

enquiries refer
Council Ranger (js)
in reply please quote
Order No: 406.2018.04061119.001
Dangerous Dog
Trim Cont: 355



22 March 2018

Mr Zachary Phillips
[REDACTED]

Dear Mr Phillips

Dangerous Dog Declaration
Section 34(1), Companion Animals Act 1998 (the Act)

Name of Dog: "Bully" ("the subject dog")
Description of Dog: Male White Bulldog/Bull Arab Cross
Microchip Number: 943094330261285
Owner: Mr Zachary Phillips
Premises: [REDACTED] "the subject premises")
Method of Service: Registered Post
Date of Notice: 22 March 2018

Details of Alleged Incident (or relevant jurisdiction):

Council previously notified you on 9 March 2018 of its intention to give you a Dangerous Dog Declaration in respect of "Bully", being a Male White Bulldog/Bull Arab Cross, with Microchip Number 943094330261285 and usually kept at Lot: 1 SP: 75221, [REDACTED].

It is noted that as of the date of this Declaration, no representations have been received by Ballina Shire Council in relation to the Notice as issued to you.
Council declares the dog to be a dangerous dog under section 34(1) of the Act.

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

- 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)
- is kept or used for hunting

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- has been declared a dangerous dog under a law of another State or a Territory that corresponds with this Act

This declaration:

- a) Has effect from the **22 March 2018**, or the date on which the declaration is given (whichever is the later);
- b) 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 be done 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).

2. 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
 - (b) 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 two dogs, one of which is the dog of the subject of the declaration, under his or her control at the one time.

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

What must be done within seven (7) days of this Declaration?

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

What must be done within twenty-eight (28) days of the date of this Declaration:

1. Ensure the dog is desexed;

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2. 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;

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

3. 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 as Schedule A, Part 2) for specifications.

What must be done within 90 days of the date of this declaration?

Ensure 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 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 of the attack or injury.
- (b) That the dog cannot be found – notice to be given within 24 hours after the dog's absence is first noticed.
- (c) The dog has died – notice to be given as soon as practicable after the death.
- (d) That the dog is no longer being ordinarily kept in the council area – notice to be given as soon as practicable after the change in location.
- (e) 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) 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.
- b) The following control requirements for the dog are not complied with:
 - section 51(1)(c) – enclosure requirements
 - section 51(1)(c1) – temporary enclosure requirements
 - section 51(1)(e) – dog must be kept on a lead and be muzzled.

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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.

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 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.

Statement regarding behavioural assessment requirement for the purposes of revoking a dangerous dog declaration

In accordance with section 39(2)(b) of the Act, the issuing Council has determined that it is necessary for this dog to undergo appropriate behavioural training before the Council will consider any application to revoke the declaration.

- Yes
 No

For further information, please contact Ranger Team Leader Joe Sabine, on phone 02 6686 1210 during office hours Monday to Friday.

Yours faithfully

Kerri Watts
**Manager Public and Environmental Health
Development and Environmental Health Group**
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SCHEDULE A

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

Note: This is an edited excerpt from the legislation setting out the requirements relevant to declared dangerous dogs only.

As the owner of a declared 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:
 - (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 to 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.)
 - (d) **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 two 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 an 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

Note: This is an edited excerpt from the legislation setting out the requirements relevant to declared dangerous dogs only.

As the owner of a declared dangerous dog you must comply with the following control requirements:

Clause 24 Enclosure requirements for dangerous or restricted dogs

- (1) For the purposes of sections 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:
 - (a) chain mesh manufactured from at least 3.15 mm wire to form a maximum mesh spacing of 50 mm, or
 - (b) weldmesh manufactured from at least 4 mm wire with a maximum mesh spacing of 50 mm.

Clause 25 Certificate of Compliance for dangerous dog enclosures

Owners of dangerous dogs must obtain a one-off certificate of compliance issued by an Authorised Officer of this Council for the prescribed enclosure (*Section 58H*).

The certificate will verify that the enclosure for the dangerous 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 \$150.

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 is ordinarily kept must comply with the following requirements:

- (a) the sign must be no smaller than 40 cm x 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 stripe being 25 mm wide 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.

To Ballina Council

I am writing to make an application for the revocation of dangerous dog declaration on my dog "Bully" and for the possible downgrade to a "Menacing dog order".

I would like to note there has not been any signs of aggression or other incidents involving Bully since we have moved from the residence in West Ballina and I confidently believe there will be no more.

I will also seek professional dog training to teach Bully to be more sociable, less reactive and more controlled in the presence of aggressive dogs.

Thanks for your time
Zachary Phillips



K9 Behavioural Assessment

To whom it may concern,

My Name is Sophie Thomson owner of Ace k9 training services previously named Sophie's k9 park. I have been dog training in the Northern rivers for over 5 years and am one of the founding owners of North coast k9 academy, a dog training school for all breeds, all ages and all goals.

On the 1st of May 2019 I conducted a behavioural assessment on Bully, a large 9 year old American bulldog cross bull arab owned by Zack Phillips. "Bully" was declared a dangerous dog on the 22nd of March 2018, due to the dog being involved in an incident with another dog.

Before I summarise the assessment I would like to note that the conditions that Bully has been in and was in while conducting the assessment is not his "normal" constant living environment. Therefore, potentially Bully would not have reacted / behaved potentially in the same way he would have in his standard living environment.

The test was conducted at the Ballina pound in a semi outside area, it was shaped as if it was a huge hallway. The reason I am mentioning this is that when a dog is in this area there is no escape. The shape of the area forces the dog to focus on any new stimulus entering the area, creating a 'tunnel vision'. This is undesirable for a perfect assessment.

When running an assessment I will test different circumstances with a variation of distractions or tasks to find the outcome of the dogs overall behaviour. There are three things that predict the outcome of a dogs behaviour; the breed and personality of a dog, how it is raised and the day the behaviour happens. Foundation tests included; assessor approaching dog, possession tests, touch / handling, food tests, and dog to dog interaction tests.

When approaching Bully the owner did have the dog restrained, the dog did show medium signs of stress, by excessive panting and avoidance behaviours.

As the assessor and the dog started to move around there was NO fixation on the assessor, only lower levels of stress indicators, most likely due to the environment and a new person being involved with the dog. A few times there was close proximity between the dog and the assessor, at that point the dog tried to sniff and jump on the assessor out of interest.

A possession test was then targeted with using a bowl as the item, Bully showed NO signs of guarding aggression even when food was in the bowl. The dogs only concern was seeing more food, after the dog had eaten all the food he even present a 'whats next ' so

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ACE K9 TRAINING SERVICES



K9 Behavioural Assessment

to speak. The dog gave the assessor eye contact as if to ask how can I be given more treats. Therefore losing all interest in the bowl.

Next was to bring out a toy, the toy which was used was a ball on a rope. Bully was still showing low levels of stress which lowered even more once playing with the dog. NO toy possession was shown if anything the dog showed signs in wanting to engage in more play with the assessor. The toy meant nothing without the interaction of the assessor.

The Touch and handling assessment was easy, in comparison to the assessors first thoughts when meeting the dog. The assessor started from the neck of the dog moving down toward the rear touching and softly pinching the dog. Then proceeding to move back up to towards the dogs face and mouth area. Bully was very willing at this stage, he presented certain areas to be touched and showed a very loose body language (relaxed).

When taking food, Bully was very willing he did not snatch or lunge at the assessor or at the food. We conduct a test to see how he would respond to food blocking in which he once again stepped back and "asked" how can I get the reward. NO stiffening or staring was presented from the dog. The dog also reacted in NO way when a large food item was taken out of his mouth. (large chewy treat was presented, Bully was biting the treat while still in assessors hand, as Bully went to take another bite the treat was taken away).

In the Dog to Dog test a female german shepherd was used. The shepherd was sent to a raised bed at one end of the area. The shepherd remained laying on the raised bed during the initial part of the test. At this point the assessor was handling Bully and a muzzle was put into the dog. Please note that the muzzle had been worn by the dog a substantial amount therefore the dog was use to the muzzle but not comfortable in it.

The assessor and the dog started at the other end of the area walking closer to the shepherd, Bully showed high signs of stress and reactivity such as barking /wining and lunging. But the dog was every now and then willing to listen.

As we got about 5 to 10 meters away, the shepherd currently laying on the bed in a still position the vocalising increased and the dog was less likely engage with the assessor. Please also note that the stress levels of this dog at this point were also contributed to by the owner not handling the dog.

The test was them repeated but the shepherd was moving, the same results were shown besides the reactivity increased and started at a further distance away from the shepherd.

This same process was done but with the owner handling the dog. The reactivity of Bully continued and worsened when the assessor stood close to the dog and the owner. As they moved closer to the still shepherd reactivity increased and whatever new stimulus was closer (Assessor or Shepherd) Bully would direct most of his attention towards.



K9 Behavioural Assessment

This was the same result when the shepherd was moving but the positive out of this section of the assessment was that Bully never showed constant staring and reactivity towards the shepherd. The negative is that Bully was all over the place not knowing what to do and getting more and more overwhelmed by the situation. The dog was also showing signs of redirection behaviour.

Under high stress and obsession I believe that Bully could easily redirect onto the next closest stimulus even the owner. In this case Bully showed small redirections towards the assessor when the owner was handling the dog, at one stage Bully lunged towards the assessor and jumped opening his mouth in the muzzle.

(Definition of a redirection: Redirected aggression occurs when a dog is aroused by or displays aggression toward a person or animal, and someone else interferes, in this case it is the handler interfering but restraining the dog on a lead.)

The assessor did not let the dogs get into close quarters as the amped up, intense behaviour of Bully would have set the interaction up for a fail.

To summarise Bully is a dog with some great qualities but he is unpredictable, you can teach an old dogs new tricks but its the 9 years of potential bad dog to dog interaction habits that Bully has which will be the problem. He lacks impulse control and cannot listen to commands under stress and distraction. His forward, loud and intense body language sets Bully up to have his blinkers on when seeing another dog which sets him up for a very bad situation.

Sophie Thomson

A handwritten signature in black ink, appearing to read "S Thomson", written in a fluid, cursive style.