

**1.1 PROHIBITING DOGS – SYNTHETIC PITCH GARDINERS RESERVE**

Responsible Director: Peter Panagakos

**RECOMMENDATION**

*That Council:*

1. *Revokes Dog Control Order – Number 4 adopted by Council on 25 August 2015 and adopts Order - Number 5 made under the provisions of Section 26 (2) of the Domestic Animals Act 1994 in the form described in attachment one.*
2. *Directs Council Officers to cause Order Number 5 made under the provisions of Section 26 (2) of the Domestic Animals Act 1994 to be published in the Government Gazette and in a newspaper circulating in the municipal district*

**INTRODUCTION**

A synthetic pitch has been installed at Gardiners Reserve, Burwood and similar to the synthetic pitch at Jack Edwards Reserve in Oakleigh, it was always intended that the presence of dogs be prohibited from the pitch.

Therefore, it is necessary that the Council Order that deals with the current control of dogs be revoked and a new Order made that designates the synthetic pitch at Gardiners Reserve as being an area where dogs are prohibited.

Such Orders are made under the provisions of the *Domestic Animals Act 1994* and this report presents a draft Order for Council's consideration and explains the process required to bring the draft Order into effect.

**BACKGROUND**

Section 26 (2) of the *Domestic Animals Act 1994* makes provision for Council to make an Order by resolution which may do all or any of the following:

- prohibit the presence of dogs and cats in any public place of the municipal district
- impose all or any of the following conditions on the presence of dogs or cats in any public place of the municipal district:
  - conditions as to the means of restraint of dogs or cats;
  - conditions as to the times at which the presence of dogs or cats is or is not permitted;
  - any other conditions that are specified in the order.

Council first made an Order under these provisions on 5 August 1997. The Order was modified on 16 December 1997 and again on 14 July 2009 by adding new reserves to the list of Designated Reserves where dogs may be exercised off-leash.

On 25 August 2015 the Order was updated to include a revised definition of a ‘public place’ and to prohibit the presence of dogs on the synthetic pitch at Jack Edwards Reserve at all times and in some other parts of the reserve at various other times.

Under the provisions of the current Order the relevant area (where the synthetic pitch is laid) at Gardiners Reserve is a designated off-leash area.

### ***DISCUSSION***

The presence of dogs and synthetic pitches are incompatible. This is largely due to a dog’s propensity to dig and the fact animal urine and faeces become trapped within the synthetic substrate. It is known there is less biological activity in artificial grass systems and that pathogens do not readily break down thus creating significant health risks for users.

When the installation of the pitch was proposed, concerns were raised by the community that the pitch area would no longer be available for exercising dogs off-leash. At the time, officers reported to Council that whilst dogs would not be permitted on the synthetic pitch, dog walkers would continue to enjoy exercising their dog’s off-leash in the northern area of the reserve and that accessibility to the southern pitch would be improved with the installation of an unlocked gate at the southern end. These improvements have since been made and there is no proposal to limit access to any other areas within the reserve.

Council is not required to give notice of an intention to make an Order under Section 26 of the *Domestic Animals Act 1994*. Nonetheless, best practice requires that the community is consulted on material changes to the Order such as the addition or blanket removal of a designated reserve.

In this instance however, given the consultation that has already occurred during the consultation for the installation of the synthetic pitch and the fact the change affects but one section of the existing off-leash area, it is proposed to revoke the existing Order and replace it with a new Order.

As a final step, an Order made by the Council must be published in the Victorian Government Gazette and in a newspaper circulating in the municipal district of the Council making the Order.

A draft *Dog Control Order - Number 5* is attached for Council’s consideration (Attachment One). It should be noted that the inclusion of the synthetic pitch at Gardiners Reserve is the only change to the previous Order.

**POLICY IMPLICATIONS**

The making of a new Order is consistent with the objectives described in Council's *Domestic Animal Management Plan 2017-21*. The plan was adopted in 2017 and provides a strategic framework to the City of Monash for policy direction and action plans related to animal management.

One of the plan objectives is to: "Reduce and minimise the amount of nuisance dog complaints to Council by education and enforcement of nuisance provisions on the Domestic Animals Act" and the on-going review of the Order contributes towards achieving this objective.

**CONCLUSION**

Given it was always intended that the presence of dogs be prohibited from the synthetic pitch at Gardiners Reserve, as an administrative measure, the Council Order that deals with the control of dogs needs to be revoked and a new Order made.

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**ATTACHMENT ONE – DOG CONTROL ORDER****MONASH CITY COUNCIL****Dog Control Order**

At its meeting on 28 May 2019 Monash City Council resolved to make Order Number 5 pursuant to section 26(2) of the *Domestic Animals Act 1994*.

## Domestic Animals Act 1994

**1. Revocation**

- (1) All previous Orders made by Council under section 26 of the *Domestic Animals Act 1994* are revoked.

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

- (1) The Owner of any dog must keep the dog under effective control by means of a chain, cord or leash (not exceeding 1.5 metres in length) held by the Owner and attached to the dog while the dog is in a Public Place except where that Public Place is a Designated Reserve or Prohibited Area.
- (2) Sub-clause (1) does not apply where a chain, cord or leash attached to the dog is securely fastened to a post or other fixture and the dog remains under sight or voice control by the owner.

**3. Prohibited Areas**

- (1) A dog must not enter or remain in any Prohibited Area.
- (2) The prohibition under sub-clause (1) applies in a Prohibited Area regardless of whether or not the dog is on a chain, cord or leash.

**4. Owner's obligations in a Designated Reserve**

- (1) A dog may be exercised off a chain, cord or leash in a Designated Reserve if the Owner:
  - (a) carries a chain, cord or leash not exceeding 1.5 metres in length sufficient to bring the dog under control by placing the dog on the chain, cord or leash if the dog behaves in a manner which threatens any person or animal.
  - (b) remains in effective voice or hand control of the dog and within constant sight of the dog so as to be able to promptly bring the dog under control by placing the dog on a chain, cord or leash (not exceeding 1.5 metres in length) if that becomes necessary or desirable to avoid any wandering out of effective control or to avoid any threatening behaviour or any attack; and
  - (c) does not allow the dog to worry or otherwise threaten any person or animal, and does not allow the dog to attack any person or animal.
- (2) If a dog is off a chain, cord or leash in a Designated Reserve it must be brought under effective control by means of a chain, cord or leash (not exceeding 1.5 metres in length) if the dog is within twenty metres of:
  - (a) an arena or ground whilst being used for an organised sporting or practice event;
  - (b) a children's play equipment area that is being used;

(c) the location of an organised public meeting; and

(d) a barbeque or picnic area that is being used.

**5. Owners must be equipped to remove dog faeces**

(1) The Owner of a dog must carry a bag, receptacle or other means of picking up and removing from any Public Place any of the Owner's dog's faeces.

**6. Meaning of words**

In this Order:

*Designated Reserve* means any reserve specified in the Schedule of this Order.

*Owner* has the same meaning as in the *Domestic Animals Act 1994*.

*Prohibited Area* means:

- (a) the turf pitch and the area surrounding the turf pitch at Jack Edwards Reserve between the period two hours prior to the start time of a National Premier League Victoria game and the conclusion of that game;
- (b) the turf pitch at Jack Edwards Reserve when the pitch is being used for scheduled training or during a game that is not a National Premier League Victoria game;
- (c) the synthetic pitch at Jack Edwards Reserve;
- (d) the area surrounding the synthetic pitch at Jack Edwards Reserve (designated by the low level fence) when the pitch is being used for scheduled games or training;
- (e) the synthetic pitch at Gardiners Reserve.

*Public Place* has the same meaning given to it in the *Summary Offences Act 1966*, and includes all streets, roads, footways, reserves, lanes, parks, schools, public halls and markets.

**Schedule of Designated Reserves**

1. Electra Reserve
2. Federal Reserve
3. Tally Ho Reserve

4. Glen Waverley North Reserve
5. Capital Avenue Reserve
6. Hinkler Reserve
7. Bogong Street Reserve
8. Heaney Street Reserve
9. Scotchman's Run Reserve Estelle Street
10. Powerlines Area, Pamela to Smythe Street
11. Powerlines Area, Janice Street to Ivanhoe Street
12. Whites Lane Retarding Basin
13. Hertford Crescent Reserve
14. Gladeswood Drive Reserve
15. Freeway Reserve
16. Columbia Park
17. Carlson Reserve
18. Princes Highway Reserve
19. Jack Edwards Reserve (other than the areas designated as a Prohibited Area)
20. Argyle Reserve
21. Southern Reserve
22. Damper Creek Reserve
23. Lum Reserve (excluding the bushland area)
24. Ashwood Reserve
25. Caloola Reserve
26. Mulgrave Reserve
27. Dick Mason Reserve
28. Gardiner's Reserve (west of the creek and other than the area designated as a Prohibited Area)
29. Mount Waverley Reserve
30. Batesford Reserve
31. Golf Course Reserve (part) Waverley Road