

REMIT 1 Development of a National Policy Statement (NPS) on the siting of wind farms.

Content of Remit: That *Local Government New Zealand* request Central Government to develop a National Environmental Standard with regard to the siting of wind farms and more specifically on:

- The minimum distance turbines can be placed from private residences
- Appropriate assessment of noise and vibration from wind turbines, and maximum noise and vibration levels affecting dwellings;

That *Local Government New Zealand* request Central Government to develop a National Policy Statement on:

- Criteria to identify outstanding landscapes and how the preservation value of these should be balanced against development pressure on them.

Proposed by: Palmerston North City Council

Supported by: Rangitikei District, Whakatane District, Grey District, Central Hawkes Bay District, Gore District, and Chatham Islands.

Background Information:

See attached remit application and background information submitted by Palmerston North City Council.

The siting and environmental effects of wind farms are managed through the Resource Management Act 1991 (RMA) and statutory plan processes. A number of councils have amended their RMA plans to provide for wind generation and to manage the environmental effects, as well as providing more certainty for their communities and industry when assessing resource consents for wind farms.

The RMA states that the benefits to be derived from the use and development of renewable energy must be taken into account as a matter when considering resource consent applications for renewable energy (which includes wind farms). Councils are often placed in the difficult position of trying to balance the national benefits of wind energy generation while still managing what can sometimes be significant localised effects, particularly in relation to visual effects and protecting outstanding natural features and landscapes.

There is a proposed NPS for renewable electricity generation (NPS REG) that is currently before a Board of Inquiry process. The proposed NPS REG does not specifically refer to wind generation in any of the 5 proposed policies. The proposed NPS REG does not provide meaningful guidance on how councils are to balance national benefits with local

effects (for any type of renewable generation), or how to manage competing values. Nor does the proposed NPS provide any guidance on managing cumulative effects.

The *Local Government New Zealand* submission has requested that the proposed NPS REG be amended to provide more guidance on balancing competing values associated with developing renewable energy resources and in weighing up the competing Part II matters of the RMA. We have also suggested in our submission that the Board consider National Environmental Standards (NES) as alternatives which could be more effective and efficient in providing clear direction that some of the policies in the Proposed NPS REG. We have not specified exactly what we would like to see as NES.

Local Government New Zealand is aware that there is already a New Zealand Standard for turbine noise which has been through Environment Court processes and is widely used and referred to. We are unaware of any standard for vibration associated with wind turbines, though we understand that the effects of vibration and the associated research is more contested amongst experts.

We are also aware that the New Zealand Institute of Landscape Architects is in the process of producing some guidelines on how to identify outstanding landscapes. The guidelines are early in preparation and at the time of writing we haven't had confirmation of the exact nature of the guidelines.

National Relevance:

Wind energy is a form of renewable energy that is recognised in the RMA and by the New Zealand Energy Strategy. Wind turbines can significantly alter the visual landscape and are often contentious. While wind turbines are not an occurrence in all districts, changing technology and the general push towards more renewable forms of energy and electricity generation will mean that more areas of New Zealand will become viable.

The proposed NPS REG will apply to all local authorities. Should the proposed policy 4 and 5 proceed into a final NPS, every council would be required to amend their policy statement or plan.

Level of Significance:

Policy around energy generation, electricity and renewable generation are issues that affect all New Zealanders in one way or another. By fact that there is a NPS process already underway for renewable electricity generation indicates that this is a priority issue for Government. Input to the development of effective and useful NPS is a high priority issue for *Local Government New Zealand*.

Alternative Strategies Available:

The NPS REG already proposed is an alternative to a request for additional NPS or NES. The Board of Inquiry on the proposed NPS REG are currently hearing submissions and *Local Government New Zealand* presented before the Board on the 22nd of June 2009.

Palmerston North City Council has submitted to the proposed NPS REG and will be able to raise the issues outlined in their remit at their hearing.

The remit is more specific than the proposed NPS REG and relates specifically to NES for windfarms and a NPS on outstanding landscapes. It is unlikely that the Government will deal with these requests separately from the current NPS REG process, at least not in the short term. Therefore, we consider that any decision on the remit will need to be fed into the current NPS REG process.

At the recent hearing, the Board of Inquiry on the Proposed NPS REG asked *Local Government New Zealand* to provide some further information on one or two aspects. The decision on the remit could be raised with the Board during this correspondence.

The remit requests more central government guidance on three specific matters. *Local Government New Zealand* would not support an NES on the first matter (minimum distance turbines can be placed from private residences). We consider that there will be practicality issues associated with identifying these aspects on a national basis. This is quite a site specific issue and potential environmental effects will differ for each location, especially as there will be a 'visual' component or 'effect' involved.

We consider that the second NES request has more merit, though we note that there is already a New Zealand Standard on noise that while voluntary is well supported and used. The question is whether a mandatory NES on noise emission would offer more value.

While not specifically mentioned in the *Local Government New Zealand* submission issues of visual effects of renewable electricity activities on outstanding landscapes has been raised as part of feedback to us from councils on the proposed NPS REG. Our submission did request improved guidance on balancing the different values in Part II of the RMA. There may be merit in guidance on consistent criteria for identifying nationally outstanding landscapes. As noted above, the New Zealand Institute of Landscape Architects are preparing some guidelines in this area.

While there are issues with the timing with the proposed NPS REG we consider that the remit highlights some sector issues that can be fed into the existing NPS REG process that is underway.

Local Government New Zealand: Annual General Meeting 2009 – REMIT APPLICATION

Council Proposing Remit: Palmerston North City Council

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Remit supported by: Rangitikei District Council; Whakatane District Council; Central Hawke's Bay District Council; Grey District Council; Gore District Council, Chatham Islands Council.

Remit: That Local Government New Zealand request Central Government to develop a National Environmental Standard with regard to the siting of wind farms and more specifically on:

- **The minimum distance turbines can be placed from private residences**
- **Appropriate assessment of noise and vibration from wind turbines, and maximum noise and vibration levels affecting dwellings;**

That Local Government New Zealand request Central Government to develop a National Policy Statement on:

- **Criteria to identify outstanding landscapes and how the preservation value of these should be balanced against development pressure on them.**

The following background information is detailed within this document:

- (i) The nature of the issue
- (ii) Background to its being raised
- (iii) New or confirming existing policy
- (iv) How the issue relates to the objectives in the current Annual Work Programme
- (v) What work or action on the issue has been done on it, and the outcome
- (vi) Any existing relevant legislation, policy or practice
- (vii) Outcome of any prior discussion at a Zone or Sector meeting
- (viii) Evidence of support from Zone / Sector meeting or five councils
- (ix) Suggested course of action envisaged.

(i) Nature of the issue

1. Wind farms have the potential to cause significant adverse effects. National direction on matters relating to wind farm siting does not exist. This places considerable strain on the resources of local authorities. It also creates considerable uncertainty for the community and generators.
2. Individual communities up and down the country will have to grapple with the issues presented by big wind farms and they should not have to do so in the absence of some national standards or guidance.
3. More wind farms are likely to be “called in” for assessment under the National Government and the proposed RMA reforms. This process disenables local communities and means councils cannot pass on the costs of assessment to the applicant. Palmerston North City Council (PNCC) has budgeted \$500,000 to participate in a recent wind farm application that has been called in.
4. The Manawatu experience is that the ad hoc consenting process is not fair to communities and very divisive. This experience is beginning to be felt elsewhere in the country. All regions will confront the wind farm debate eventually.
5. The existing Proposed National Policy Statement (NPS) for Renewable Energy Generation has been notified. It is couched in very broad terms and at such a high level of generality as to be virtually useless to local authorities when making decisions under the RMA whether on individual consents or when developing policy. It does not provide guidance to the community and local authorities on key issues such as:
 - (a) minimum distances from residences;
 - (b) noise performance standards; and
 - (c) the assessment and management of adverse visual effects including cumulative effects.

(ii) Background to its being raised

6. We live in an increasingly carbon constrained world. Renewable energy will become more and more important to support social and economic outcomes. This is an international phenomenon. Wind energy will in the future be part of the renewable energy package internationally and in New Zealand.
7. The NZ Energy Strategy has a goal of 90% renewable energy by 2025. Wind energy will form a part of the renewable energy mix.
8. Like other countries, the trend in New Zealand is to larger turbines of 1.5 – 3.0 MW capacity.

9. Despite some support for smaller scale direct generation wind farms in national policy the trend of applications for larger wind farms¹ is likely to continue.
10. Large wind farms present special issues including:
 - (a) the potential for significant adverse cumulative visual effects;
 - (b) adverse effects associated with noise and vibration on residential properties close to the wind farm.
11. These effects are considered in the 2006 Parliamentary Commissioner's Report *Wind Power People and Place*. The Commissioner recommended smaller wind farms. The National led government, however, is likely to have a different focus.
12. While national guidance cannot remove the need for case by case assessment it will set narrower parameters. This will reduce the cost of managing the environment and in particular provide guidance as to the framework for expert assessments for consenting as well as guiding policy development.

(iii) New or confirming existing policy

13. The request is for a new NPS.
14. Given the nature of the effects resulting from wind farms and the guidance sought within this remit application, it may be that the most appropriate form of national guidance is a National Environment Standard as opposed to a NPS. This could be determined at a later date if the need for greater national guidance is supported.

(iv) How the issue relates to objectives in the current Annual Work Programme

15. The following analysis is based on the relevant priority areas and outcomes listed in the 2008/09 Local Government New Zealand Programme of Activities.

| Priority Area | Outcomes | Analysis |
|--|--|--|
| Achieving a genuine partnership with government | Engagement by Government with local government is early, open and comprehensive. | Should a NPS on the siting of wind farms be developed, early engagement with local government would be important. PNCC has significant experience in dealing with wind farms and would be willing to provide input into the process. |

¹ Support for small scale community renewable electricity generation is found in Policy 5 of the draft *Proposed National Policy Statement for Renewable Electricity Generation* and in the *New Zealand Energy Strategy 2050* which is likely to be reviewed by the National led government

| | | |
|---|---|--|
| | Government is required, as part of the process of developing legislation and regulation, to identify and quantify the costs created for local government. | The lack of national guidance on the siting of wind farms and the call in process is currently resulting in significant costs for local government and anxiety for local communities. |
| | Regulatory and other statutory duties imposed on local government are effective and workable at reasonable cost. | Should a NPS on the siting of wind farms be developed it would need to meet the intent of this outcome. The proposed NPS on renewable electricity generation does not resolve the issues described in this remit. |
| | Central government agencies work collaboratively with local authorities in the achievement of outcomes and the promotion of community well-being. | This outcome would guide engagement in the NPS development process by both central and local government. |
| Achieving financial sustainability for the local government sector | Councils have access to the necessary funds and funding tools to meet statutory and community expectations. | At present the cost of meeting community expectations once a wind farm application is called in is very high for local councils and communities. |
| Adapting to environmental sustainability | Councils are supported by central government and <i>Local Government New Zealand</i> to enhance environmental outcomes and address sustainability issues in their communities | It is generally accepted that wind farms have a role to play to address sustainability issues. The need for a NPS on the siting of wind farms will assist with managing local effects such as amenity, noise and landscape. |
| | Councils work collaboratively with central government and communities to enhance the natural and built environment. | A NPS on the siting of wind farms will assist with enhancing the natural and built environment in a more efficient and effective manner. |
| | The contribution made by councils to environmental well-being is recognised by both central government and communities. | At present local councils and communities are being asked to make a significant contribution to the environmental well-being of the country (and international obligations) through the assessment of wind farm applications with limited national guidance. |

(v) What work or action on the issue has been done on it, and the outcome

16. No specific work has been undertaken on developing an NPS on the siting of wind farms. Significant work has however been undertaken through the assessment of individual wind farm applications across the country. This has resulted in an increasing level of case law and guidance on the siting of wind farms which could be utilised as part of the development of the suggested NPS.

(vi) Any existing relevant legislation, policy or practice

17. Section 6(b) of the RMA requires decision makers to recognise and provide for *the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.*
18. Section 7(i) of the RMA requires decision makers to have particular regard to *the effects of climate change*
19. Section 7(j) of the RMA requires decision makers to have particular regard to *the benefits to be derived from the use and development of renewable energy.*
20. The above sections are not an exhaustive list of the parts of the RMA relevant to the development and assessment of wind farms.
21. The Ministry for the Environment has proposed a NPS on Renewable Electricity Generation. At the time of preparing this remit application the NPS was about to be heard by a Board of Inquiry.
22. The proposed NPS on Renewable Electricity Generation is based entirely around the promotion of renewable electricity generation and does little to balance competing values of wind farms such as effects on landscape features, rural amenity, including noise, and significant indigenous vegetation. The proposal only provides greater certainty around the weight to be given to renewable energy proposals. While this will assist the process of assessing applications and developing policy it does not, alone, balance the competing values associated with the development of wind farms (or other renewable electricity developments).
23. The benefits of renewable electricity generation are evident and generally accepted. It is the potential, cumulative and actual effects of the development of renewable electricity generation that causes the most debate at the local level.
24. The LGNZ submission on the proposed NPS on Renewable Electricity Generation includes the following comments that are consistent with the intent of this remit:

The Proposed NPS is an opportunity not to be wasted and must provide clear guidance and assist local authority planning and decision making, over and above what is already provided within Part II, and in terms of what can be achieved via non regulatory means.

The Proposed NPS will create significant resourcing issues and financial costs for councils for what might be very limited overall value over the planning for renewable energy already taking place at local authority level around the country.

(vii) Outcome of any prior discussion at a Zone or Sector meeting

25. This remit was tabled for discussion at the Zone 3 meeting held in Napier on 2-3 March 2009. Due to time constraints this item was deferred to the 4 May Zone meeting. The 4 May Zone meeting has since been cancelled.

(viii) Evidence of support from Zone / Sector meeting or five councils

26. Refer to Appendix A.

(ix) Suggested course of action envisaged

That Local Government New Zealand request Central Government to develop a National Policy Statement with regard to the siting of wind farms and more specifically on:

- (i) The minimum distance turbines can be placed from private residences
- (ii) The allowable maximum saturation of an area's skyline
- (iii) Iconic areas on which turbines cannot be built.

REMIT 2 Infringement Fees for Illegal Deposit of Waste**Content of Remit:**

THAT Zones 5 and 6 support the litter infringement fine increasing up to a maximum of \$1,000 and that the proposal be presented as a remit to the AGM of *Local Government New Zealand*.

Proposed by: Westland District

Supported by: Zones 5 & 6

Background Information:

See attached remit application and background information submitted by Westland District Council.

The Litter Act 1979 sets out offences and associated maximum fines. These fines were all reviewed and significant proportional increases made in the last Litter Amendment Act (2006). The current and previous maximum fines are as follows:

| | <i>Current</i> | <i>Pre 28 June 2006</i> |
|--|---|-------------------------|
| Infringement fee | \$400 | \$100 |
| Prosecuted offence | \$5,000 (individual) \$20,000 (body corporate) | \$500 \$2,000 |
| Prosecuted offence where litter likely to endanger or harm | \$7,500 (individual) \$30,000 (body corporate) | \$750 \$5,000 |

In addition, a court may order an offender to clear up litter or to pay the cost incurred by a public authority in clearing up the litter.

An infringement notice is generally used for minor littering offences and is an efficient enforcement tool for such offences. Court proceedings are attractive for more significant offences due to the higher level of penalty that can be imposed.

National Relevance:

Litter and fly tipping are issues of national relevance to all territorial authorities.

Level of Significance:

Local Government New Zealand and many councils strongly supported the significant increase in maximum fines in 2006. At that time, we did not seek an increase more than the \$400 proposed in the Bill. A \$1,000 maximum infringement fine would not be out of line with other infringement regimes. Under the Litter Act, councils determine the level of fine for litter offences, for example, fly tipping could have a higher fine than general littering.

Litter control is a significant cost for councils. There is a concern that fly tipping may increase when the waste levy is imposed from 1 July 2009 with subsequent increases to the costs for landfill disposal.

In order to report on any impact on fly tipping resulting from the introduction of the waste levy, it will be useful for councils to collect data on any changes after 1 July 2009.

Although fly tipping can involve significant dumping, infringement notices are used as an efficient enforcement tool for many minor offences (in comparison to the cost of taking a prosecution).

An amendment to the Litter Act would be required. It is unlikely that this is a priority for the Government. In order to convince the Government of the need for change we will require good monitoring data from councils, and will also need to undertake cost/benefit analysis to demonstrate the advantages in proceeding with an amendment to the maximum infringement fine.

Alternative Strategies Available:

It is possible that councils may be able to control some types of waste deposit (eg fly tipping) through bylaws under the Waste Minimisation Act 2008. Under this Act, an infringement regime is provided for with a maximum infringement fee of \$1,000. However, to implement that regime, councils must have bylaws in place and the Government must introduce regulations to put the regime in place. These regulations would specify the infringement offences and fees for those offences.

It is not a current priority for the Government to introduce these new regulations under the Waste Minimisation Act. A number of new regulations and other implementation projects were required as a result of the passing of the Act. The priority has been to first focus on regulations related to the waste levy, waste monitoring, and priority products for product stewardship. In March 2009, the Ministry for the Environment released a discussion document "Waste Minimisation in New Zealand" about policy to implement the Waste Minimisation Act 2008. The discussion document gave no indication that the MfE would progress infringement regulations. No feedback received by Local Government New Zealand to form our submission on the discussion document raised the priority or importance of these regulations.

Local Government New Zealand will continue to promote the importance of these regulations as opportunities arise. However, we believe that significant additional work would be required to convince the government of the priority and economic justification to progress new regulations.

INFRINGEMENT FEES FOR ILLEGAL DEPOSIT OF WASTE

Prepared for: Zone 5 Local Government New Zealand
Prepared by: Robin Reeves, CEO, Westland District Council
Dated: 24 April 2009
Subject: Infringement Fees for Illegal Deposit of Waste

Resolution:

THAT Zones 5 and 6 support the litter infringement fine increasing up to a maximum of \$1,000 and that the proposal be presented as a remit to the Annual General Meeting of Local Government New Zealand.



Enviro Crime

An act that is destructive to the environment and that has been criminalised by Statute – Webster's Dictionary.



Introduction

Zone 5 has been considering the current inadequacies in the level of fees for illegal dumping (including fly tipping) of waste.

This discussion paper concentrates solely on fly-tipping which is defined as 'The illegal deposit of any waste onto land' i.e. waste dumped or tipped on a site with no licence to accept waste. Fly tipped waste generally consists of mixed items of refuse that were dumped illegally on land instead of being disposed of properly at a landfill site or transfer station' however we as Councils accept that all forms of enviro crimes affect our communities to differing degrees.

Background

Dumping, graffiti, fly-tipping, dog fouling, fly-posting, litter, excess trade waste, and abandoned vehicles are all results of anti-social behaviour and all have the common definition that they spoil the local environment for the communities that live in them. How we feel about the area in which we live can have a significant effect on perceptions of safety, and affect our health.

Fly-tipping has been found to cause a wide range of problems to the natural, social and economic environment, such as disease transmission, soil contamination, the attraction of other crimes to affected neighbourhoods, substantial clear-up costs and discouragement of inward investment.

Fly-tipping will occur where perceived benefits exceed perceived costs, where weaknesses in collection and disposal services provoke those with waste to get rid of, and where those producing and disposing of waste are ignorant of their responsibilities for or methods of disposing of it lawfully and laziness.

The Effect

Fly-tipping is a problem because:-

- Uncontrolled waste disposal can present a hazard to the public e.g. drums of toxic waste, asbestos, syringes etc.
- Depending on the nature of the waste and its location, there can be damage to water-ways or to underlying soil quality.
- Fly-tipped material looks unsightly and this can damage inward investment into an area.
- Cleaning-up fly-tipping costs ratepayers in money and time; and
- Fly-tipping undermines legitimate waste management activities.

What is a reasonable infringement fee?

It has been difficult to identify an amount which equates to the total cost to Councils of dealing with fly-tipping because a certain amount of the cost is hidden officer time and time spent dealing with administrative duties.

These costs obtained from Zone 5 Councils reveal that fly-tipping costs between \$5,000 and \$800,000. These costs are substantial and are continuing to grow.

Some examples of fines imposed by other countries for fly-tipping

In the United Kingdom fly-tippers face fines of up to £50,000 or a jail sentence of up to a year, while those who commit more serious crimes, such as dumping toxic waste, can be jailed for as long as five years. Under new laws recently introduced in the UK, vehicles used for fly-tipping can be seized and destroyed. Communities are urged to report anyone they know illegally carrying or dumping waste. Information helps build up a picture of who and where people are dumping rubbish and allows Councils to address litter and fly-tipping problems and help to punish those responsible for it.

Greenwood County, USA imposes a \$1,087 fine for illegal dumping or imprisonment from 30 days to one year, imposed community work, and a criminal record another county imposed a \$500 fine plus 3 days in jail.

Australia imposes a \$2,500 fine and up to 7 years in jail, for individuals and \$5,000 for corporates.

Hidden costs associated with fly-tipping include:

- Administration
- Investigation of sites (officer time and transport – often in dangerous and remote locations)
- Enforcement costs
- Clean-up and correct disposal costs
- Protective clothing/footwear meeting health and safety standards
- Research and preparation of information for public information
- Printing and distribution of information literature.

The litter infringement fine needs to be of sufficient size to cover the cost of cleaning up the illegal deposit, and to be a strong deterrent to anyone contemplating this action.

REMIT 3 Dog Attacks

Content of Remit: That *Local Government New Zealand* petition Central Government for a change to the Dog Control Act to enable a warranted animal control officer or a sworn policeman, with respect to any dog that is known to have committed an attack in a public place and which is believed to be an ongoing danger to the public or stock, to seize that dog and subsequently cause to be euthanized humanely and the proposal be presented as a remit to the Annual General Meeting of *Local Government New Zealand*.

Proposed by: Invercargill City

Supported by: Zones 5 & 6

Background Information:

Under current law set out in the Dog Control Act 1996, a person may seize or destroy a dog if the dog is attacking them or another person (or any stock, poultry, domestic animal or protected wildlife). Destroying a dog while it is 'mid attack' is highly problematic, especially if the dog is attacking a person in an urban environment. In the majority of cases the dog is seized during or after an attack.

Once the "offending" dog has been seized it must be handed over to a dog control officer. The council must then hold the dog until conviction of the dog owner and a court order has been issued for the dog's destruction. These court processes can take several months.

National Relevance:

All territorial authorities in New Zealand have responsibilities under the Dog Control Act and are directly accountable to their communities for how they manage and respond to these responsibilities. Dog attacks can result in very serious injuries to usually innocent and vulnerable victims and generate a high level of public and media interest.

Level of Significance:

For many councils the issue is not who makes the decision to destroy the dog, but about the time it takes for the court order for the dog's destruction to be issued and the resulting cost to council of holding the dog. There are also issues with dogs being held for long periods of time in a pound (which are designed to only hold dogs short-term) and reported cases of pound break-ins from owners trying to illegally retrieve a dog.

There could be merit in further investigation of options for an earlier destruction order from the courts, particularly where there is apparent and adequate evidence to pinpoint a specific dog or dogs. This option would still maintain the current situation where the court makes the decision on the destruction of the dog, offering a 'check' and taking any legal challenge of the decision from the council.

Invercargill City Council has requested to go further than this and to enable the council (rather than the court) to make decisions on the destruction of dogs that have attacked. This is a considerable move away from the current legal situation and while it allows the

council more responsibility it may also present the council with more potential risk of legal challenge.

Invercargill City Council point out that under current law they can already destroy a dog but only while it is mid attack, and therefore why should this ability not also be applied after an attack? We understand that there will be a range of sector views on this.

Immediate changes to the Dog Control Act are not high priority with the current government, nor has the Dog Control Act been a high priority for *Local Government New Zealand* of late.

Alternative Strategies Available:

Generally, the issues relating to destruction orders from the courts relate to the Dog Control Act and any response to address the issues would require legislative change. Zone 5 and 6 councils could write to Ministers and directly make the request for legal change. However, the request is likely to have more weight if it comes from the local government sector.

As noted above, an alternative to amending the council's decision-making power on destruction, would be to retain that decision with the court, but to seek an amended (and fast-tracked) process for obtaining that court decision.

Councils have differing views about the extent to which the council should act as decision maker on whether a dog is destroyed. Invercargill City and others would like this decision to be a council decision and council process while others would still prefer the decision itself to be made by the court through a court order.

A decision from the sector at the AGM to proceed with the remit would need to be clear on the extent of council decision powers being sought.

DOG ATTACKS – POWERS OF TERRITORIAL AUTHORITIES

Prepared for: Zone 6, Local Government New Zealand
Prepared by: Invercargill City Council
Dated: 7 May 2009
Subject: Dog Attacks – Powers of Territorial Authorities

Resolution

THAT Local Government New Zealand petition Central Government for a change to the Dog Control Act to enable a warranted animal control officer or a sworn policeman, with respect to any dog that is known to have committed an attack in a public place and which is believed to be an ongoing danger to the public or stock, to seize that dog and subsequently cause it to be euthanized humanely and the proposal be presented as a remit to the Annual General Meeting of Local Government New Zealand.

Background

Considerable publicity followed a dog attack in Invercargill on 9 April 2009, the impounding of the dogs, and the subsequent break-in to the Pound and theft of the 'offending' dogs. There were several articles in the local newspaper and the Council's Director of Environmental and Planning Services, Mr. Watt, found himself on national television.

The break-in

This was no casual burglary. It was a planned, commando-style attack that required specialised equipment.

Pound Security

Clearly, a Dog Pound needs to be a secure facility. But just how far one goes down the path of attempting to construct a totally secure facility is worth debating. High levels of security cost the ratepayer 'big time'. The issue is to what extent is it a sensible/justifiable use of ratepayers' money to build in and maintain ever higher levels of security to prevent break-ins by a small sector of society that lives on the edge of the law?

Dog 'attacks'

There have been well-documented cases, in Invercargill and elsewhere in New Zealand, of attacks resulting in serious injury to people.

What we are seeing is:

- an increase in interest in large and aggressive dogs
- people interested in such dogs often share character and socio-economic traits

These dogs are not 'pets' or 'working dogs'. They are bred, and trained, as weapons, with the sole purpose of intimidation.

The Dog Control Act

The relevant provisions of the Act are:

- Section 57 allows any person to "seize or destroy" a dog if it attacks them or they see it attacking anyone else or any stock or poultry.
- Section 58, which provides that owners of dogs causing serious injury to persons or injury/death of protected wildlife commit an offence
- Section 59 provides that a dog at large and threatening wildlife can be seized or destroyed.
- Section 60 provides that the owner of any stock or poultry (or policeman and/or animal control officer) 'seize or destroy' any dog running at large among that stock or poultry.
- Section 61 provides that the Court may order the destruction of a dog seen at large among stock or poultry
- Section 62 provides that any dog that is known to be dangerous or to have attacked a person or any stock or poultry must be muzzled and on a leash while in any public place.

What is lacking is the ability of a policeman or warranted animal control officer to seize AND destroy a dog which is known to have attacked.

They can destroy it if attacked or if they see it attacking stock. However they can destroy it only if it is in the act of committing the attack. Once the dog is finished the attack it can only be seized.

Once seized, a dog has to be impounded and a court order sought for its destruction. This can take several months. In practice there is very little ability to recover the costs of extended periods in the pound, which then become a cost on the ratepayer. Keeping a dog in a "secure" building is expensive.

Empirically, there is no way any policeman or animal control officer to get in a shot at a dog safely while it is in the process of attacking another person.

Mr Watt's comments in the newspaper seem to have resounded with public sentiment. He had a large number of comments and messages in support, generally making the point that:

- "dogs that have attacked should be put down"
- "the present law is too heavily weighted in favour of animal rights over human rights"
- "no pound can be 100% secure and 'that element will find a way in'".

Of interest is an e-mail that he received after the TV1 interview:

"Dear Bill, as an ambulance officer who has treated at least one of the patients shown on tonight's TV, as well as a farmer who has lost both sheep and goats (plus personal injury) from straying dogs, I heartily support you in your comments. I have attended at least three patients recently (one major facial injuries, one missing upper lip, one major hand damage. In all the human cases (except my own) I requested that the dog responsible be put down. Oddly, only in the case of the sheep, were the dog rangers able to act. The Police acted, far too late, in two cases – by which time it was uncertain which of the two dogs might have been responsible. In the case of the goat, I took my own action with the lost pig dog responsible. The rifle still has tooth marks in it. Regards Heather March."