

## City Businesses

### Regulatory Services

#### 3.10 Application to Keep More Than Two Dogs

File Ref: 2323V02 – 11/142079  
 Responsible Officer: Director, City Businesses  
 Disclosure of Interest: Nil  
 Attachments: Nil

#### Issue

To consider six applications for an exemption under section 26(3) of the *Dog Act 1976* to keep more than two dogs.

#### Background

Clause 14 of the City of Wanneroo Animals Local Law 1999 (Amendment 2008 GG 508) stipulates:

*“A person shall not keep or permit to be kept on any premises more than:*

- a) 2 dogs over the age of 3 months and the young of those dogs under that age; or*
- b) 6 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated on a lot having an area of 4 hectares or more,*

*unless the premises are licensed as an approved kennel establishment or have been granted exemption pursuant to section 26(3) of the Dog Act and have planning approval under the town planning scheme.”*

#### Detail

The following applications have been made under the *Dog Act 1976* and are submitted for consideration:

<b>Address of Applicants</b>	<b>Description of Dogs</b>
11 Granite Place, Yanchep	1. Female Sterilised black/tan Kelpie X 2. Male Sterilised black Labrador X 3. Female Sterilised black/tan Kelpie X
6 Neaves Road, Mariginiup	1. Male Sterilised black/tan Doberman 2. Male Sterilised black/white Husky X 3. Male Sterilised black/gold German Shepherd
35 Furness Way, Koondoola	1. Male Sterilised black/tan Chihuahua X 2. Male Sterilised black/tan Rottweiler 3. Unspecified gender black/tan Rottweiler
43 St Andrews Drive, Yanchep	1. Female Sterilised fawn Pug 2. Male Sterilised apricot Pug 3. Female Sterilised black/tan Jack Russell/Pug
7 Downing Crescent, Wanneroo	1. Female Sterilised black/tan Rottweiler X 2. Male Sterilised black/tan German Shepherd X 3. Male Unsterilised black/white Jack Russell X
6 Malak Court, Wanneroo	1. Male Sterilised black/tan Cavalier King Charles 2. Female Sterilised white/tan Cavalier King

	Charles 3. Male Sterilised brown/brindle Corgi Staffie X
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Rangers have inspected the aforementioned properties to ensure means exist on the premises at which the dogs will ordinarily be kept for effectively confining the dogs within the premises.

Address of Applicants	Property Zonings	Size of Properties
11 Granite Place, Yanchep	Residential	520m <sup>2</sup>
6 Neaves Road, Mariginiup	Special Rural 04	12822m <sup>2</sup>
35 Furness Way, Koondoola	Residential	811m <sup>2</sup>
43 St Andrews Drive, Yanchep	Residential	704m <sup>2</sup>
7 Downing Crescent, Wanneroo	Residential	810m <sup>2</sup>
6 Malak Court, Wanneroo	Residential	1094m <sup>2</sup>

### Consultation

Where applications have been received by the City to keep more than two dogs, residents immediately adjoining the applicant's property in question are consulted by letter to ascertain if they have any objections.

On this occasion the following objections have been received:

Address of Applicant	Number of Objection Forms Received
11 Granite Place, Yanchep	Nil
6 Neaves Road, Mariginiup	Nil
35 Furness Way, Koondoola	Nil
43 St Andrews Drive, Yanchep	One objection
7 Downing Crescent, Wanneroo	One objection
6 Malak Court, Wanneroo	Two objections

### Comment

In considering these applications for exemption, the following two options are available:

- a) Council may grant an exemption pursuant to Section 26(3) of the *Dog Act 1976* subject to conditions; or
- b) Council may refuse permission to keep more than two dogs.

#### **Application One: 11 Granite Place, Yanchep**

The applicant is seeking permission from the City to keep three dogs at 11 Granite Place, Yanchep. The applicant would like to keep three dogs as she acquired the third dog whilst she was undertaking volunteer work at the City of Stirling Animal Care Facility. She has cared for the dog throughout its recovery at the Animal Care Facility and took it into her home to avoid it being euthanized.

A Ranger has inspected the property and confirmed it is adequate for the confinement and exercise of the dogs. All fences are 1.6 metres in height with a gate of 1.6 metres in height in compliance with the rural requirements of the *Dog Act 1976*. The dogs are kept in a small sized yard and sleep under the patio at night and no objections were received during the consultation process.

It is recommended that an exemption under section 26(3) of the *Dog Act 1976* be granted.

**Application Two: 6 Neaves Road, Mariginiup**

The applicant is seeking permission from the City to keep three dogs at 6 Neaves Road, Mariginiup. The applicant would like to keep three dogs as she has been asked by her mother to look after her dog due to her mother's ill health.

A Ranger has inspected the property and confirmed it is adequate for the confinement and exercise of the dogs. All fences are 1.2 metres in height with a gate of 1.2 metres in height in compliance with the rural requirements of the *Dog Act 1976*. The dogs are kept in a large sized yard and sleep under the patio or in the stables at night and no objections were received during the consultation process.

It is recommended that an exemption under section 26(3) of the *Dog Act 1976* be granted.

**Application Three: 35 Furness Way, Koondoola**

The applicant is seeking permission from the City to keep three dogs at 35 Furness Way, Koondoola. The applicant would like to keep three dogs as she wants to purchase a Rottweiler of a specific blood line from a breeder in Victoria. The applicant has not specified whether the third dog is male or female or if it will be sterilised.

A Ranger has inspected the property and confirmed it is adequate for the confinement and exercise of the dogs. All fences are 1.2 metres in height with a gate of 1.2 metres in height in compliance with the rural requirements of the *Dog Act 1976*. The dogs are kept in a medium sized yard and sleep in a kennel under the patio at night and no objections were received during the consultation process.

It is recommended that an exemption under section 26(3) of the *Dog Act 1976* be granted.

**Application Four: 43 St Andrews Drive, Yanchep**

The applicant is seeking permission from the City to keep three dogs at 43 St Andrews Drive, Yanchep. The applicant would like to keep three dogs as she has acquired the third dog since a friend of hers had a work related accident and is unable to care for the dog any more.

A Ranger has inspected the property and confirmed it is adequate for the confinement and exercise of the dogs. All fences are 1.7 metres in height with a gate of 1.7 metres in height in compliance with the rural requirements of the *Dog Act 1976*. The dogs are kept in a medium sized yard and sleep in the house at night and only one objection was received during the consultation process.

The one objection that was received was a general objection to the amount of dogs in the area; it was not an objection against the applicant.

It is recommended that an exemption under section 26(3) of the *Dog Act 1976* be granted.

**Application Five: 7 Downing Crescent, Wanneroo**

The applicant is seeking permission from the City to keep three dogs at 7 Downing Crescent, Wanneroo. The applicant would like to keep three dogs as she had the dog bought for her by her daughter to help her battle breast cancer. The other two dogs are owned by her daughter who lives with her.

A Ranger has inspected the property and confirmed it is adequate for the confinement and exercise of the dogs. All fences are 1.8 metres in height with a gate of 1.6 metres in height in compliance with the rural requirements of the *Dog Act 1976*.

The dogs are kept in a large sized yard and sleep in the house at night and only one objection was received during the consultation process.

The one objection that was received was from the rear neighbour. Mediation talks were held between both parties, with a City of Wanneroo Ranger present, and it was agreed that other dogs were contributing to the barking as well as external factors.

It is recommended that an exemption under section 26(3) of the *Dog Act 1976* be granted.

### **Application Six: 6 Malak Court, Wanneroo**

The applicant is seeking permission from the City to keep three dogs at 6 Malak Court, Wanneroo. The applicant would like to keep three dogs as she previously had been granted permission from Council to keep three dogs at her previous property.

A Ranger has inspected the property and confirmed it is adequate for the confinement and exercise of the dogs. All fences are 1.8 metres in height with a gate of 1.6 metres in height in compliance with the rural requirements of the *Dog Act 1976*. The dogs are kept in a large sized yard and sleep in the house at night and two objections were received during the consultation process.

The two objections were from the next door neighbour and a neighbour from the street behind. One objection was a general objection and not specifically about 6 Malak Court. The second objection mentioned whining, yapping and fouling in the garden by the applicant's dogs however, there is no history of complaints to the City with regards these alleged actions by the dogs.

It is recommended that an exemption under section 26(3) of the *Dog Act 1976* be granted.

### **Statutory Compliance**

The exemptions sought to Council's Animals Local Law 1999 are permissible under Section 26(3) of the *Dog Act 1976*.

### **Strategic Implications**

The proposal accords with the following Outcome Objective of the City's Strategic Plan 2006 – 2021:

“2 *Social*

2.4 *Improve community safety*”

2.4.3 *Develop and implement a range of activities that promote community inclusiveness, safety and well being.*”

### **Policy Implications**

Nil

### **Financial Implications**

Nil

### **Voting Requirements**

Simple Majority

## Recommendation

That Council:

1. **GRANTS** an exemption under the City of Wanneroo Animal Local Laws 1999 made under Section 26(3) of the *Dog Act 1976* to keep three dogs at the following properties:
  - 11 Granite Place, Yanchep;
  - 6 Neaves Road, Mariginiup;
  - 35 Furness Way, Koondoola;
  - 43 St Andrews Drive, Yanchep;
  - 7 Downing Crescent, Wanneroo; and
  - 6 Malak Court, Wanneroo
2. **ADVISES** that the exemption is subject to the following specified conditions:
  - a) If any one of the dogs die or is no longer kept on the property, no replacement is to be obtained;
  - b) Any barking by the subject dogs is to be kept to a minimum; and
  - c) This exemption may be varied or revoked if any complaints are received which are considered reasonable; and
3. **ADVISES** all adjoining neighbours of these decisions in relation to all the properties listed in the above recommendations.

*Attachments: Nil*

### **3.11 Fees for Uncertified Existing Structure Applications (Class 1 and 10 only)**

File Ref: 2323V02 – 11/110631  
 Responsible Officer: Director, City Businesses  
 Disclosure of Interest: Nil  
 Attachments: Nil

#### **Issue**

To consider and approve new fees for Uncertified Existing Structure Applications (Class 1 and 10 only), under the forthcoming new building legislation.

#### **Background**

Council has the authority to determine the new fees and charges applicable to the operational activities in the City, unless these fees are legislated by the State or Federal government. Under the provisions of the new Building Act, there are a number of fees which are currently legislated by the Building Commission WA. However, no fee was set by the Building Commission for Existing Structures certified by local governments. Unauthorised structures (structures built without approved building licences) are typically Class 1 and Class 10 buildings predominantly of domestic nature such as sheds, patios and home extensions. Fees for other uncertified class of buildings were determined by Council in September 2011 (CB02-09/11).

#### **Detail**

Currently, for the City to acknowledge any unauthorised building works, an Existing Structure application and a fee 0.7% of the estimated construction value of the building work are required to be submitted to the City for consideration and approval. This fee is legislated under the current *Building Regulations 1989*.

However, the fee for Existing Structures applications is not legislated in the new Building Act. The Building Commission has determined that local governments establish their own fees for the application of uncertified and unauthorised building works within their district.

Under the current *Building Regulations 1989* the fee for unauthorised construction is 0.7% of the construction value of the building works, and there appears to be no justification to change from the current rate of 0.7%. The procedure for the City to assess and approve any uncertified and unauthorised building works will remain unchanged. As such, the proposed fee structure for post the implementation of the *Building Act 2011* is as outlined below:

<b>No</b>	<b>Description</b>	<b>Fee (including GST)</b>	<b>Comments</b>
1	Uncertified Existing Structure Application (Class 1 and Class 10 only)	0.7% of the estimated construction value of the building work	Proposed fee as the subject of this report. Minimum fee is \$90.
2	Building Commission Levy	0.09% of the estimated construction value of the building work	Legislated by the Building Commission.
3	Certificate Of Building Compliance	\$50	Fee approved as per Council Report CB02-09/11
4	Building Approval Certificate	\$50	Fee approved as per Council Report CB02-09/11

## Consultation

The Building Commission does not legislate fees for local governments to charge for this service. Consequently, only internal consultation was canvassed.

The Director City Businesses and Manager Regulatory Services were advised of the requirement to set the proposed fee for the City. This provides the applicant with the option of applying to the City for an approval for an unauthorised existing structure instead of engaging the services of a private certifier.

## Comment

To continue to provide this service to the City's ratepayers when the *Building Act 2011* is implemented, Council is required to consider and approve this proposed fee. The proposed fee of 0.7%, with a minimum fee of \$90, of the estimated construction value for unauthorised building applications (Class 1 and Class 10 only), will then need to be advertised in the local papers and public notices as per the *Local Government Act s6.19*.

## Statutory Compliance

This proposal will align the City's obligations and requirements with the new building legislation and the *Local Government Act 1995 Section 6.19- Notice of Fees and Charges*:

*"If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —*

- (a) its intention to do so; and*
- (b) the date from which it is proposed the fees or charges will be imposed"*

## Strategic Implications

The proposal accords with the following Outcome Objective of the City's Strategic Plan 2006 – 2021:

- "4 Governance*
  - 4.6 Provide and maintain a high standard of governance and accountability"*

## Policy Implications

Nil

## Financial Implications

This proposal will allow the City to collect a fee for these applications. The City currently receives an average of 97 applications per year for unauthorised buildings, over the previous three financial years the City has received approximately \$5000 per year.

## Voting Requirements

Absolute Majority

## Recommendation

### That Council:-

1. **ADOPTS BY ABSOLUTE MAJORITY the fee of 0.7%, with a minimum fee of \$90, of the estimated construction value for Uncertified and Unauthorised Building Applications for Class 1 and Class 10 structures; and**
2. **APPROVES the giving of Local Public Notice of the new fees for uncertified and unauthorised building applications for Class 1 and Class 10 structures with effect 2 April 2012.**

*Attachments: Nil*

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