

Inquiry into the Animal Care and Protection Amendment Bill 2022

Submission No: 749
Submitted by: Brisbane City Council
Publication: Make my submission public but keep my name confidential
Attachments: See attachment
Submitter Comments:

Animal Care and Protection Amendment Bill 2022 Clause number	<i>Animal Care and Protection Act 2001</i> Section number and current wording	<i>Animal Care and Protection Act 2001</i> Section number and proposed wording	Key points/policy objectives as sighted in the explanatory notes	Position (support/oppose/amend)	Reason for position
Clause 4	Section 13 – Making codes of practice A regulation may make codes of practice about animal welfare.	Section 13 – Making codes of practice A regulation may make codes of practice about animal welfare that are based on good practice and scientific knowledge.	This amendment is consistent with the current accepted practice that codes of practice are made on the basis of ‘good practice and relevant scientific knowledge’, which is a requirement for the development of the Australian Animal Welfare Standards and Guidelines for the welfare of livestock.	Support	All codes of practice should be based on best practice and current scientific knowledge in relation to a topic and should undergo consultation with all relevant bodies, including local governments.
Clause 7	Section 19 – Unreasonable abandonment or release (1) A person in charge of an animal must not abandon or release an animal unless the person has a reasonable excuse or the abandonment or release is authorised by law. Maximum penalty—300 penalty units or one year’s imprisonment. (2) A person must not, unless the person has a reasonable excuse, release an animal from the custody of the person in charge of it. Maximum penalty—300 penalty units or one year’s imprisonment.	Section 19 – Unreasonable abandonment or release (1) A person in charge of an animal must not abandon or release an animal unless the person has a reasonable excuse or the abandonment or release is authorised by law. Maximum penalty—300 penalty units or one year’s imprisonment. (2) A person must not, unless the person has a reasonable excuse, release an animal from the custody of the person in charge of it. Maximum penalty—300 penalty units or one year’s imprisonment. (3) For subsection (1), an animal may be abandoned by a person in charge of the animal regardless of whether the animal is provided with food or water by a person who is not in charge of the animal. <i>Example— a person providing food and water to a dog that has been abandoned near the person’s premises</i>	An amendment which makes it an offence for a person in charge of an animal to abandon or release an animal, unless the person has a reasonable excuse or is authorised by law. The amendment inserts subsection (3) to remove any doubt that an animal may be abandoned even if a person not in charge of the animal has volunteered to temporarily provide the animal with food or water. An example is provided of a person providing food and water to an abandoned dog near the person’s premises.	Amend	Local governments are often faced with animals that have been abandoned and left to wander at large. This provision will allow local governments to refer these abandonment cases through to the relevant enforcement agency for further investigation – especially with repeat offenders. However, the existing definition of abandon within the <i>Animal Care and Protection Act 2001</i> is quite broad. It is suggested that a clear definition is required for abandonment with specific exemptions for short-term and long-term pet sitting arrangements – for example, a dog owner may employ a pet sitter to care for their dog whilst on holidays. While the pet sitter comes in once/twice per day to care for a pet, this could be misconstrued as abandonment by the owner.
Clause 8	Chapter 3, Part 4 – Regulated surgical procedures	Chapter 3, Part 4 – Regulated procedures	Omitting ‘surgical’ from the heading will allow regulated procedures that are not surgical in nature to be prescribed.	Support heading amendment. Further amendment required within this part.	While it is supported to amend the Chapter heading, additional amendment is required within the definitions of section 25(4). Specifically, the definition of relevant nuisance abatement notice under 25(4)(a) refers to a nuisance abatement notice under the <i>Environmental Protection Act 1994</i> (EP Act). The animal noise nuisance provisions were removed from the EP Act in the late 1990’s/early 2000’s.

					<p>All animal noise nuisance provisions within Queensland are embedded into each local governments' local laws.</p>
<p>Clause 12</p>	<p>Section 28 – Restriction on supplying debarked dog</p> <p>A person (the supplier) must not supply someone else a dog that the supplier knows has had a debarking operation performed on it unless the supplier has given the other person a signed veterinary surgeon's certificate stating the operation was performed under section 25.</p> <p>Maximum penalty—150 penalty units or one year's imprisonment.</p>	<p>Section 28 – Restriction on supplying debarked dog</p> <p>(1) A person (a supplier) must not supply another person a dog that the supplier knows has had a debarking operation performed on it unless the supplier gives the other person a signed veterinary surgeon's certificate stating that the operation was performed in accordance with section 25(2). Maximum penalty—150 penalty units or one year's imprisonment.</p> <p>(2) However, subsection (1) does not apply if—</p> <ul style="list-style-type: none"> a) the dog was abandoned; and b) the supplier is surrendering the dog to a pound or animal shelter. <p>(3) Subsection (4) applies if—</p> <ul style="list-style-type: none"> a) a pound or animal shelter takes possession of a dog that has had a debarking procedure performed on it before the pound or animal shelter took possession of the dog; and b) the pound or animal shelter is not given a veterinary surgeon's certificate for the dog as stated in subsection (1). <p>(4) The pound or animal shelter must not supply a person with the dog unless the pound or animal shelter gives the person a certificate stating that the dog had the debarking procedure performed on it before the pound or animal shelter took possession of the dog. Maximum penalty—150 penalty units or one year's imprisonment.</p> <p>(5) Subsection (6) applies to a person who is supplied a dog—</p> <ul style="list-style-type: none"> a) by a person in accordance with subsection (1); or b) by a pound or animal shelter in accordance with subsection (4). 	<p>Amends to require that a person (supplier) must not supply another person a dog that the supplier knows has had a debarking operation performed on it, unless the supplier gives the other person a signed veterinary surgeon's certificate stating that the operation was performed in accordance with section 25(2). A maximum penalty of 150 penalty units or one year's imprisonment will apply.</p> <p>Subsection (2) provides that subsection (1) does not apply if the dog was abandoned, and the supplier is surrendering the dog to a pound or shelter.</p> <p>Subsection (3) provides that subsection (4) applies if (a) a pound or animal shelter takes possession of a dog that has had a debarking procedure performed on it before the pound or animal shelter took possession of the dog; and (b) the pound or animal shelter was not given a veterinary surgeon's certificate for the dog in subsection (1).</p> <p>Subsection (4) provides that the pound or animal shelter must not supply a person with the dog, unless the pound or animal shelter gives the person a certificate stated that the dog had the debarking procedure performed on it before the pound or shelter took possession of the dog. A maximum penalty of 150 penalty units or 1 year's imprisonment will apply.</p> <p>Subsection (5) provides that subsection (6) applies to a person who is supplied a dog, (a) by a person in accordance with subsection (1), or (b) by a pound or animal shelter in accordance with subsection (4).</p> <p>Subsection (6) provides that the person (an on-supplier) must not on-supply the dog to another person, unless the on-supplier gives the other person (a) the signed veterinary surgeon's certificate given for</p>	<p>Oppose and amend</p>	<p>Council supports the intention of proposed amendment to better facilitate the rehoming of dogs that have been unlawfully debarked. However, the ongoing supply of a certificate does not clearly link to the overall intention of the Act.</p> <p>The definitions of pound and animal shelter both apply to local governments, and we have a great concern particularly about 28(2)(a) as this may deter people from surrendering their dog if it has been unlawfully debarked or the owner no longer has the veterinarian's certificate about the procedure. Instead of lawfully surrendering their dog, people may instead abandon their dog, intentionally let it wander at large (which in turn may lead to attacks on other animals or people) or lie when surrendering, thus limiting the amount of information that would ordinarily be provided by the person surrendering the dog such as important medical history and endangering the welfare of the dog.</p> <p>Section 28(4) will also increase regulatory burden and rehoming centre operating costs on local governments by imposing the need for the local government to provide a certificate about the procedure being performed prior to coming into the pound/animal shelter's possession. While the legislation does not require a veterinary surgeon's certificate, it is understood this certificate would at least need to be provided by a suitably qualified person who would also be able to comment on the health of the dog following the debarking procedure (i.e. a veterinarian).</p> <p>Concerns also exist around veterinarians refusing to provide a signed veterinary surgeon's certificate about the procedure performed on</p>

		<p>(6) The person (an on-supplier) must not on-supply the dog to another person unless the on-supplier gives the other person—</p> <ul style="list-style-type: none"> a) the signed veterinary surgeon’s certificate given for the dog under subsection (1); or b) the certificate given for the dog under subsection (4). <p>Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>Schedule Dictionary defines an <i>animal shelter</i> as a premises maintained for the purpose of providing shelter to, or finding a home for, stray, abandoned or unwanted animals.</p> <p>And a <i>pound</i> as a premises maintained for the purpose of impounding animals</p>	<p>the dog under subsection (1), or (b) the certificate given for the dog under subsection (4). A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p>		<p>the dog, particularly if they did not complete the procedure.</p> <p>Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under sections 28 or 29 of the Act. This provision is counterintuitive in that the RSPCA does not have to provide a certificate for a regulated procedure when supplying an animal, however a person can be fined under Section 29A for not having a certificate. This issue needs to be rectified to be consistent across all pounds and animal shelters.</p> <p>To address animal welfare concerns and effectively regulate these potentially harmful procedures, a state government database should be established, linking the microchip number to the vet who completed the procedure and the reasons for the procedure.</p> <p>Overall, Council suggests:</p> <ul style="list-style-type: none"> (1) omitting section 28(2)(a) (2) omitting section 28(4) and other sections accordingly (i.e. 28(3) and 28(6)).
<p>Clause 12</p>	<p>Section 29 – Other restrictions</p> <p>A person (the supplier) must not supply someone else an animal as follows unless the supplier has given the other person a signed veterinary surgeon’s certificate stating the procedure was performed in the interests of the animal’s welfare— (a) a dog that has had part of an ear removed to make the ear stand erect; Note— See section 23 (Cropping dog’s ear). (b) a cat with a claw removed from it; (c) a horse that has had its tail docked. Maximum penalty—150 penalty units or one year’s imprisonment</p>	<p>Section 29 – Other restrictions</p> <ul style="list-style-type: none"> (1) A person (a supplier) must not supply another person with an animal that the supplier knows has had a regulated procedure performed on it unless the supplier has given the other person a signed veterinary surgeon’s certificate stating that the operation was performed in the interests of the animal’s welfare. Maximum penalty—150 penalty units or one year’s imprisonment. (2) However, subsection (1) does not apply if— 	<p>Amends to require that a person (the supplier) must not supply another person an animal that the supplier knows has had a regulated procedure performed on it, unless the supplier has given the other person a signed veterinary surgeon’s certificate stating that the operation was performed in the interests of the animal’s welfare. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (2) provides that subsection (1) does not apply if – (a) the animal was abandoned; and (b) the supplier is surrendering the animal to a pound or animal shelter.</p>	<p>Oppose and amend</p>	<p>Council supports the intent of the proposed amendment to better facilitate the rehoming of animals that have undergone a regulated procedure. However, the ongoing supply of certificates does not clearly link to the intention of the Act.</p> <p>The definitions of pound and animal shelter both apply to local governments, and we have a great concern particularly about 29(2)(a) as this may deter people from surrendering their animal if it has unlawfully undergone a regulated procedure or the owner no longer has the veterinarian’s certificate about the</p>

		<p>a) the animal was abandoned; and b) the supplier is surrendering the animal to a pound or animal shelter.</p> <p>(3) Subsection (4) applies if— a) a pound or animal shelter takes possession of an animal that has had a regulated procedure performed on it; and b) the pound or animal shelter is not given a veterinary surgeon’s certificate for the animal in accordance with subsection (1).</p> <p>(4) The pound or animal shelter must not supply someone else the animal unless the pound or animal shelter gives the person a certificate stating that the animal had the regulated procedure performed on it before the pound or animal shelter took possession of it. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(5) Subsection (6) applies to a person who is supplied an animal— a) by a person in accordance with subsection (1); or b) by a pound or animal shelter in accordance with subsection (4).</p> <p>(6) The person (an on-supplier) must not on-supply the animal to another person unless the on-supplier gives the other person— a) the signed veterinary surgeon’s certificate given for the animal under subsection (1); or b) the certificate given for the animal under subsection (4). Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(7) In this section— regulated procedure means— (a) cropping a dog’s ear; (b) removing a cat’s claw; (c) docking the tail of a dog, horse or cow.</p>	<p>Subsection (3) provides that subsection (4) applies if (a) a pound or animal shelter takes possession of an animal that has had a regulated procedure performed on it, and (b) the pound or animal shelter is not given a veterinary surgeon’s certificate for the animal in accordance with subsection (1).</p> <p>Subsection (4) provides that the pound or animal shelter must not supply someone else the animal, unless the pound or shelter gives the person a certificate stating that the animal had the regulated procedures performed on it before the pound or animal shelter took possession of it. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (5) provides that subsection (6) applies to a person who is supplied an animal, (a) by a person in accordance with subsection (1), or (b) by a pound or animal shelter in accordance with subsection (4).</p> <p>Subsection (6) provides that the person (an on-supplier) must not on-supply the animal to another person, unless the on-supplier gives the other person – (a) the signed veterinary surgeon’s certificate given for the animal under subsection (1); or (b) the certificate given for the animal under subsection (4). A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p>	<p>procedure. Instead of lawfully surrendering their animal, people may instead abandon their animal, intentionally let it wander at large (which in turn may lead to attacks on other animals or people) or lie when surrendering, thus limiting the amount of information that would ordinarily be provided by the person surrendering the animal such as important medical history and endangering the welfare of the animal.</p> <p>Section 29(4) will also increase regulatory burden and rehoming centre operating costs on local governments by imposing the need for the local government to provide a certificate about the procedure being performed prior to coming into the pound/animal shelter’s possession. While the legislation does not require a veterinary surgeon’s certificate, it is understood this certificate would at least need to be provided by a suitably qualified person that would also be able to comment on the health of the dog following the regulated procedure (i.e. a veterinarian).</p> <p>Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under sections 28 or 29 of the Act. This provision is counterintuitive in the RSPCA does not have to provide a certificate for a regulated procedure when supplying an animal, however a person can be fined under section 29A for not having a certificate. This issue needs to be rectified to be consistent across all pounds and animal shelters.</p> <p>To address animal welfare concerns and effectively regulate these potentially harmful procedures, then a state government database should be established, linking the microchip</p>
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<p>Clause 12</p>	<p>New Section</p>	<p>Section 29A – Restriction for person supplied animal that has undergone regulated procedure</p> <p>(1) This section applies if a person is supplied 1 of the following animals (each a supplied animal)—</p> <p>a) a dog under section 28; b) an animal under section 29.</p> <p>(2) The person must keep the certificate given for the supplied animal while the person remains in charge of the animal. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(3) The person must, if required by an inspector, make the certificate given for the supplied animal available for inspection by the inspector. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(4) In this section— certificate, for a supplied animal, means—</p> <p>a) a signed veterinary surgeon’s certificate given for the animal as stated in section 28(1) or 29(1); or b) a certificate given for the animal as stated in section 28(4) or 29(4).</p>	<p>New section 29A that applies to a person supplied a dog under section 28 or an animal under section 29.</p> <p>Subsection (2) provides that the person must keep the certificate given for the supplied animal while the person remains in charge of the animal. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (3) provides that the person must if required by an inspector, make the certificate given for the supplied animal available for inspection by the inspector. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (4) provides that in section 29A a certificate for a supplied animal means (a) a signed veterinary surgeon’s certificate given for the animal as stated in sections 28(1) or 29(1); or (b) a certificate given for the animal as stated in sections 28(4) or 29(4).</p>	<p>Oppose and amend</p>	<p>Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under sections 28 or 29 of the Act. This provision is counterintuitive in the RSPCA does not have to provide a certificate for a regulated procedure when supplying an animal, however a person can be fined under section 29A for not having a certificate. This issue needs to be rectified.</p> <p>This new section does not provide a person the ability to ‘provide a reasonable excuse’ for non-compliance. For example, the certificate was destroyed in a house fire or lost in floods.</p> <p>To address animal welfare concerns and effectively regulate these potentially harmful procedures, then a state government database should be established, linking the microchip number to the vet that completed the procedure and the reasons for the procedure.</p> <p>Should the provisions be kept, the penalty does not reflect the severity of the offence – the failure to produce a record is far less severe than conducting a regulated procedure unlawfully. The maximum penalty unit values within this section should be revised to a significantly lower amount.</p>

<p>Clause 14</p>	<p>New section</p>	<p>Section 37A – Possession or use of prohibited devices</p> <p>(1) A person must not possess any of the following devices (each a prohibited device) unless the person has a reasonable excuse—</p> <p>a) a prong collar;</p> <p>b) another restraint device prescribed by regulation.</p> <p>Maximum penalty—30 penalty units.</p> <p>(2) A person must not use a prohibited device on an animal unless the person has a reasonable excuse.</p> <p>Maximum penalty—100 penalty units.</p> <p>(3) In this section—</p> <p>prong collar means a collar that—</p> <p>a) is designed for use on a dog; and</p> <p>b) consists of a series of links or segments with prongs, teeth or blunted open ends turned towards the skin of a dog so that, when the collar is tightened, the collar pinches the skin around the dog’s neck.</p> <p>Restraint device means a device fitted to an animal for the purpose of restraining it.</p> <p><i>Examples— collars, leads, harnesses, muzzles, halters</i></p>	<p>New section 37A prohibits the possession of a prong collar or another restraint device prescribed by regulation. A maximum penalty of 30 penalty units will apply.</p> <p>Subsection (2) prohibits a person from using a prohibited device on an animal, unless the person has a reasonable excuse. A maximum penalty of 100 penalty units will apply.</p> <p>Subsection (3) provides that a prong collar means a collar that – (a) is designed for use on a dog; and (b) consists of a series of links in segments with prongs, teeth or blunted open ends turned towards the skin of a dog so that, when the collar is tightened, the collar pinches the skin around the dog’s neck. A restraint device is defined as a device fitted to an animal for the purposes of restraining it. Examples of collars, leads, harnesses, muzzles, and halters are provided.</p>	<p>Oppose and amend</p>	<p>While Council supports the intent of the proposed amendment, there is concern with the way these provisions are currently worded and potential future amendments in a regulation without public consultation.</p> <p>As pet ownership continues to rise, local governments have continued to experience an increase in dog attacks (on both other animals and humans). Prong collars and other restraint devices have been proven as effective means of controlling a dog (if used correctly) when out in public. Council has concern that the increase restriction on all types of collars the community can use, will lead to further unnecessary increases in dog attacks as people do not have effective control over their dogs in public.</p> <p>It is suggested that section 37A be amended to:</p> <p>(1) Redefine prong collar to ‘a series of links or segments with sharp prongs, sharp teeth or blunted open ends turned towards the skin of an animal so that, when the collar is tightened, the collar pinches or pierces the skin around the animal’s neck’.</p> <p>(2) Create an accreditation scheme and database of accredited users that allows the use of a prohibited device by an animal keeper/trainer in certain circumstances (i.e. for regulated dog owners and experienced trainers).</p> <p>(3) Provide examples of what is considered to be a reasonable excuse (i.e. use on a regulated dog, dogs of a particular size, trainer is accredited in the use of the collar etc).</p> <p>(4) Provide restrictions on the use of blunt prong collars, such as:</p> <ul style="list-style-type: none"> – use the collar for no more than one hour at a time; – age (not to be used on dogs under 12 months); and – dog size restrictions (not to be used on small dogs). <p>(5) Omit 37A(1)(b) as no other devices should become prohibited devices without sufficient public consultation through an amending Bill.</p>
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Clause 16	<p>Section 42 – Feral or pest animals</p> <p>(1) This section applies for an offence if the act that constitutes the offence is—</p> <p>a) an act done by a person to control a feral animal or pest animal, including, for example, by killing it; and</p> <p>b) the act does not involve the use of a prohibited trap or spur.</p>	<p>Section 42 – Feral or pest animals</p> <p>(1) This section applies for an offence if the act that constitutes the offence is—</p> <p>a) an act done by a person to control a feral animal or pest animal, including, for example, by killing it; and</p> <p>b) the act does not involve the use of—</p> <p>i) a prohibited trap or spur; or</p> <p>ii) a poison that includes the ingredients carbon disulfide and phosphorus. <i>Example— CSSP Pig Poison</i></p>	Amends to replace subsection (1)(b)(ii) to exclude from the offence exemption acts that involve the use of a poison that includes the ingredients carbon disulfide and phosphorus, for example CSSP Pig Poison.	Support	Council supports the amendments as proposed within the Bill. There are sound reasons to have poisons containing carbon disulfide and phosphorus excluded from use, including the secondary impacts on non-target species.
Clause 17	<p>Section 47 – Supplying an animal</p> <p>It is an offence exemption for an offence if—</p> <p>a) the act that constitutes the offence is supplying an animal; and</p> <p><i>Note— See part 4, division 3 (Restriction on supplying animals that have undergone a regulated surgical procedure).</i></p> <p>b) the supply is—</p> <p>i) by or for a prescribed entity; or</p> <p>ii) by an inspector for the State.</p>	<p>Section 47 – Supplying an animal</p> <p>It is an offence exemption for an offence if—</p> <p>a) the act that constitutes the offence is supplying an animal; and</p> <p><i>Note— See part 4, division 3 (Restriction on supplying animals that have undergone a regulated procedure).</i></p> <p>b) the supply is—</p> <p>i) by or for a prescribed entity; or</p> <p>ii) by an inspector for the State.</p>	Amend the note provided for in paragraph (a) by omitting 'surgical'.	Amend	Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under sections 28 or 29 of the Act. This provision is counterintuitive in the RSPCA does not have to provide a certificate for a regulated procedure when supplying an animal, however a person can be fined under section 29A for not having a certificate. This issue needs to be rectified to be consistent across all pounds and animal shelters.

<p>Clause 12</p>	<p>Section 28 – Restriction on supplying debarked dog A person (the supplier) must not supply someone else a dog that the supplier knows has had a debarking operation performed on it unless the supplier has given the other person a signed veterinary surgeon’s certificate stating the operation was performed under section 25. Maximum penalty—150 penalty units or one year’s imprisonment.</p>	<p>Section 28 – Restriction on supplying debarked dog (3) A person (a supplier) must not supply another person a dog that the supplier knows has had a debarking operation performed on it unless the supplier gives the other person a signed veterinary surgeon’s certificate stating that the operation was performed in accordance with section 25(2). Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(4) However, subsection (1) does not apply if— c) the dog was abandoned; and d) the supplier is surrendering the dog to a pound or animal shelter.</p> <p>(7) Subsection (4) applies if— c) a pound or animal shelter takes possession of a dog that has had a debarking procedure performed on it before the pound or animal shelter took possession of the dog; and d) the pound or animal shelter is not given a veterinary surgeon’s certificate for the dog as stated in subsection (1).</p> <p>(8) The pound or animal shelter must not supply a person with the dog unless the pound or animal shelter gives the person a certificate stating that the dog had the debarking procedure performed on it before the pound or animal shelter took possession of the dog. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(9) Subsection (6) applies to a person who is supplied a dog— c) by a person in accordance with subsection (1); or d) by a pound or animal shelter in accordance with subsection (4).</p> <p>(10)The person (an on-supplier) must not on-supply the dog to another</p>	<p>Amends to require that a person (supplier) must not supply another person a dog that the supplier knows has had a debarking operation performed on it, unless the supplier gives the other person a signed veterinary surgeon’s certificate stating that the operation was performed in accordance with section 25(2). A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (2) provides that subsection (1) does not apply if the dog was abandoned, and the supplier is surrendering the dog to a pound or shelter.</p> <p>Subsection (3) provides that subsection (4) applies if (a) a pound or animal shelter takes possession of a dog that has had a debarking procedure performed on it before the pound or animal shelter took possession of the dog; and (b) the pound or animal shelter was not given a veterinary surgeon’s certificate for the dog in subsection (1).</p> <p>Subsection (4) provides that the pound or animal shelter must not supply a person with the dog, unless the pound or animal shelter gives the person a certificate stated that the dog had the debarking procedure performed on it before the pound or shelter took possession of the dog. A maximum penalty of 150 penalty units or 1 year’s imprisonment will apply.</p> <p>Subsection (5) provides that subsection (6) applies to a person who is supplied a dog, (a) by a person in accordance with subsection (1), or (b) by a pound or animal shelter in accordance with subsection (4).</p> <p>Subsection (6) provides that the person (an on-supplier) must not on-supply the dog to another person, unless the on-supplier gives the other person (a) the signed veterinary surgeon’s certificate given for the dog under subsection (1), or (b) the certificate given for the dog under subsection (4). A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p>	<p>Oppose and Amend</p>	<p>Council supports the intention of proposed amendment to better facilitate the rehoming of dogs that have been unlawfully debarked. However, the ongoing supply of a certificate does not clearly link to the overall intention of the Act.</p> <p>The definitions of pound and animal shelter both apply to local governments, and we have a great concern particularly about 28(2)(a) as this may deter people from surrendering their dog if it has been unlawfully debarked or the owner no longer has the veterinarian’s certificate about the procedure. Instead of lawfully surrendering their dog, people may instead abandon their dog, intentionally let it wander at large (which in turn may lead to attacks on other animals or people) or lie when surrendering, thus limiting the amount of information that would ordinarily be provided by the person surrendering the dog such as important medical history and endangering the welfare of the dog.</p> <p>Section 28(4) will also increase regulatory burden and rehoming centre operating costs on local governments by imposing the need for the local government to provide a certificate about the procedure being performed prior to coming into the pound/ animal shelter’s possession. Whilst the legislation does not require a veterinary surgeon’s certificate, it is understood this certificate would at least need to be provided by a suitably qualified person that would also be able to comment on the health of the dog following the debarking procedure (i.e. a veterinarian).</p> <p>Concerns also exist around veterinarians refusing to provide a signed veterinary surgeon’s certificate about the procedure performed on the dog, particularly if they did not complete the procedure.</p> <p>Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under section 28 or 29 of the Act. This provision is counterintuitive in the RSPCA does not have to provide a certificate for a regulated procedure when supplying an</p>
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		<p>person unless the on-supplier gives the other person—</p> <p>c) the signed veterinary surgeon’s certificate given for the dog under subsection (1); or</p> <p>d) the certificate given for the dog under subsection (4).</p> <p>Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p><i>Schedule Dictionary</i> defines an <i>animal shelter</i> as a premises maintained for the purpose of providing shelter to, or finding a home for, stray, abandoned or unwanted animals.</p> <p>And a <i>pound</i> as a premises maintained for the purpose of impounding animals</p>			<p>animal, however a person can be fined under Section 29A for not having a certificate. This issue needs to be rectified to be consistent across all pounds and animal shelters.</p> <p>To address animal welfare concerns and effectively regulate these potentially harmful procedures, then a state government database should be established, linking the microchip number to the vet that completed the procedure and the reasons for the procedure.</p> <p>Overall, Council suggests:</p> <p>(3) omitting section 28(2)(a)</p> <p>(4) Omitting section 28(4) and other sections accordingly (i.e. 28(3) and 28(6)).</p>
<p>Clause 12</p>	<p>Section 29 – Other restrictions A person (the supplier) must not supply someone else an animal as follows unless the supplier has given the other person a signed veterinary surgeon’s certificate stating the procedure was performed in the interests of the animal’s welfare— (a) a dog that has had part of an ear removed to make the ear stand erect; Note— See section 23 (Cropping dog’s ear). (b) a cat with a claw removed from it; (c) a horse that has had its tail docked. Maximum penalty—150 penalty units or one year’s imprisonment</p>	<p>Section 29 – Other restrictions</p> <p>(7) A person (a supplier) must not supply another person with an animal that the supplier knows has had a regulated procedure performed on it unless the supplier has given the other person a signed veterinary surgeon’s certificate stating that the operation was performed in the interests of the animal’s welfare. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(8) However, subsection (1) does not apply if—</p> <p>c) the animal was abandoned; and</p> <p>d) the supplier is surrendering the animal to a pound or animal shelter.</p> <p>(9) Subsection (4) applies if—</p> <p>c) a pound or animal shelter takes possession of an animal that has had a regulated procedure performed on it; and</p> <p>d) the pound or animal shelter is not given a veterinary surgeon’s certificate for the animal in accordance with subsection (1).</p> <p>(10)The pound or animal shelter must not supply someone else the</p>	<p>Amends to require that a person (the supplier) must not supply another person an animal that the supplier knows has had a regulated procedure performed on it, unless the supplier has given the other person a signed veterinary surgeon’s certificate stating that the operation was performed in the interests of the animal’s welfare. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (2) provides that subsection (1) does not apply if – (a) the animal was abandoned; and (b) the supplier is surrendering the animal to a pound or animal shelter.</p> <p>Subsection (3) provides that subsection (4) applies if (a) a pound or animal shelter takes possession of an animal that has had a regulated procedure performed on it, and (b) the pound or animal shelter is not given a veterinary surgeon’s certificate for the animal in accordance with subsection (1).</p> <p>Subsection (4) provides that the pound or animal shelter must not supply someone else the animal, unless the pound or shelter gives the person a certificate stating that the animal had the regulated procedures performed on it before the pound or animal shelter took possession of it. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (5) provides that subsection (6) applies to a person who is supplied an animal, (a) by a person in accordance with subsection (1), or (b) by a pound or animal shelter in accordance with subsection (4).</p>	<p>Oppose and Amend</p>	<p>Council supports the intent of the proposed amendment to better facilitate the rehoming of animals that have undergone a regulated procedure. However, the ongoing supply of certificates does not clearly link to the intention of the Act.</p> <p>The definitions of pound and animal shelter both apply to local governments, and we have a great concern particularly about 29(2)(a) as this may deter people from surrendering their animal if it has unlawfully undergone a regulated procedure or the owner no longer has the veterinarian’s certificate about the procedure. Instead of lawfully surrendering their animal, people may instead abandon their animal, intentionally let it wander at large (which in turn may lead to attacks on other animals or people) or lie when surrendering, thus limiting the amount of information that would ordinarily be provided by the person surrendering the animal such as important medical history and endangering the welfare of the animal.</p> <p>Section 29(4) will also increase regulatory burden and rehoming centre operating costs on local governments by imposing the need for the local government to provide a certificate about the procedure being performed prior to coming into the pound/ animal shelter’s possession. Whilst the legislation does not require a veterinary surgeon’s certificate, it is understood this certificate would at least need to be provided by a suitably qualified person that</p>

		<p>animal unless the pound or animal shelter gives the person a certificate stating that the animal had the regulated procedure performed on it before the pound or animal shelter took possession of it. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(11) Subsection (6) applies to a person who is supplied an animal— a) by a person in accordance with subsection (1); or b) by a pound or animal shelter in accordance with subsection (4).</p> <p>(12) The person (an on-supplier) must not on-supply the animal to another person unless the on-supplier gives the other person— c) the signed veterinary surgeon’s certificate given for the animal under subsection (1); or d) the certificate given for the animal under subsection (4). Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(8) In this section— regulated procedure means— (a) cropping a dog’s ear; (b) removing a cat’s claw; (c) docking the tail of a dog, horse or cow.</p> <p><i>Schedule Dictionary</i> defines an <i>animal shelter</i> as a premises maintained for the purpose of providing shelter to, or finding a home for, stray, abandoned or unwanted animals.</p> <p>And a <i>pound</i> as a premises maintained for the purpose of impounding animals</p>	<p>Subsection (6) provides that the person (an on-supplier) must not on-supply the animal to another person, unless the on-supplier gives the other person - (a) the signed veterinary surgeon’s certificate given for the animal under subsection (1); or (b) the certificate given for the animal under subsection (4). A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p>		<p>would also be able to comment on the health of the dog following the regulated procedure (i.e. a veterinarian).</p> <p>Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under section 28 or 29 of the Act. This provision is counterintuitive in the RSPCA does not have to provide a certificate for a regulated procedure when supplying an animal, however a person can be fined under section 29A for not having a certificate. This issue needs to be rectified to be consistent across all pounds and animal shelters.</p> <p>To address animal welfare concerns and effectively regulate these potentially harmful procedures, then a state government database should be established, linking the microchip number to the vet that completed the procedure and the reasons for the procedure.</p> <p>Overall, Council suggests: (3) omitting section 29(2)(a) (4) Omitting section 29(4) and other sections accordingly (i.e. 29(3) and 28(6)).</p>
<p>Clause 12</p>	<p>New Section</p>	<p>Section 29A – Restriction for person supplied animal that has undergone regulated procedure (5) This section applies if a person is supplied 1 of the following animals (each a supplied animal)— c) a dog under section 28; d) an animal under section 29.</p>	<p>New section 29A that applies to a person supplied a dog under section 28 or an animal under section 29.</p> <p>Subsection (2) provides that the person must keep the certificate given for the supplied animal while the person remains in charge of the animal. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p>	<p>Oppose and amend</p>	<p>Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under section 28 or 29 of the Act. This provision is counterintuitive in</p>

		<p>(6) The person must keep the certificate given for the supplied animal while the person remains in charge of the animal. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(7) The person must, if required by an inspector, make the certificate given for the supplied animal available for inspection by the inspector. Maximum penalty—150 penalty units or one year’s imprisonment.</p> <p>(8) In this section— certificate, for a supplied animal, means— c) a signed veterinary surgeon’s certificate given for the animal as stated in section 28(1) or 29(1); or d) a certificate given for the animal as stated in section 28(4) or 29(4).</p>	<p>Subsection (3) provides that the person must if required by an inspector, make the certificate given for the supplied animal available for inspection by the inspector. A maximum penalty of 150 penalty units or one year’s imprisonment will apply.</p> <p>Subsection (4) provides that in section 29A a certificate for a supplied animal means (a) a signed veterinary surgeon’s certificate given for the animal as stated in section 28(1) or 29(1); or (b) a certificate given for the animal as stated in section 28(4) or 29(4).</p>		<p>the RSPCA does not have to provide a certificate for a regulated procedure when supplying an animal, however a person can be fined under section 29A for not having a certificate. This issue needs to be rectified.</p> <p>This new section does not provide a person the ability to ‘provide a reasonable excuse’ for non-compliance. For example, the certificate was destroyed in a house fire or lost in floods.</p> <p>To address animal welfare concerns and effectively regulate these potentially harmful procedures, then a state government database should be established, linking the microchip number to the vet that completed the procedure and the reasons for the procedure.</p> <p>Should the provisions be kept, the penalty does not reflect the severity of the offence – the failure to produce a record is far less severe than conducting a regulated procedure unlawfully. The maximum penalty unit values within this section should be revised to a significantly lower amount.</p>
<p>Clause 14</p>	<p>New section</p>	<p>Section 37A – Possession or use of prohibited devices</p> <p>(4) A person must not possess any of the following devices (each a prohibited device) unless the person has a reasonable excuse— c) a prong collar; d) another restraint device prescribed by regulation. Maximum penalty—30 penalty units.</p> <p>(5) A person must not use a prohibited device on an animal unless the person has a reasonable excuse. Maximum penalty—100 penalty units.</p> <p>(6) In this section— prong collar means a collar that— c) is designed for use on a dog; and d) consists of a series of links or segments with prongs, teeth or blunted open ends turned towards the skin of a dog so</p>	<p>New section 37A prohibits the possession of a prong collar or another restraint device prescribed by regulation. A maximum penalty of 30 penalty units will apply.</p> <p>Subsection (2) prohibits a person from using a prohibited device on an animal, unless the person has a reasonable excuse. A maximum penalty of 100 penalty units will apply.</p> <p>Subsection (3) provides that a prong collar means a collar that – (a) is designed for use on a dog; and (b) consists of a series of links in segments with prongs, teeth or blunted open ends turned towards the skin of a dog so that, when the collar is tightened, the collar pinches the skin around the dog’s neck. A restraint device is defined as a device fitted to an animal for the purposes of restraining it. Examples of collars, leads, harnesses, muzzles, and halters are provided.</p>	<p>Oppose and Amend</p>	<p>While Council supports the intent of the proposed amendment, there is concern with the way these provisions are currently worded and potential future amendments in a regulation without public consultation.</p> <p>As pet ownership continues to rise, local governments have continued to experience an increase in dog attacks (on both other animals and humans). Prong collars and other restraint devices have been proven as effective means of controlling a dog (if used correctly) when out in public. Council has concern that the increase restriction on all types of collars the community can use, will lead to further unnecessary increases in dog attacks as people do not have effective control over their dogs in public.</p> <p>It is suggested that section 37A be amended to: (6) Redefine prong collar to <i>a series of links or segments with sharp prongs, sharp teeth or blunted open ends turned towards the skin of an animal so that, when the collar is tightened, the collar pinches or pierces the skin around the animal’s neck.</i></p>

		<p>that, when the collar is tightened, the collar pinches the skin around the dog’s neck.</p> <p>Restraint device means a device fitted to an animal for the purpose of restraining it.</p> <p><i>Examples— collars, leads, harnesses, muzzles, halters</i></p>			<p>(7) Create an accreditation scheme and database of accredited users that allows the use of a prohibited device by an animal keeper/ trainer in certain circumstances (i.e. for regulated dog owners and experienced trainers).</p> <p>(8) Provide examples of what is considered to be a reasonable excuse (i.e. use on a regulated dog, dogs of a particular size, trainer is accredited in the use of the collar etc).</p> <p>(9) Provide restrictions on the use of blunt prong collars, such as:</p> <ul style="list-style-type: none"> – use the collar for no more than one hour at a time; – age (not to be used on dogs under 12 months); and – dog size restrictions (not to be used on small dogs). <p>(10) Omit 37A(1)(b) as no other devices should become prohibited devices without sufficient public consultation through an amending Bill.</p>
Clause 16	<p>Section 42 – Feral or pest animals</p> <p>(2) This section applies for an offence if the act that constitutes the offence is—</p> <p>c) an act done by a person to control a feral animal or pest animal, including, for example, by killing it; and</p> <p>d) the act does not involve the use of a prohibited trap or spur.</p>	<p>Section 42 – Feral or pest animals</p> <p>(2) This section applies for an offence if the act that constitutes the offence is—</p> <p>c) an act done by a person to control a feral animal or pest animal, including, for example, by killing it; and</p> <p>d) the act does not involve the use of—</p> <p>iii) a prohibited trap or spur; or</p> <p>iv) a poison that includes the ingredients carbon disulfide and phosphorus.</p> <p><i>Example— CSSP Pig Poison</i></p>	Amends to replace subsection (1)(b)(ii) to exclude from the offence exemption acts that involve the use of a poison that includes the ingredients carbon disulfide and phosphorus, for example CSSP Pig Poison.	Support	Council supports the amendments as proposed within the Bill. There are sound reasons to have poisons containing carbon disulfide and phosphorus excluded from use, including the secondary impacts on non-target species.
Clause 17	<p>Section 47 – Supplying an animal</p> <p>It is an offence exemption for an offence if—</p> <p>c) the act that constitutes the offence is supplying an animal; and</p> <p><i>Note— See part 4, division 3 (Restriction on supplying animals that have undergone a regulated surgical procedure).</i></p> <p>d) the supply is—</p> <p>iii) by or for a prescribed entity; or</p>	<p>Section 47 – Supplying an animal</p> <p>It is an offence exemption for an offence if—</p> <p>c) the act that constitutes the offence is supplying an animal; and</p> <p><i>Note— See part 4, division 3 (Restriction on supplying animals that have undergone a regulated procedure).</i></p> <p>d) the supply is—</p> <p>i) by or for a prescribed entity; or</p>	Amend the note provided for in paragraph (a) by omitting ‘surgical’.	Amend	Section 47 of the <i>Animal Care and Protection Act 2001</i> provides an offence exemption for offences if the act that constitutes the offence is the supply of an animal, and the supply is by or for a prescribed entity. This provision provides an exemption to the RSPCA (a prescribed entity) on providing a certificate under section 28 or 29 of the Act. This provision is counterintuitive in the RSPCA does not have to provide a certificate for a regulated procedure when supplying an animal, however a person can be fined under section 29A for not having a certificate. This

	iv) by an inspector for the State.	ii) by an inspector for the State.		issue needs to be rectified to be consistent across all pounds and animal shelters.
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