

15th August 2016

Miss Melissa Bailey
9 Stanford Way
AIRDS NSW 2560

Dear Miss Bailey,

DANGEROUS DOG DECLARATION
Section 34(1) *Companion Animals Act 1998* (the Act)

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

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

Microchip Number:

- 982000356639941
- 982000356444112

Description:

- Female, Brindle, Bullmastiff named Chev
- Female, Black / White, Dalmatian cross German Shepherd named Dotty

Kept at 9 Stanford Way, AIRDS NSW 2560

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, attacked a person or animal (other than vermin)

Details of alleged incident (or relevant jurisdiction)

On 9th July 2016 at approximately 10.50am the two dogs escaped their yard. The dogs chased, attacked & killed a cat. Both dogs were witnessed killing the cat and then running off with the cat in their mouths.

This declaration:

- a) Has effect from the date of this declaration 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 you do immediately?

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

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

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 more than 2 dogs, one of which is the dog 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 you do within 7 days of the date of this declaration?

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

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

1. Ensure that the dog is desexed.
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 at Schedule A, Part 2) for specifications.

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

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

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

What changes must be notified?

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

- a) That the dog, with or without provocation, has attacked or injured a person or animal (other than vermin) – notice to be given within 24 hours after the attack or injury.
- b) That the dog cannot be found – notice to be given within 24 hours after the dog's absence is first noticed.
- c) That 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 of 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)(a) of the Act). A dangerous dog that attacks or bites a person or animal has demonstrated that it cannot be kept safely in the community.
- 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.

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 against this declaration?

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

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

Can this declaration be revoked?

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

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

If you need any further information about this declaration, please contact *Steve Austin* on 4645 4790.

Yours sincerely



Paul Curley
MANAGER COMPLIANCE SERVICES
Ref: 2438/2016/N-CA

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 with:

a) Desexing

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

a1) Enclosure requirements

While the dog is on property on which the dog is ordinarily kept, the dog must be kept in an enclosure that complies with the requirements prescribed by the regulations.

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

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

a1) 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 2 dogs (one of which is the Dangerous dog) under his or her control at the one time.

e) f) (Repealed)

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

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

h) Registration of dog

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

- (2) An owner of a dog who does not comply with any of the requirements of this section is guilty of an offence.
Maximum penalty: 150 penalty units (\$16,500).
- (3) The requirements imposed under this section on the owner of a Dangerous dog are additional to the other requirements of this Act imposed on the owner of a dog.
- (4) In the event of an inconsistency between this section and the provisions of any agreement, covenant or instrument, this section is to prevail, but to the extent only of the inconsistency.

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

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 dogs

- 1) For the purposes of section 51(1)(c) of the Act, the requirements set out in subclauses (2)–(4) are prescribed as the requirements that must be complied with in relation to an enclosure for a dangerous or restricted dog.
- 2) The enclosure must:
 - a) be fully enclosed, constructed and maintained in such a way so that the dog is not able to dig or otherwise escape under, over or through the enclosure, and
 - b) be constructed in such a way so that a person cannot have access to it without the assistance of an occupier of the property who is above the age of 18 years, and
 - c) be designed to prevent children from having access to the enclosure, and
 - d) not be located on the property in such a way so that people are required to pass through the enclosure to gain access to other parts of the property, and
 - e) have a minimum height of 1.8 m and a minimum width of 1.8 m, and
 - f) have an area of not less than 10 square metres for each dangerous or Restricted dog kept on the property, and
 - g) have walls that are fixed to the floor and constructed to be no more than 50 mm from the floor, and
 - h) have walls, a fixed covering and a gate that are constructed of:
 - (i) brick, timber, iron or similar solid materials, or
 - (ii) mesh that complies with subclause (4), or
 - (iii) a combination of the materials referred to in subparagraphs (i) and (ii), and
 - i) have a floor that is constructed of sealed concrete and graded to fall to a drain for the removal of effluent, and
 - j) provide a weatherproof sleeping area of sufficient dimensions to enable each dangerous or restricted dog kept on the property to shelter from the weather.
- 3) Any gate to the enclosure must:
 - a) contain a self-closing and self-latching mechanism that enables the enclosure to be securely locked when the dog is in the enclosure, and
 - b) be kept locked when the dog is in the enclosure, and
 - c) display the warning sign referred to in clause 26.
- 4) Mesh used in the construction of an enclosure must be:
 - 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 (sec 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 × 40 cm
- b) the sign must be made of durable materials
- c) the sign must show the words "Warning Dangerous Dog" in letters:
 - (i) that are of sufficient size so as to be clearly visible from the boundaries of the property, and
 - (ii) that are, in any case, at least 50 mm high and 10 mm wide.

Clause 27 Distinctive collars for dangerous dogs

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

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



Daisy O'Sullivan
microchip # 982000356639941
13 May 2021

**Section 39 Companion Animals Act 1998 (NSW)
Application for Revocation of Dangerous Dog Declaration**

This is a submission to Ballina Shire Council requesting the revocation of a dangerous dog declaration in accordance with section 39 *Companion Animals Act 1998* (NSW) ('CAA').

RSPCA NSW makes this request in conjunction Mr Ray O'Sullivan, the current owner of a dog, Daisy, microchip # 982000356639941 ('Daisy') that now lives in Ballina Shire Council.

I acknowledge at the outset that the delay in this issue being rectified is excessive, and I apologise for that. A combination of factors, not the least of which include disrupted work processes due to my own workload, the impact of COVID, and delays in receiving the behaviour assessment contributed to the situation. However, whilst I apologise for that, RSPCA NSW' main concern has been the safe rehoming of Daisy and making decisions in the interests of good animal welfare, conscious of the risks associated with this matter.

I appreciate also, that as Daisy is now in Ballina and because of her roaming on one occasion, this has now become a situation which Ballina Shire Council is being prevailed upon to fix, albeit is not a problem of the Council's making. I can only say that I hope that this process can rectify the situation so that Daisy can continue living safely and happily with her family in Ballina.

In support of the application, and in addition to this submission, we rely on the following annexures:

ANNEXURES:

- A. Statutory Declaration, Ray O'Sullivan, 11.05.2021;
- B. Temperament Assessment, Debra Coleman, Cert IV Dog Behavioural Training, Cert IV Training and Assessment, Certified professional dog trainer and accredited canine temperament assessor, evaluation 4 September 2020;¹
- C. Report on the 21 January 2021 behaviour assessment videos, Georgie Caspar, MSc, CAB, Cert IV CAS, Animal Behaviourist, A/Senior Manager - Animal Welfare and Compliance, RSPCA NSW;
- D. Video footage of RSPCA NSW Behaviour Assessments:

¹ Please note RSPCA NSW did not receive this assessment until 24.03.2020.

- a. video: <https://drive.google.com/file/d/1ZJcEtMOExZxV4gn79z4vWyys32ZhjE8f/view?usp=sharing>
- b. Female dog to dog
intro: <https://drive.google.com/file/d/1HkkGtFZYRvwjxqzYmDL5Kx1eFPzE8nmF/view?usp=sharing>
- c. Male dog to dog
intro: <https://drive.google.com/file/d/1jB8xqteA6GXgyxHxAyNN3S2Y-g1oplXk/view?usp=sharing>

BACKGROUND:

RSPCA NSW INVOLVEMENT:

In January 2020, Daisy, a mastiff cross breed dog, and another dog, a German Shepherd cross breed dog, were the subject of a cruelty complaint alleging that they were in emaciated condition and not being appropriately cared for (straying and regularly unattended by owners). The two dogs had been the subject of previous complaints over at least 12 months to RSPCA NSW and attempts to work with the (then) owner proved unsuccessful.

Ultimately the dogs were seized for the provision of veterinary treatment by an RSPCA NSW Inspector. The history received from the owner was incomplete (at best), but disclosed the dogs had a history of chasing cats and recorded the fact of a dangerous dog declaration. That was noted by the Inspector and emailed to Shelter supervisors but appears, through human error, to have been overlooked and not to have made it on to the dog's Sheltermate record.

The surrender was affected about a month after the seizure, and so the delay between intake and the release of the dogs from Inspectorate custody appears to have been a contributing factor to Daisy having been made available for adoption.

The dogs were examined by a vet and placed on a feeding plan to regain weight. Daisy also had some benign tumours which needed to be surgically removed. Once the surrender was accepted, the two dogs were assessed individually in terms of their suitability for rehoming. The other dog was determined to be unsuitable for rehoming due to various issues, including some behaviour concerns, but most significantly hip concerns which did not make her a candidate for rehoming. As a result, she was humanely euthanised.

In April 2020 Daisy was assessed as a good candidate for rehoming, and proceeded through veterinary checks to behaviour assessment, and following an introductory visit with Mr O'Sullivan and his family, Daisy was adopted. At no stage was there any indication from her behaviour, that Daisy was a dangerous dog, or a risk to rehome with a family and a child of about 8 years of age.

Mr O'Sullivan attempted in May 2020 to register Daisy at his local council, which application was rejected on the basis of a dangerous dog declaration made by Campbelltown Local Council. He contacted RSPCA NSW and a process of investigation commenced. To a certain

extent RSPCA NSW is always reliant on details provided by owners or people otherwise surrendering animals.

DANGEROUS DOG DECLARATION:

On 19 June 2020 I spoke to a ranger from Campbelltown Council regarding the two dogs and their dangerous dog declaration. I was not provided any documentary evidence from Council; however I believe that the details provided to me reflected Council records as they were read out on the phone.

I was told that the dangerous dog declaration related to two dogs who were known to rangers and that they were regularly in emaciated body condition. There was a suggestion on the records that the two dogs were known for:

- Straying
- Had been involved in chasing animals, particularly cats
- Being involved in chasing and killing a cat.

There was nothing to indicate which dog (if either) was responsible for a cat having been killed. I believe that the dangerous dog declaration was made following Council's repeated unsuccessful attempts to work with the owner, and that after the declaration was made Council attempted to check compliance with the order but they had moved. That appears to accord with RSPCA NSW' Inspectorate interaction with the previous owner.

I was instructed that Campbelltown Council would need an independent behaviour assessment for consideration. As a result the determination was made to engage a behaviourist to perform that function. Unfortunately due to COVID the local, suitably qualified canine behaviourists did not have appointments for lengthy periods of time. Eventually Mr O'Sullivan offered to drive Daisy to Orange for an assessment with Ms Coleman in September 2020.

The report was provided to me in March 2021, and I accept that RSPCA NSW should have chased this report much earlier. I am not sure when but at some stage towards the end of 2020 or beginning of 2021 Mr O'Sullivan notified me that the family were moving to Ballina. We were notified on 17.04.2021 that Daisy had strayed out of the family home the day before, and these processes commenced to make this request of Ballina Shire Council.

COMMENT ON THE LEGAL POSITION:

In accordance with s39(1) CAA Ballina Shire Council can revoke the declaration, although Daisy was not declared a dangerous dog by a Ballina Shire Council authorised officer, because the dog is ordinarily kept in Ballina.

I have copied the relevant provision for ease below:

39 Council can revoke declaration

(1) The owner of a dog that has been declared a dangerous dog or a menacing dog under this Division can apply to the council of the area in which the dog is ordinarily kept (whether or not it is the council whose authorised officer made the declaration) for the declaration to be revoked.

(1A) An application under subsection (1) cannot be made until after the period of 12 months following the date on which the dog was declared to be a dangerous dog or a menacing dog.

(2) The council to which the application is made may revoke the declaration but only if satisfied that—

(a) it is appropriate to do so, and

(b) if the council determines that it is necessary—the dog has undergone appropriate behavioural training.

(2A) In making a determination under subsection (2) (a) in relation to a menacing dog declaration, the council is to have regard to the nature and extent of any behavioural training that the dog has undergone.

(3) The council must, as soon as practicable, give notice to the owner of the dog that the declaration has been revoked or that the council has refused to revoke the declaration.

The declaration was made more than 12 months ago in vastly different circumstances than are currently present. Daisy posed no risk to animals within RSPCA NSW shelter, including many smaller breed dogs and a variety of animal attendants handling her. She has been successfully rehomed into Mr O’Sullivan’s family, and on his evidence has in over twelve months never strayed or been inappropriate towards any animals she has come into contact with, including in innumerable walks including around their young child.

The Guideline on the exercise of Functions under the CAA includes commentary in respect of dangerous dogs that an assessment regarding whether a dog poses an ‘unacceptable risk’ must be made objectively in the circumstances which the dog finds itself now.² There is no suggestion that the previous determination by Campbelltown Council authorised officer was unreasonable, however as there is now an application before Ballina Shire Council to revoke the declaration, relevant considerations include those which needed to be made at first instance, including:

9.5.2 Factors to be considered when determining the public interest may include:

- a) the harm or potential harm to the public that may be caused if a declaration is not made
- b) any mitigating or aggravating circumstances
- c) the prevalence of public risk circumstances and the need for deterrence
- d) the length and expense of a court hearing
- e) whether the consequences of any declaration would be unduly harsh or oppressive.

In that regard, relevant to the exercise of Council’s discretion is the fact that Daisy’s ownership circumstances have undergone a complete change. Previously she was emaciated, unsupervised, and apparently allowed to roam with another dog. Now she has attentive and careful owners, she is in immaculate condition, with her veterinary and behavioural needs more than met. She is a loved member of the O’Sullivan family.

She was also previously in the company of another dog, and there is simply no evidence as to which dog was the aggressor during the situations that resulted in the original declaration.

² See for example clause 9.4.2, Guideline on the Exercise of Functions under the CAA, 2015, (online, 2015) <https://www.olg.nsw.gov.au/wp-content/uploads/2020/06/Guideline-on-the-Exercise-of-Functions-Under-the-Companion-Animals-Act-October-2015-Under-Review.pdf>

The circumstances of Daisy's current ownership cannot be underestimated. I am instructed that Daisy was well liked whilst in Ballina Council's care, that she interacted with various rangers, and that she posed no risk to any person or animal in that time.

In a mere days Mr O'Sullivan had constructed and complied with the (appropriately) onerous dangerous dog requirements of the CAA so that Daisy could await this determination being cared for by her family.

In my respectful submission the behavioural assessment of Ms Coleman in conjunction with the available behaviour assessment videos of the assessment undertaken by RSPCA NSW give Council every assurance that Daisy does not pose an unacceptable risk of attacking or threatening to attack a person or animal.³ There is therefore no indication on the expert evidence that Daisy require behavioural training.

Mr O'Sullivan has explained the circumstances of Daisy wandering on 16 April 2021 and Council can have every assurance that she will not stray again. Council has available to it an independent expert assessment as to Daisy's current behaviour, expert assessment of the behavioural assessment in RSPCA NSW custody, and the videos which informed the original decision by RSPCA NSW to rehome Daisy.

Obviously in the ordinary course a dog declared dangerous pursuant to the CAA surrendered to RSPCA NSW would be humanely euthanised. In nearly four years as General Counsel I have not encountered another such circumstance. If we did not have every expectation that Daisy poses no unacceptable risk we would not have adopted this position. However, having considered the issue carefully and taken expert advice on Daisy's behaviour and circumstances, RSPCA NSW asks Ballina Shire Council to revoke the dangerous dog declaration so that Daisy can be registered to the O'Sullivan's formally.

If I can be of further assistance, please just let me know. I am willing to speak to Council staff, rangers, or Council itself in respect of this submission.



Kathryn Jurd
RSPCA NSW
General Counsel
13 May 2021.

³ Section 33 CAA.



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Temperament Assessment

Supplied in confidence to:

Client name: Ray O'Sullivan
Address: 156 Young St Annandale NSW 2038
Dog's name: Daisy
Microchip number: 982000356639941
Breed: Mastiff X breed
Date of Evaluation: 4th September 2020

Assessor's Experience:

I am a professional, nationally, and internationally accredited dog trainer with 18 years' experience helping dog owners train their dogs and address dog behaviour issues throughout Central West NSW. I have been assessing Therapy Dogs since 2004 involving training and assessing dogs to visit nursing homes, hospitals, and schools. I am a qualified TAFE teacher teaching subjects including dog behaviour – and other animal behaviour - to both adult and school age students from 2010-2020. I was the Coordinator of the SPOT (Safe Pets Out There) Program from 2007 – 2009 teaching dog bite prevention to junior school students and the inaugural head trainer for the Dogs for Diggers Program at the Bathurst Correctional Facility assessing rescue dogs, training, and rehoming for retired ex-servicemen. I was on committee for creating the international Pet Dog Ambassador Program for Pet Professional Guild. I am internationally accredited with CPDT-KA – Certified Council for Professional Dog Trainers and a Certified Professional Dog Trainer with Delta Society Australia. I am an approved Temperament Assessor with Dogs NSW and was voted Australian Pet Dog Trainer of the Year 2017. I am an accredited professional fear free trainer. I consult with a major international pet food company where I am responsible for implementation of behaviour modification plans and training both puppies and adult dogs. I ensure currency by attending conferences and webinars - both overseas and in Australia – on a regular basis. I use modern and scientifically proven techniques in my force free, trust-based training.

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Qualifications/Memberships:

- Certificate IV in Dog Behavioural Training
- Certificate IV in Training and Assessment
- Certified Professional Dog Trainer - CPDT- KA (USA)
- Certified Professional Dog Trainer – Delta Society Australia
- Accredited Canine Temperament Evaluator for Delta Society Australia
- Accredited Temperament Assessor Dogs NSW
- Accredited Assessor for (CGC) Canine Good Citizen Award
- Accredited Assessor Mind Dogs Australia
- Accredited Fear Free Professional
- Member (APDT) Australian Pet Dog Trainers Association
- Member (PPGA) Pet Professional Guild Australia

Basis of Evaluation:

Daisy was declared to be a Dangerous Dog whilst registered to her previous owner after an incident involving another dog and the death of a cat.

Daisy has since been surrendered and rehomed to Mr O’Sullivan through RSPCA. RSPCA was not aware of the Dangerous Dog Order at the time of the rehoming.

RSPCA has engaged me to complete an independent temperament assessment of Daisy with a view to having the Dangerous Dog Order revoked.

Evaluation Results:

I spent 60 mins with Daisy on 4th September 2020. This evaluation was modelled on the ASPCA Safer™ Assessment developed by Dr Emily Weiss.

The assessment was conducted at The Haven, 46 Shadforth Drive, Shadforth NSW 2800. An assistant Renai Lawson was in attendance.

Daisy was assessed on the following:

- Response to direct eye contact
- Desire for interaction with people
- Play behaviour
- Being handled gently and firmly
- Behaviour towards people around food and toys
- Behaviour around other dogs

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Daisy scored '1's and '2's on all assessments.

The Safer™ Assessment determines that scores correlate with probability of aggression. Dogs that score 1s and 2s are less likely than dogs that score 3s, 4s or 5s to bite when handled in a mildly stressful or moderately awkward manner under ordinary living situations. Dogs that score 4s may have serious fear or intolerance issues. These dogs should receive behaviour modification training and then be reassessed.

Observations:

Daisy scored 1's and 2's on all assessments. Daisy did not show any aggression to Assessors or Assessor dogs. Daisy is a friendly dog and is already clearly bonded with her new owner. Mr O'Sullivan is very dedicated to Daisy as indicated by a 6-hour round trip for this assessment.

Daisy was appropriately restrained in the vehicle on arrival to my premises and on lead when released from the vehicle.

Daisy responds to cues from Mr O'Sullivan when asked to sit and come.

Mr O'Sullivan is aware of the requirements of owning a dog under the Companion Animals Act 1998 and understands the importance of managing a big dog - both at home and out in the community.

Conclusions:

I am not privy to the details of the original Dangerous Order so cannot comment on how the incident occurred or Daisy's actual involvement.

Daisy is now located in a new environment with a new owner who appears dedicated to Daisy's welfare and management

Daisy can be a good family pet if managed safely both in the home and when out in public safely as required by law.

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Recommendation:

Dangerous Dog Order be revoked so Daisy can remain with her new owner in the home and backyard without the restrictions of a Dangerous Dog Order.

Daisy to continue to be suitably contained on her property when at home as per requirements of Companion Animals Act 1998, Section 12A *Preventing a Dog from Escaping: (1) owner of a dog must take all reasonable precautions to prevent the dog from escaping from the property on which it is being kept.*

Daisy to be effectively restrained when out in public as per requirements of Companion Animals Act 1998, Section 13 *A dog that is in a public place 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.*

Limitations:

It is not possible to assess Daisy in every circumstance that has occurred or may yet occur.

The value in this report is to identify any temperament flaws that may be evident under **normal** stimuli.

This report has been compiled from the tests that I believe can give me the ability to report accurately on a dog's temperament and is without prejudice or bias.

The assessment is my professional opinion based on my observations on the date and at the time.

Please do not hesitate to contact me if I can be of any further assistance.

Yours Faithfully

Debra Coleman

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26 April 2021

RE: 'Daisy' Brindle Great Dane X Microchip Number 982000356639941 (tag no 0765663)

As requested, I have reviewed the Behaviour Assessment video footage for this dog, taken on the 21.1.20, and my observations in relation to her suitability for rehoming under our Assessment Policy are as follows:

In my opinion, her behaviour within each subtest is justified by the context of the test, and her responses are justified by her emotion. By this, I mean that her responses are proportional both in intensity and duration (i.e. they are 'reasonable'). From the video, I did not see concerning evidence of frustration or conflict, and she remains controllable, seeks food rewards, can be distracted, and redirected and is cognitively able to respond to known cues. There is evidence of passive responses when she may be experiencing some degree of overwhelm, seen when she moves very slowly and freezes momentarily at times. Within our current assessment policy, the behaviours displayed would mean that she would be considered suitable for adoption without restrictions.

In terms of a more detailed breakdown for each test, my input is as follows:

1. Dog to dog test 1 (D2D) 21.1.20 (large dog): normal and expected level of arousal in response to an unfamiliar dog; she gathers information through scent during exploration of the environment. She checks in with the handler and responds to cues which mean it is likely that she is not overwhelmed or struggling to process the various different environmental and social stimuli presented.
2. Dog to dog test 2 (D2D)(small dog): an increased level of arousal and evidence of displacement behaviours, her stance is forward, indicative of a motivation to decrease the distance to the other dog. The other dog is signalling fear and hesitancy, which may have had some impact on her response. She is difficult to distract at a distance of under 1 meter however is still under the control of the handler and is able to be distracted. She recovers at a distance of over 5 metres.
3. In-room Behaviour Assessment 29.1.20 (in-room): Body language is suggestive of inhibition, and she is somewhat cautious initially. She responds to the interaction with the handler initially with appeasement and inhibition. She displays a playful response to the ball, more so with the squeaky toy and affiliative behaviour towards the handler. She displays expected arousal towards the handler's behaviour for the run test, exhibited by avoidance with a quick recovery. She eats wet and dry food, and a high-value treat (bone) and her body language does not suggest defensive behaviours due to proximity of a novel object (model hand). In addition, her chewing of the bone remains rhythmic; there is no frantic activity that may indicate attempts to decompress/reduce emotional/arousal level. Toddler: she is motivated here to get close to this object quickly and gather further information; she sniffs and displays a low and sweeping tail wag. Alone time: for the most part, the dog out of sight of the camera; there is mild vocalisation, some searching at the doorway to begin with and close to the end (possibly in anticipation of handler return).

Please let me know if I can provide any further information.

Kind regards,

Georgie Caspar, MSc, CAB, Cert IV CAS
Animal Behaviourist
A/Senior Manager – Animal Welfare and Compliance

The Royal Society
 for the Prevention of
 Cruelty to Animals
 New South Wales

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RSPCA Care Centre Tuggerah
 Tuggerah Homemaker Centre
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Statutory Declaration
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

I, Raymond James O'Sullivan do solemnly and sincerely declare that
[name of declarant]
the reason for my dog, Daisy, to have been found, unrestrained, on public property on the 16th April
2021 is as follows;

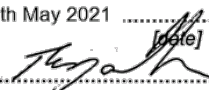
I had given Daisy a bath and left her on a towel to dry in the backyard. As a result she was not wearing
her collar and ID tag. I inadvertently left the side gate open after taking some garden tools through to the
front yard where I was doing some maintenance. I would not say that Daisy escaped, rather that she
wandered off, apparently along the path we generally take to collect my 10 year old from school around
that time of day. She has never shown any inclination to try and leave the house without me before this.
We now have a certified dog enclosure and fences high enough that Daisy, who struggles to jump into the
back of our Honda CRV, is unable to scale.

We adopted Daisy in April of last year while we were still living in Sydney and she quickly became a much
loved member of our family and loves her large backyard here in Alstonville.

During her time with us we have never seen the slightest hint of aggression towards any people or other
animals. In fact she is the gentlest animal my wife, 10 year old son and I have ever met, let alone lived
with. She is a joy to have living with us and is liked by everyone she meets.

and I make this solemn declaration conscientiously believing the same to be true, and
by virtue of the provisions of the Oaths Act 1900.

Declared at: 78 Mellis Circuit, Alstonville, 2477 on 11th May 2021
[place] [date]


[signature of declarant]


in the presence of an authorised witness, who states:

I, CATHERINE SIMPSON a REGISTERED NURSE
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person
who made it: [* please cross out any text that does not apply]

1. ~~I saw the face of the person OR I did not see the face of the person because the person
was wearing a face covering, but I am satisfied that the person had a special justification¹
for not removing the covering, and~~

2. ~~I have known the person for at least 12 months OR I have confirmed the person's identity using an
identification document and the document I relied on was~~
[describe identification document relied on]


[signature of authorised witness]

11/05/2021
[date]

¹ The only "special justification" for not removing a face covering is a legitimate medical reason (at
September 2018)