we consider this the most effective point of intervention for improving the quality of information on dog attacks and dog registrations.
113. Although some councils collect and report on dog attacks to a greater level of detail than is currently required, inconsistency in what is provided means a national picture cannot be obtained. The Department considers that expanding the information territorial authorities are required to report on in relation to dog attacks would:
- 113.1 ensure territorial authorities collect meaningful information on dog attacks; and

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<sup>19</sup> Given only regulatory-based options were considered, the analysis is not provided as an appendix.

- 113.2 promote greater consistency in territorial authorities' reports under section 10A.
114. Given the limited information surrounding dog attack incidents, we consider territorial authorities should be required to collect and report on information relating to (for any incident relating to dog aggression):
- 114.1 information on the breed of the dog;
  - 114.2 whether the dog was registered at the time of the attack;
  - 114.3 whether the dog was neutered at the time of the attack; and
  - 114.4 whether the dog was classified as menacing or dangerous at the time of the attack.
115. Information of this nature would help develop a reliable evidence base to inform any future regulatory changes, and to evaluate the effectiveness of the strategy. This work could also be supplemented by the local government sector's 'best practice' guidance which will include model reports under Section 10a to promote consistency. This option is recommended.

### **Mandatory reporting of dog bites to territorial authorities not considered**

116. The previous regulatory impact statement *Proposals to amend the Dog Control Act 1996* did not recommend an option to require mandatory reporting of dog attacks (by health practitioners, or by the Accident Compensation Corporation). This option is not considered further.
117. The Department is working with the Ministry of Health and the Accident Compensation Corporation on non-legislative measures to promote reporting of dog attacks. Any practice-based options can be promoted alongside the local government sector's 'best practice' guidance.

## **Area of direction 4: Additional policy proposals**

118. Ministerial direction was to consider implementing several other specific proposals, these are:
- 118.1 provide local authorities with the discretion to set different registration fees for owners of menacing and dangerous dogs;
  - 118.2 extend all existing regulatory requirements that apply to dangerous dogs to menacing dogs; and
  - 118.3 create voluntary code for breeder licensing.

### **Analysis**

119. Ministerial direction was to consider implantation of specific proposals. Therefore, we have not considered other options and each proposal is considered solely against the status quo. Analysis of options is provided below.

## Provide local authorities with the discretion to set different registration fees for owners of menacing and dangerous dogs

120. Territorial authorities currently can set a fee for dog registration as part of their dog control policy. They can vary this fee based on a number of factors established under the Act. For example, some territorial authorities provide discounts on registration fees if the dog is neutered or is a working dog.
121. Currently, territorial authorities do not have the option to vary the fee amounts for menacing or dangerous dogs. Instead, the Act makes it mandatory that fees for dangerous dogs must be set at 150 percent of standard dog registration fees (fees for menacing dogs must be set at the standard rate).
122. Ministerial direction was to consider removing the 150 percent increase for dangerous dogs, and allow territorial authorities full discretion over how fees are set for menacing and dangerous dogs. Given that fees are set typically to achieve cost recovery, allowing councils to set fees for the two categories of dogs that impose the largest regulatory burden appears logical. This would also prevent owners of non-classified dogs from ‘footing the bill’ for regulatory measures imposed on classified dogs.
123. This option does have a disadvantage of creating confusion about whether councils recover costs for classified dogs from registration or licensing fees. We consider that because licensing fees are expected to be a one-off payment, and registration fees are paid annually, allowing councils to set both will create some flexibility for them in recovering their costs. This option is recommended.

## Extend all existing regulatory measures that apply to dangerous dogs to menacing dogs

124. Ministerial direction was to consider extending all existing regulatory measures that only apply to dogs classified as dangerous, to dogs classified as menacing as well. A description of the regulatory measures as they apply to each classification is provided below.

Regulatory measure	Menacing dogs currently	Dangerous dogs currently	Menacing dogs post-legislative change	Dangerous dogs post-legislative change
Muzzled in public	✓	✓	✓	✓
Kept in fenced area	✗	✓	✓	✓
Must be neutered	✗	✓	✓	✓

Regulatory measure	Menacing dogs currently	Dangerous dogs currently	Menacing dogs post-legislative change	Dangerous dogs post-legislative change
Leashed in public places (excl. in a designated exercise area)	✘	✓	✘	✓
Require council consent to pass on the dog	✘	✓	✘	✓
Must inform anyone who adopts the dog of its classification	✘	✓	✘	✓
150% increase in fees <sup>20</sup>	✘	✓	✘	✓
No rehoming (proposed new requirement)	✘	✘	✓	✓
Warning signs (proposed new requirement)	✘	✘	✓	✓
Identification collar (proposed new requirement)	✘	✘	✓	✓

125. The three requirements to be extended (circled above) are:

125.1 the dog be kept on a leash at all times;

125.2 the owner must obtain council consent to pass on the dog; and

125.3 the owner must inform anyone who adopts their dog of its classification as dangerous or menacing.

126. The leashing requirement ensures dangerous dogs are controlled on a lead in areas that are 'undefined' (i.e. not designated as an off- or on-lead area as part of council policy). Acknowledging the previously discussed data limitations around the real risk of dogs automatically classified as menacing 'by breed'<sup>21</sup>, this requirement fits well with the overall policy intent to place adequate controls on high-risk dogs.

127. The requirements to obtain council consent for adoption and to inform adoptees of the dog's classification work well with the licensing requirements. Requiring owners of menacing dogs to obtain council consent for adoption would allow councils to confirm that the owner has obtained (or will obtain) a licence prior to adoption. Requiring the owner inform the adoptee of the dog's classification will ensure they are prepared to meet the requirements associated with classification.

128. These proposals overall fit in line with the overall policy objectives for the strategy, and will work well with existing proposals. This option is recommended.

<sup>20</sup> The requirement that fees for dogs classified as dangerous must be set at 150 percent of normal dog registration fees is expected to be removed based on current proposals.

<sup>21</sup> In the previous regulatory impact statement *Proposals to amend the Dog Control Act 1996* the Department outlined that other dog breeds that do not attract an automatic classification as menacing by breed are also well-represented in dog attacks and we do not have reliable evidence that pit-bull type dogs are more involved in serious dog attacks than those other breeds.



## Create a voluntary code for breeder licensing

129. Ministerial direction was to consider implementing a voluntary code for breeder licensing. Stakeholders such as NZIAM, NZVA and the SPCA have identified 'backyard breeders' as a large part of the problem, where dogs are being bred in an uncontrolled environment, typically where the dogs involved are not registered.
130. The aim of such a code could be to promote compliance with the Act from breeders, and to set specific standards for care for dogs to prevent future behavioural issues.
131. The licensing/regulation of dog breeding was considered in the previous regulatory impact statement *Proposals to amend the Dog Control Act 1996*. We outlined a limitation where a large portion of litters were unplanned, and owners of those dogs would likely be unaware of any obligations placed on them. This limitation exists for a voluntary code. Breeding organisations that want to be seen to be compliant would likely be the only signatories for a voluntary code, whereas the target demographic of 'backyard breeders' would remain unregulated.
132. Many commercial breeders are members of the New Zealand Kennel Club, which already has its own code of ethics.<sup>22</sup> This code includes a commitment to comply with the Act and territorial authority policies, including registration and micro-chipping.
133. Lastly, based on current proposals, the breeding of high-risk dog breeds (those listed under Schedule 4 of the Act) would be in breach of the Act because the parents of those dogs would be required to be neutered. Any licensing regime would therefore only affect the breeding of dogs that are *not* defined as high-risk. The regulation of breeders should be considered for implementation at a later stage after the impacts of the strategy have had time to bed-in. This option is not recommended.

## Consultation

134. A range of external stakeholders were consulted on the overall strategy, including Local Government New Zealand, the Society of Local Government Managers, Auckland Council, the New Zealand Institute of Animal Management, the New Zealand Association of Plastic Surgeons, the New Zealand Kennel Club, Federated Farmers of New Zealand, Rural Women New Zealand, the Veterinary Council of New Zealand, Dog behaviour experts, Trade Me, the Royal New Zealand Society for the Protection of Animals, the Pit bull Club, and the American Staffordshire Terrier Club.
135. We also undertook targeted engagement with victims of dog bites and dog owners in Auckland and Wellington. Officials also met with farmers and other members of the rural community, and animal control officers. An online engagement survey was used to capture the sentiment of the general public about areas for improvement to the dog control regime. The two week survey period resulted in over 3000 responses.

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<sup>22</sup> [http://www.nzkc.org.nz/pdf/code\\_of\\_ethics.pdf](http://www.nzkc.org.nz/pdf/code_of_ethics.pdf)

136. This engagement enabled officials to gain some understanding of the nature and the size of dog control problems and to identify potential solutions. There was broad support for non-regulatory measures such as public and owner education, and for regulatory measures such as a mandatory neutering. Many also supported owner licensing. Many have concerns about measures that increase costs and obligations for dogs classified as menacing due to being of 'pit bull type', as breed-specific legislation has been shown to not be effective in other jurisdictions in reducing dog attacks.

## Conclusions and recommendations

137. The current strategy includes legislative changes to the Act to:
- 137.1 neuter all menacing and dangerous dogs;
  - 137.2 extend the requirement to keep dogs in a fenced area at home, which allows visitors dog-free access to at least one house entrance, to menacing dogs;
  - 137.3 display signs at the front of properties to alert people to the presence of menacing and dangerous dogs;
  - 137.4 ensure that dangerous or menacing dogs wear collars that identify them as high-risk; and
  - 137.5 prohibit the re-homing of menacing and dangerous dogs.
138. Additionally, three supporting non-legislative workstreams are underway:
- 138.1 best practice development for council implementation of the Act, led by the local government sector;
  - 138.2 a nationwide education campaign to promote owner responsibility and safety around dogs; and
  - 138.3 a nationwide neutering programme to subsidise the neutering of menacing dogs.
139. Based on the analysis in this document, we make the following additional recommendations:
- Owner licensing*
- 139.1 A mandatory licensing system for owners of classified dogs be introduced nationally. The details of implementation should be defined in council policy, and must include:
    - 139.1.1 owner testing on knowledge of dog behaviour and legal responsibilities under the Act;
    - 139.1.2 property inspections; and
    - 139.1.3 a dog temperament test.
  - 139.2 The prohibition on the re-homing of classified dogs should be modified to permit re-homing to a licensed owner.
- Infringements and prosecutions*
- 139.3 Adjustments to the infringements and prosecutions regime should be made as follows:

- 139.3.1 the 'rushing' offence under section 57A of the Act should be extended to include private property; and
- 139.3.2 a new offence should be created for animal shelters that re-home classified dogs (prosecutable offence with a fine of up to \$10,000).

*Data quality*

- 139.4 Section 10A of the Act should be amended to require councils to include in their reports, for incidents relating to dog aggression, information on:
  - 139.4.1 the breed of the dog;
  - 139.4.2 whether the dog was registered at the time of the attack;
  - 139.4.3 whether the dog was neutered at the time of the attack; and
  - 139.4.4 whether the dog was classified as menacing or dangerous at the time of the attack.

*Additional policy proposals*

- 139.5 Local authorities should be granted the discretion to set different registration fees for owners of menacing and dangerous dogs, and the requirement that they must set registration fees for dangerous dogs at 150 percent of standard dog registration fees should be removed.
  - 139.6 All existing regulatory measures that apply to dangerous dogs should be extended to menacing dogs.
140. The local government sector's best practice work should support these areas of work by producing examples of:
- 140.1 model licensing systems for owners of classified dogs, including methods for carrying out owner tests and dog temperament tests;
  - 140.2 model council reports under Section 10A based on new requirements;
  - 140.3 information sharing relationships between health practitioners and territorial authorities; and
  - 140.4 agreements between territorial authorities and potential third-party agencies for registration (e.g. veterinary clinics, SPCA shelters).

## Monitoring, evaluation, and review

- 141. Monitoring will continue as it does currently via the annual collation and release of statistics relating to dog control from other agencies and the national dog database. Changes to the reporting requirements under section 10A of the Act will create a more detailed picture of the circumstances surrounding dog attacks in New Zealand, and practice changes are expected to increase the rate of dog registration.

142. Although there are no plans for a future review of proposals at this stage, general changes in dog attack trends<sup>23</sup> will inform the need for future review of the Act. There is no legislative requirement to conduct regular reviews and such a review will likely occur as priorities allow.

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<sup>23</sup> Because changes to encourage frontline health practitioners to report dog attacks is expected increase reporting rates, any increase in dog attacks reported over the coming years should be treated with caution.

## Appendix 1: Summary of analysis of options for dog owner licensing system

Criteria							
Options	Effective: the option achieves the desired outcomes and addresses the problems identified		Efficient: the requirements minimise compliance costs and are no more than necessary to achieve the outcomes sought	Equitable: the requirements are fair and are consistently applied	Clear & Transparent: people understand what is required of them, the basis of decisions and/or the process allows them to contribute to decision-making	Cost-effective	Recommendation
	1.1 Ensures individual is suitable to own a dog	1.2 Ensures owners understand their legal obligations					
<b>Method of implementation</b>							
1 Nationally implemented	<input checked="" type="checkbox"/> A national system can ensure that the licensing system approach includes measures which focus on the suitability of the owner.	<input checked="" type="checkbox"/> A national system can ensure that the licensing system approach includes measures which ensure the owner understands their legal obligations.	<input checked="" type="checkbox"/> Compliance costs for councils are reduced as they are not required to develop their own licensing policies, indirect reduction in compliance costs for ratepayers/owners.	<input checked="" type="checkbox"/> Requirements are consistent nationwide.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Requirements between jurisdictions are consistent which reduces confusion. However, it does create some additional confusion where councils already have an existing 'responsible dog owner' licensing system.	<input checked="" type="checkbox"/> Lowest cost of the three approaches as costs of developing policies are not passed to councils. May increase costs for councils who would otherwise have adopted a lesser intervention.	<input checked="" type="checkbox"/> Not recommended.
2 Local implementation (councils can introduce a licensing system using any criteria they wish)	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Although councils may be able to target a licensing system towards the suitability of the owner, councils with resourcing constraints may be limited in their ability to develop effective systems.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Although councils may be able to target a licensing system towards the owner understanding their legal obligations, councils with resourcing constraints may be limited in their ability to develop effective systems.	<input checked="" type="checkbox"/> May be large costs passed on to owners/ratepayers as councils develop their own policies. The policies may be overly burdensome in some cases (though arguably less-so in other cases). However, councils can use the local government sector's best practice for model licensing systems.	<input checked="" type="checkbox"/> Requirements between jurisdictions will be highly variable.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Variation between jurisdictions will create confusion. However, does have the benefit of allowing councils to adapt policies to any existing 'responsible dog owner' licensing system.	<input checked="" type="checkbox"/> Councils will be required to develop their own policies which will create large costs.	<input checked="" type="checkbox"/> Not recommended.
3 Joint implementation (nationally set minimum standards for licensing system, councils may adjust components as they see fit)	<input checked="" type="checkbox"/> National minimum standards can ensure that the licensing system approach includes measures which focus on the suitability of the owner.	<input checked="" type="checkbox"/> National minimum standards can ensure that the licensing system approach includes measures which ensure the owner understands their legal obligations.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Requires councils to develop their own policies, potentially passing on costs to ratepayers/owner (through fees). However, councils can use the local government sector's best practice for model licensing systems.	<input checked="" type="checkbox"/> Nationally set minimum standards for licensing system ensures the biggest components for the licensing system are consistent across jurisdictions.	<input checked="" type="checkbox"/> Requirements between jurisdictions are generally consistent which reduces confusion. Also allows councils to adapt policies to any existing 'responsible dog owner' licensing system.	<input checked="" type="checkbox"/> Although councils are required to develop their own policies, they can model their policies off the local government sector's best practice work and opt not to add any additional components. The costs will therefore be as high or low as the territorial authority sees fit.	<input checked="" type="checkbox"/> Recommended.

Criteria							
Options	Effective: the option achieves the desired outcomes and addresses the problems identified		Efficient: the requirements minimise compliance costs and are no more than necessary to achieve the outcomes sought	Equitable: the requirements are fair and are consistently applied	Clear & Transparent: people understand what is required of them, the basis of decisions and/or the process allows them to contribute to decision-making	Cost-effective	Recommendation
	1.1 Ensures individual is suitable to own a dog	1.2 Ensures owners understand their legal obligations					
<b>Targeting of licensing system</b>							
1 All owners required to be licensed	<input checked="" type="checkbox"/> Ensures all dog owners have a base level of understanding of dog ownership.	<input checked="" type="checkbox"/> Ensures all dog owners have a base level of understanding of their legal obligations.	<input checked="" type="checkbox"/> Creates significant compliance costs for all owners regardless of their dog's level of risk.	<input checked="" type="checkbox"/> Requirements are consistently applied to all dog owners. However, it may not be considered 'fair' as it imposes identical regulation on low-risk and high-risk dogs.	<input checked="" type="checkbox"/> Consistent regulation regardless of the nature of your dog would make the 'rules' simpler to follow. However, many dog owners that already consider themselves responsible may not understand why these requirements have been imposed on them.	<input checked="" type="checkbox"/> The costs of implementing a national owner licensing system would be significant, and would impose large regulatory burdens on dog owners regardless of their risk.	<input checked="" type="checkbox"/> Not recommended.
2 Owners of dogs classified as dangerous required to be licensed	<input checked="" type="checkbox"/> Ensures owners of the demonstrably highest-risk dogs are suited to own them.	<input checked="" type="checkbox"/> Ensures owners of the demonstrably highest-risk dogs understand their legal obligations.	<input checked="" type="checkbox"/> Compliance costs are only introduced for a small subset of dog owners.	<input checked="" type="checkbox"/> Although the requirements are not imposed on all dog owners and therefore not consistently applied, this distinction is justified for because they are the owners of the highest-risk dogs.	<input checked="" type="checkbox"/> Given there is a specific 'event' that leads to a classification as dangerous, this requirement would be easy to follow and understandable from the owner's perspective.	<input checked="" type="checkbox"/> Introduces a new regulatory regime which is targeted at the smallest feasible group of owners, but may not be effective as a 'preventative' measure given an incident must have occurred for a dog to be classified as dangerous.	<input checked="" type="checkbox"/> Not recommended.
3 Owners of dogs classified as menacing and dangerous required to be licensed	<input checked="" type="checkbox"/> Ensures owners of higher-risk dogs are suited to own them.	<input checked="" type="checkbox"/> Ensures owners of the higher-risk dogs understand their legal obligations.	<input checked="" type="checkbox"/> Creates compliance costs for some dogs owners, but this is targeted at a population with higher risk dogs.	<input checked="" type="checkbox"/> It only applies to classified dogs. Owners of pit bull-type dogs tend to be in the lower socio-economic demographic, who can less afford extra costs.	<input checked="" type="checkbox"/> This rule would be easy to follow and understandable. There may be some confusion for owners who did not expect their dog to be classified by breed.	<input checked="" type="checkbox"/> Introduces a new regulatory regime which is targeted at a relatively small subset of higher-risk dogs.	<input checked="" type="checkbox"/> Recommended.
<b>Components of licensing system</b>							
1 Owner testing on understanding of dog ownership/dog behaviour	<input checked="" type="checkbox"/> Requires the owner to demonstrate that they are suited to own the dog.	<input type="checkbox"/> No impact.	<input checked="" type="checkbox"/> Owner knowledge of dog behaviour is critical to preventing dog attacks. Efficiency for council in that owner has onus to prove they are responsible.	<input type="checkbox"/> No impact.	<input checked="" type="checkbox"/> This requirement is easy to follow and logical.	<input checked="" type="checkbox"/> Cost-effectiveness is difficult to ascertain. A testing component would likely have large costs associated with it, but this cost can be justified given the effectiveness of this measure.	<input checked="" type="checkbox"/> Recommended.

Criteria							
Options	Effective: the option achieves the desired outcomes and addresses the problems identified		Efficient: the requirements minimise compliance costs and are no more than necessary to achieve the outcomes sought	Equitable: the requirements are fair and are consistently applied	Clear & Transparent: people understand what is required of them, the basis of decisions and/or the process allows them to contribute to decision-making	Cost-effective	Recommendation
	1.1 Ensures individual is suitable to own a dog	1.2 Ensures owners understand their legal obligations					
2 Owner testing on knowledge of the Dog Control Act 1996	⚠ No impact.	✅ Requires the owner to demonstrate that they understand what is required of them under the Dog Control Act 1996.	✅ A test for specific knowledge of legal requirements could be kept quite minimal. Efficiency for council in that owner has onus to prove they are knowledgeable.	⚠ No impact.	✅ This requirement is easy to follow and logical.	✅❌ Cost-effectiveness is difficult to ascertain. Although the costs for testing for knowledge of legal requirements would likely be minimal (e.g. multi choice test).	✅ Recommended.
3 Inspection of property	✅ Ensures the owner has a property suited to hold the dog (particularly important for owners of classified dogs with fencing requirements).	⚠✅ No impact, unless the owner has particular fencing requirements (only relevant for owners of classified dogs).	✅ Inspection of property could likely be completed relatively quickly in a site visit, and many councils already carry out inspections.	⚠ No impact.	✅ This requirement is easy to follow and logical. However, owners of non-classified dogs may not understand why an inspection is required.	✅❌ Cost-effectiveness is difficult to ascertain. The costs of individual site visits would likely be quite minimal.	✅ Recommended.
4 Dog temperament test	✅ Allows the dog's temperament to be assessed against the competence of the owner to ensure the dog/owner relationship is appropriate.	⚠ No impact.	❌ The compliance costs of an effective temperament test would be significant given temperament would need to be tested in multiple locations in order to establish an effective measure.	⚠ No impact.	❌ Discrepancies in the application of a temperament test may lead to a lack of understanding of the process, and potential disagreements with negative results.	✅❌ Cost-effectiveness is difficult to ascertain. The costs of testing in multiple locations would likely be high.	✅ Recommended.
<i>Additional consequences for a licence</i>							
1 Licensed owner is permitted to own the dog, and can also acquire classified dogs from shelters (modifying the existing prohibition on re-homing of classified dogs)	✅❌ Supports suitability, and also goes further by recognising that this owner is suited to own a high-risk dog. However, this approach includes dangerous dogs that have been involved in specific incidents and are deemed to be the highest risk. These dogs may be arguably unsuitable for re-homing.	✅ Supports.	✅❌ Although this creates an additional consideration for territorial authorities, this is expected to be administratively simple given they administer the licensing system.	✅❌ Establishes 'fair' requirement where licensed owners are recognised as being able to acquire high-risk dogs. Allows the licensing system to act as a balance between the advantages of owning dogs and the risk of harm they pose, though allowing dangerous dogs to be re-homed may result in this balance being 'tipped' too far towards dog ownership.	✅ Would be a simple consequence, and the ability for licensed owners to obtain high-risk dogs would be an understandable consequence for the public.	✅ This simplified consequence would balance cost-effectiveness. However, there would be some costs for shelters that would be required to house classified dogs until they can be re-homed.	❌ Not recommended.

Criteria							
Options	Effective: the option achieves the desired outcomes and addresses the problems identified		Efficient: the requirements minimise compliance costs and are no more than necessary to achieve the outcomes sought	Equitable: the requirements are fair and are consistently applied	Clear & Transparent: people understand what is required of them, the basis of decisions and/or the process allows them to contribute to decision-making	Cost-effective	Recommendation
	1.1 Ensures individual is suitable to own a dog	1.2 Ensures owners understand their legal obligations					
2 Licensed owner is permitted to own the dog, and can also acquire menacing dogs from shelters, but not dangerous dogs (modifying the existing prohibition on re-homing of classified dogs)	<input checked="" type="checkbox"/> Supports suitability, and also goes further by recognising that this owner is suited to own a high-risk dog. Provides a more nuanced approach than allowing all classified dogs to be re-homed and recognises that the highest risk dogs may not be suitable for re-homing.	<input checked="" type="checkbox"/> Supports.	<input checked="" type="checkbox"/> <input type="checkbox"/> Although this creates an additional consideration for territorial authorities, this is expected to be administratively simple given they administer the licensing system.	<input checked="" type="checkbox"/> Establishes 'fair' requirement where licensed owners are recognised as being able to acquire high-risk dogs. Allows the licensing system to act as a balance between the advantages of owning dogs and the risk of harm they pose.	<input checked="" type="checkbox"/> Would be a simple consequence, and the ability for licensed owners to obtain high-risk dogs would be an understandable consequence for the public.	<input checked="" type="checkbox"/> This simplified consequence would balance cost-effectiveness. However, there would be some costs for shelters that would be required to house classified dogs until they can be re-homed.	<input checked="" type="checkbox"/> Recommended.



## Appendix 2: Summary of analysis of options from review of infringement and prosecutions

Options	Effective: the requirement assists in enforcement of the Act and deterring unwanted behaviours	Suitable: the requirement is proportionate to the conduct it addresses	Necessary: the requirement is needed and is not covered by existing provisions	Recommendation
1 'Rushing' offence only applies to dogs in public places, should be extended to include private property.	<input checked="" type="checkbox"/> The vast proportion of dog attacks occur on private property, extending to private property would allow councils to take enforcement action in a wider range of circumstances.	<input checked="" type="checkbox"/> The same outcome should apply regardless of whether it occurs on public or private property.	<input checked="" type="checkbox"/> Requirement does not currently exist under the Act and animal control officers have requested that this offence be extended.	<input checked="" type="checkbox"/> Recommended.
2 Increase fees for infringement offences.	<input checked="" type="checkbox"/> Inconsistent evidence that increases in infringement fees has a deterrent effect on behaviour. A key part of the effectiveness of an infringement fee system is the willingness and ability of people to pay the fines rather than contest them in court or simply not pay.	<input checked="" type="checkbox"/> There has been no indication from stakeholders that existing fee levels are too low to address conduct.	<input checked="" type="checkbox"/> As the current fee levels are effective, this requirement is not needed.	<input checked="" type="checkbox"/> Not recommended.
3 Increase fees for failure to comply with dangerous dog classification relative to menacing dog classification.	<input checked="" type="checkbox"/> Inconsistent evidence that increases in infringement fees has a deterrent effect on behaviour.	<input checked="" type="checkbox"/> Given the classifications impose identical requirements, we can identify no rationale for differentiating the consequences for noncompliance.	<input checked="" type="checkbox"/> There is no evidence of variation in compliance between owners of dangerous dogs and owners of menacing dogs that would necessitate such a change.	<input checked="" type="checkbox"/> Not recommended.
4 Create an infringement offence for rushing and attacking (currently only a prosecutable offence).	<input checked="" type="checkbox"/> Knowing that rushing could result in an instant fine may encourage owners to exhibit greater control over their dog.	<input checked="" type="checkbox"/> The rushing and attacking must result in endangerment, injury, or death It is not reasonable to issue an infringement for an incident of this nature.	<input checked="" type="checkbox"/> Low-level rushing can be captured by the existing infringement for 'failure to keep dog under control', whereas more extreme incidents should result in a prosecution and seizure of the dog.	<input checked="" type="checkbox"/> Not recommended.
5 Create a new offence for reckless ownership resulting in or that places or may place another person in danger of death, with higher penalties than 'dogs causing serious injury'	<input checked="" type="checkbox"/> Allows councils to take significant enforcement action pertaining to irresponsible ownership, as opposed to a sole focus on the incident.	<input checked="" type="checkbox"/> Higher penalties are appropriate given the owner's reckless conduct must have caused the incident, which is differentiated from an owner who took precautions but an attack occurred regardless.	<input checked="" type="checkbox"/> We have not heard from stakeholders that such an offence is required. Existing offences seem to be able to cover the conduct and the maximum penalty of 3 years imprisonment is appropriate. Any intentional use of a dog to cause injury is captured by 'assault with a weapon' under the Crimes Act 1961, which carries a maximum penalty of 5 years imprisonment.	<input checked="" type="checkbox"/> Not recommended.
6 Create a new offence for animal shelters that re-home classified dogs (prosecutable offence with a fine of up to \$10,000)	<input checked="" type="checkbox"/> Will deter shelters from re-homing classified dogs.	<input checked="" type="checkbox"/> Penalty of \$10,000 is comparable to penalties that apply to companies under similar regimes (e.g. Sale and Supply of Alcohol Act 2012).	<input checked="" type="checkbox"/> Based on current proposals, this requirement will be needed to ensure compliance from non-territorial authority shelters.	<input checked="" type="checkbox"/> Recommended.