

## 7.2 Review of the Dog Control Order

### Executive Summary

#### Purpose

This report provides details of a review of the Dog Control Order No. 1 and the Gordon Barnard Dog Play Park Order in response to an action within the Domestic Animal Management Plan. It proposes the republishing of the two dog control orders into a single order with minor changes for clarity and consistency.

The review has identified minor improvements to accuracy and completeness which will not alter the intent of the orders.

#### Background

Boroondara's Dog Control Order No.1 was published on 18 April 2019 and lists 46 parks and reserves that have been designated by Council as places where dogs can be exercised off-leash (including off a chain or cord), subject to provisions that aim to ensure an owner remains in control of their dog. On 12 August 2021, a separate order designating Gordon Barnard Reserve, Balwyn North as a fenced dog play area was published in the Government Gazette.

The Domestic Animal Management Plan 2021-2025 (the DAMP) was adopted by Council on 28 February 2022 and includes an action for the orders to be reviewed and a report on this review provided to Council. This review specifically looks at whether the orders are clear, up to date and provide relevant information regarding community obligations.

#### Key Issues

The review recommends:

1. the inclusion of the address of each designated off-leash park and reserve to provide greater clarity for dog owners;
2. the renaming of Burke Road South Reserve to Lewin Reserve to be reflected in the Order;
3. the dog off-leash section of Beckett Park be made clearer;
4. reinforcing the existing requirement that the owner of an on-leash dog should remain in control of that dog and be capable of restraining if needed; and
5. Removes the term 'worry' from the owner's obligations.

Additionally, two related orders create confusion and risk repeating the same information in different formats, so it is recommended they are combined into a single order.

#### Next Steps

Subject to Council approval, the next step is to publish a single dog control order, which replaces the existing two orders and addresses the five issues outlined in **Attachment A**.

## Officers' recommendation

That Council resolve to:

1. Approve the Dog Control Order No. 1 as stated in **Attachment A**.
2. Publish the Dog Control Order No. 1 in the Government Gazette and the Herald Sun newspaper.

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**Responsible director:**        **Scott Walker, Director Urban Living**

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## **1. Purpose**

To report the results of a review of Council's dog control orders for clarity and currency. Council has two orders:

- Dog Control Order No.1, and
- the Gordon Barnard Dog Play Park Order

As improvements to the orders have been identified, none of which change the intent of the orders, this paper seeks support from Council for them to be republished into a single consolidated order.

## **2. Policy implications and relevance to community plan and council plan**

The key documents relevant for consideration in this matter are:

### Boroondara Community Plan 2021-2031

Addresses the management of all reserves regarding their use, specifically: Theme 2: Parks and Green Spaces contains the Strategic Objective - "Green and open spaces are provided, well-utilised and enhanced".

### Amenity Local Law 2019 and the Domestic Animals Act (Vic) 1994

The enforceable obligations of dog owners are prescribed in each document including, for example, dog owners having to clean up after their dog and controlling their dog's behaviour toward other dogs or people.

### City of Boroondara Domestic Animal Management Plan 2021-2025

Details Council's strategic approach to the delivery of domestic animal management services including meeting its legislative obligations. It includes provisions to support responsible pet ownership and reduce dog nuisance incidents.

## **3. Background**

### Requirements of Boroondara's Dog Control Order No.1

Section 26 of the *Domestic Animals Act, 1994* allows a council to control the presence of dogs in any public place through an Order.

Boroondara's Dog Control Order No.1 published on 18 April 2019 lists the 46 parks and reserves that have been designated by Council as places where dogs can be exercised off-leash (including off a chain or cord).

The Order also requires that the owner of any dog being exercised off-leash must:

- carry a chain, cord or leash sufficient to bring the dog under effective control if it threatens any person or animal;
- remain in effective voice or hand control of the dog so as to be able to promptly place the dog on a leash if necessary; and
- not allow the dog to worry or threaten any person or animal.

The Order also specifies that if a dog is off-leash in a Designated Reserve, the dog must be brought under the effective control of the owner by means of a cord, chain or leash if the dog is within 30 metres of:

- the principal location of an organised sporting event;
- the principal location of an organised public meeting; or
- a permanent barbecue or picnic area when in use.

Dogs are prohibited within the immediate perimeter of any playground at all times and must be on a leash if within ten (10) meters of the perimeter of a playground in a Designated Reserve at all times.

A subsequent order was published in the Government Gazette on 12 August 2021 pertaining only to the Gordon Barnard Reserve, Balwyn North designating it as a fenced dog play area.

#### Commitment to review the Dog Control Order No.1 in 2023

The Domestic Animal Management Plan 2021-2025 (the DAMP) was adopted by Council on 28 February 2023.

The DAMP included an action to “Review Council’s Order relating to the designated dog off-leash areas”. This action is to be completed by December 2023.

## **4. Outline of key issues/options**

### The Approach to the Review of the Dog Control Order

In preparing the DAMP, Council considered ways to manage dogs in public spaces including through strategies to:

- improve responsible dog ownership and education in public spaces,
- reduce nuisance incidents, and
- minimise dog attacks and securing dangerous, menacing and restricted breed dogs.

The DAMP did not identify any need to broaden the scope of the dog control orders. Since the DAMP is less than two years old, it is not considered necessary to revisit dog management issues. Instead, the review specifically looked at the orders themselves to determine whether:

- their intention is clear;
- the information is up to date; and
- the information is appropriate and useful to the community.

An online search was made for dog control orders made by other metropolitan councils to determine whether these provide insights into how the Boroondara orders can be improved. The Boroondara orders were also compared against the Council’s website to ensure they are consistent.

## Outcomes of the Review

The dog control orders of Yarra, Port Phillip, Merri-bek, Monash, Whitehorse and Manningham were reviewed and found to cover much the same matters as the Boroondara orders. Three of them listed both the designated parks and reserves and the addresses for each. This information helps to direct dog owners to the correct parks, particularly where there are parks of similar names such as Hartwell Sports Ground (Dog off-leash) and Hartwell Station Reserve (Dog on-leash).

The comparison of Boroondara's orders with the Boroondara website, found a single discrepancy relating to the Dog Control Order No.1, which lists Burke Road South Reserve as being a designated off-leash reserve. However, Council resolved to rename this park to Lewin Reserve on 25 March 2019 and the website has it listed accordingly.

In reviewing the list of designated parks and reserves, it was identified that Beckett Park is currently listed as "Beckett Park (Part Only)" and does not make clear which part of the park is designated as which. The dog on-leash portion is fenced and therefore can be readily identified accordingly in the Dog Control Order as "Beckett Park (outside of fenced area only)".

Consultation with the Prosecution Team of Civic Services tested whether the orders provide a sound basis that supports prosecutions arising from dog attacks. A common scenario is when a dog is being walked on-leash along a street and, when passing another person, jumps up on that person and/or bites.

A recent dog attack incident saw the Prosecutions Team making a number of charges against an accused, including a breach of Dog Control Order No.1. However, the dog was on-leash when it attacked and caused serious injury to another dog, so, while the owner did not have effective control over the dog, in a strict sense the owner nevertheless complied with the Order. This charge had to be withdrawn, although other charges were made.

It is the intent of Dog Control Order No.1 owner obligations that:

- I. dogs are always to be under control, including physical restraint on a leash unless in a designated off-leash area, and
- II. that an owner does not allow the dog to worry or threaten any person or animal so that the community and its pets are safe.

To give full effect to the intent of the Order, it is recommended the below clause be amended with the underlined words as follows:

- The owner of any dog must keep the dog in effective control by means of a chain, cord or leash attached to the dog and held by someone who must be capable of restraining the dog while the dog is in a:
  - reserve; or
  - public place

The following clause in the Owner obligations should have the words, 'worry or' removed as it has been identified as a historic term that is adequately covered by the word 'threaten', 'rush' or 'attack', which is found in the *Domestic Animals Act 1994*. The clause should now read as follows:

- does not allow the dog to threaten any person or animal.

### Recommended Changes to the Boroondara Dog Control Orders

As a result of the findings, it is recommended that Council republishes its orders in the Government Gazette as a single consolidated order (Attachment A) that:

1. provides the addresses for all 47 parks and reserves;
2. clarifies that Burke Road South Reserve is now known as Lewin Reserve;
3. specifies that only the unfenced area of Beckett Park is designated dog off-leash;
4. clarifies the need that those holding a dog on-leash must be capable of restraining that dog; and
5. Removes the term 'worry' from the owner's obligations.

The proposed revised Dog Control Order is at **Attachment A**.

## **5. Consultation/communication**

In preparing this report, consultation has been undertaken with Capital Projects, Local Laws and Animal Management, Prosecutions, Parks and Sport and Recreation.

As no change to the intent of the orders is recommended, it is not considered that any community consultation is necessary prior to the publication of the consolidated order.

## **6. Financial and resource implications**

Costs associated with the re-publishing the consolidated order are covered by the Council Budget.

## **7. Governance issues**

Legal advice was obtained in the drafting of the consolidated order and public notice.

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report is compatible with the Charter of Human Rights and Responsibilities 2006 as it does not raise any human rights issues.

## **8. Social and environmental issues**

The dog control orders and the management of dogs in public spaces play an important role in ensuring Boroondara's parks and reserves can meet a broad range of community needs and are safe for all users.

**Manager:** Paul Mitchelmore, Manager Civic Services

**Report officer:** Yvonne Hill, Policy and Projects Specialist

## Attachment A - Proposed Dog Control Order for Publication in the Government Gazette

### BOROONDARA CITY COUNCIL

#### Dog Control Order No.1

In accordance with section 26 of the **Domestic Animals Act 1994**, Council revokes all previous Orders made under that section and makes the following Order:

#### **Dogs must be under effective control.**

The owner of any dog must keep the dog in effective control by means of a chain, cord or leash attached to the dog and held by someone who must be capable of restraining the dog while the dog is in a:

- reserve; or
- public place.

#### **Owner obligations**

A dog may, however, be exercised off a chain, cord or leash in a Designated Reserve or Designated Fenced Dog Play Area, if the owner:

- carries a chain, cord or leash sufficient to bring the dog under effective control if the dog behaves in a manner which threatens any person or animal;
- remains in effective voice or hand control of the dog so as to be able to promptly bring the dog under effective control by placing the dog on a chain, cord or leash if that becomes necessary; and
- does not allow the dog to threaten any person or animal.

If a dog is off a chain, cord or leash in a Designated Reserve, the dog must be brought under the effective control of the owner by means of a cord, chain or leash if the dog is within 30 metres of:

- the principal location of an organised sporting event;
- the principal location of an organised public meeting; or
- a permanent barbecue or picnic area when in use.

Dogs are prohibited within the immediate perimeter of any playground at all times, and must further be on a cord, chain or leash if within ten (10) metres of the perimeter of a playground in a Designated Reserve at all times.

#### **Designated Reserves and Designated Fenced Dog Play Area**

Name of Park/Reserve	Street	Suburb	Designation
Anderson Park (both ovals)	7 Anderson Road	Hawthorn East	Reserve Dog Off-Leash Area
Ashburton Park	339 High Street	Ashburton	Reserve Dog Off-Leash Area

<b>Name of Park/Reserve</b>	<b>Street</b>	<b>Suburb</b>	<b>Designation</b>
Beckett Park (outside of fenced area only)	40 Yarrbat Ave	Balwyn	Reserve Dog Off-Leash Area
Belmont Park	65A Mont Albert Road	Canterbury	Reserve Dog Off-Leash Area
Boroondara Park	66 Canterbury Road	Canterbury	Reserve Dog Off-Leash Area
Connor Street Reserve	64 Sutherland Avenue	Kew East	Reserve Dog Off-Leash Area
Cooper Reserve	22 Green Street	Camberwell	Reserve Dog Off-Leash Area
Eric Raven Reserve	2A High Street	Glen Iris	Reserve Dog Off-Leash Area
Fairmont Avenue Reserve	10 Gilbert Parade	Camberwell	Reserve Dog Off-Leash Area
Fairview Park	4C Fairview Street	Hawthorn	Reserve Dog Off-Leash Area
Foley Reserve	15-23 Foley Street	Kew	Reserve Dog Off-Leash Area
Fritsch Holzer Park	18 Symonds Street	Hawthorn East	Reserve Dog Off-Leash Area
Frog Hollow Reserve	25 Fordham Ave	Camberwell	Reserve Dog Off-Leash Area
Gordon Barnard Reserve (enclosed by a fence and identified with signage)	230 Balwyn Road	Balwyn North	Dog Play Area
Grace Park	2 Hilda Crescent	Hawthorn	Reserve Dog Off-Leash Area
H.A. Smith Reserve	458 Glenferrie Road	Hawthorn	Reserve Dog Off-Leash Area
Hartwell Sportsground	19A Bath Road	Glen Iris	Reserve Dog Off-Leash Area
Hays Paddock	25-27 Longstaff Street	Kew	Reserve Dog Off-Leash Area
Highfield Park (southern lower oval)	840 Riversdale Road	Camberwell	Reserve Dog Off-Leash Area
Hill 'n' Dale Park	90 Summerhill Road	Glen Iris	Reserve Dog Off-Leash Area
Hislop Reserve	209 Balwyn Road	Balwyn North	Reserve Dog Off-Leash Area
Hyde Park	2-4 Kilby Road	Kew East	Reserve Dog Off-Leash Area
John August Reserve	173A Mont Albert Road	Canterbury	Reserve Dog Off-Leash Area

<b>Name of Park/Reserve</b>	<b>Street</b>	<b>Suburb</b>	<b>Designation</b>
Kate Campbell Reserve	46 Kellett Grove	Kew	Reserve Dog Off-Leash Area
King Street Chain	37A Gordon Street	Balwyn	Reserve Dog Off-Leash Area
Koonung Creek Reserve	17 Carron Street	Balwyn North	Reserve Dog Off-Leash Area
Lewin Reserve (formerly Burke Road South Reserve)	20-28 Sinclair Avenue	Glen Iris	Reserve Dog Off-Leash Area
Lynden Park	210 Highfield Road	Camberwell	Reserve Dog Off-Leash Area
Macleay Park	101 Belmore Road	Balwyn North	Reserve Dog Off-Leash Area
Markham Reserve	80 Victory Boulevard	Ashburton	Reserve Dog Off-Leash Area
Mont Albert Park	279 Union Road	Balwyn	Reserve Dog Off-Leash Area
Murdoch Street Reserve	14A Murdoch Street	Camberwell	Reserve Dog Off-Leash Area
Nettleton Park Reserve	37 Gardiner Parade	Glen Iris	Reserve Dog Off-Leash Area
Outer Circle Linear Park	Princess Street, Kew to Burke Road Kew East	Kew/Kew East	Reserve Dog Off-Leash Area
Pridmore Park	2 Mason Street	Hawthorn	Reserve Dog Off-Leash Area
Rathmines Reserve	169 Rathmines Road	Hawthorn East	Reserve Dog Off-Leash Area
Recreation Hall Reserve	12-16 Wellington Street	Kew	Reserve Dog Off-Leash Area
Reservoir Reserve	20 Grange Road	Kew	Reserve Dog Off-Leash Area
Smart Street Reserve	63 Church Street	Hawthorn	Reserve Time Restricted (6.00pm to 7.30am the following day) Dog Off-Leash Area
St James Park	3 Burwood Road	Hawthorn	Reserve Dog Off-Leash Area
Stradbroke Park	1369 Burke Road	Kew East	Reserve Dog Off-Leash Area
Summerhill Park (Western End Only)	28B Prosper Parade	Glen Iris	Reserve Dog Off-Leash Area
Victoria Park	450 - 500 High Street	Kew	Reserve Dog Off-Leash Area

<b>Name of Park/Reserve</b>	<b>Street</b>	<b>Suburb</b>	<b>Designation</b>
Wallen Road Reserve	2 Wallen Road	Hawthorn	Reserve Dog Off-Leash Area
Warner Reserve	7 Samarinda Avenue	Ashburton	Reserve Dog Off-Leash Area
Willison Park	10 Culliton Road	Camberwell	Reserve Dog Off-Leash Area
Willsmere Park	27 Willow Grove	Kew East	Reserve Dog Off-Leash Area

**Review**

Council may, by further order made by resolution, and after giving public notice inviting submissions on the proposal:

- remove a reserve or part of a reserve from; and/or
- add a reserve or part of a reserve to

the list of Designated Reserves or add to or remove any Designated Fenced Dog Play Areas.

**Definitions**

In this Order:

- 'chain, cord or leash' means a chain, cord or leash which effectively restrains the dog;
- 'at large', in relation to a dog, means not under the effective control of the owner by means of a chain, cord or leash;
- 'Designated Reserve' means a reserve or other place which has been designated as such by an order of Council under section 26 of the **Domestic Animals Act 1994**; and
- 'owner' has the same meaning as in the **Domestic Animals Act 1994**.

PHILLIP STORER  
Chief Executive Officer