

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

Submission No: 9
Submitted by: Lynette Adele Laskus
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Response to the Discussion Paper
Department of Agriculture and Fisheries
**Proposed amendments to the Animal Management Cat &
Dogs Act 2008**

Lyn Laskus

Submission 2023.

Thank you for the opportunity to provide our opinion in relation to proposed changes to the Animal Management Cats & Dogs Act 2008 (AMA)

We have also filled in the online survey.

At no time will we agree;

- **To give local government more powers.**
- **To allow another layer of authority in an attempt to prevent parties involved to seek natural justice and procedural fairness.**

More powers and stronger dog laws will not make the community safer.

Considering the length of time we have been involved in dog matters in Queensland, not once have we been contacted as community members/rate payers by any working group to discuss amending legislation regarding the management of AMA, in particularly dogs.

Our personal experience

Our experience is, as known advocates for animals, victims of dog attacks and vulnerable owners of dog's accused of wrong doing.

This advocacy extends from involvement with local government, the Magistrate court since 2007 before QCAT from 2009 and the Human Rights Commission 2019, since 2019.

Sixteen years later, we are still assisting and representing vulnerable people who are dissatisfied with council decision for the following reason;

- **Decisions primarily made by people not appropriately trained or qualified in the field of animal behavior, breed identification and investigation under the Australian Qualification Framework to be able to make an objective decision.** (I refer to the High Court Decision *Isbester v Knox City Council* 2015/HCA 10th June 2015.

The High Court decision was related to a dog destruction order but the implications are much broader. A strong warning was given to decision makers that they must avoid a conflict of interest

caused by their decision making roles or risk voiding their decision for apprehended bias. (Wallmans Lawyers)

At this point in time and early in our submission we need to draw everyone's attention to the fact there seems to be very little changes to the existing Animal Management Cats & Dogs Act 2008 (AMA) other than ;

- **To ban a dog that does not exist.**
- **Target American Staffies and cross breeds of dogs as a restricted breed.**
- **To destroy dogs which have done nothing wrong.**
- **To further intrude on people's lives and privacy.**
- **Increase penalties.**
- **increase costs to rate payers.**
- **To give unqualified people employed in local government more powers.**

It is clear that tougher penalties/punishments are not working as the records show.

Targeting American Staffy type dogs will not make the community safer.

Creating a ban of alleged restricted dogs will create a false sense of public safety.

Making assumptions that a dog is a restricted breed of dog and charging a fee is extortion.

Causing fear among rate payers and residents to make assumptions about the breed of their dog of unknown parentage in order to register the dog as a restricted breed before a deadline, is entrapment and still extortion. Council will make money out of the increased registration fee.

Banning dogs will not address irresponsible dog owners.

What is the RSPCA's view on breed-specific legislation?

Breed specific legislation (BSL) consists of legal restrictions on the importation, sale, keeping and rehoming of certain types of dogs ('restricted breeds'), irrespective of their actual behaviour.

BSL is based on assumptions that certain breeds of dog are inherently dangerous, that those breeds can be readily identified, and that banning those breeds decreases the rate of dog bites and attacks. All of these assumptions are flawed and are not supported by evidence [1].

The RSPCA advocates that dogs should not be declared dangerous on the basis of breed or appearance. Each individual dog should be assessed based on their actual behaviour.

BSL should be removed for several key reasons:

- **Breed is a poor predictor of individual behaviour** [2].
- **BSL is discriminatory;** certain breeds are not inherently dangerous [3]. For example, temperament tests have found no significant differences between 'restricted breeds' and Golden Retrievers [4].

- **BSL has devastating consequences for dogs and people;** authorities can seize dogs with no history of aggressive behaviour, purely based on appearance, and owners are forced to fight for their dog's life [5].
- **BSL can lead to the unnecessary killing of good dogs** that could otherwise be rehomed.
- **BSL relies on an arbitrary list of 'restricted breeds'**, which is not based on any evidence that these 'breeds' are any more likely to be dangerous compared to other dogs [6, 7].
- **BSL is problematic because some 'restricted breeds' cannot be reliably identified;** 'pit bull terriers' and cross-breeds are listed as 'restricted breeds' in many Australian jurisdictions but 'pit bull' is not a recognised pure breed, and DNA testing is not possible because these dogs do not share a genetic signature [8]. Rather, 'pit bull' is a descriptive label given to dogs that loosely share some physical features [9]. BSL effectively says that a dog should live or die depending on how they look

Is the State Government serious about community safety?

If the State Government is serious about making the community safer it needs to stop undermining the Australian National Qualification Framework (AQF).

The Framework

- The Australian Qualifications Framework
- Qualifications
- AQF Levels and criteria
- Policies
- Previous versions and pre-AQF qualifications

The AQF comprises 10 levels, ranging from certificates to doctoral degrees. Some qualifications are offered in more than one sector. Vocational education and training is offered at AQF Levels 1 to 8 and higher education ranges from AQF Levels 5 to 10. The main policy document is the AQF Second Edition January 2013, which is complemented by a number of specific policies, explanatory guides and addendums.

The State Government needs to listen to the AQF and get advice from those who are appropriately trained and qualified under the Australian Qualified Framework to have an informed opinion in breed specifics and animal behavior supported by peer review scientific research.

The Queensland Police Service is the only qualified authority to investigate and prosecute a dog attack where a person has been seriously injured or has died.

Elements of s293 of the Criminal Code provides for any person who caused the death of another, directly or indirectly by any means whatever is deemed to have killed a person.

Risking Litigation places a burden on the rate payer

The State Government risks litigation through class action by allowing government agencies and local government to employ people from the street with no qualification under the AQF or degree in

animal behavior or genetics. To consider giving these people any powers at all, let alone increasing those powers to point the finger is considered unlawful by many in the community.

Examples of unlawful methods

Let's start with Robodebt, while it is on everyone's mind.

It was illegal, with four key MP's named as engineers of the scheme.

This scheme was an unlawful method employed by the Australian Government Agency services Australia.

People died as a result of this unlawful method and class actions are taking place.

Remember, human damage can be caused by bad design as stated by the Royal Commission.

Queensland Animal Management Cats & Dogs Act 2008 is a bad design and always has been resulting in assumptions made by unqualified people employed to administer discretionary powers under the AMA.

You cannot give discretionary powers to end a life to people who are not appropriately qualified to have an opinion in animal behavior or genetics.

This is not the first time we have addressed the State Government as members of the public in relation to lack of real qualifications of staff in local government and other state government agencies. (See attachment 2020 submission)

It is the lack of appropriate qualification in animal behavior employed in local government which is the threat to community safety.

Questions to be answered?

1. How would local government go about banning a breed of dog that does not exist?
2. How will local council determine if a dog is a banned breed/mix?

DNA No level of certainty for dogs of unknown parentage

There is absolutely NO Scientific Evidence in existence anywhere in the world by which the breed components of a dog of unknown parentage can be identified with any level of certainty.

Within the hundreds of breeds of dogs, breed differences suggest a distinctive genetic program for each. Yet unbelievably, there is no appreciable genetic difference between them. One would think that there was some sequence of alleles that would act as a genetic marker that would identify a breed. Yet to date none has been found. Incredible as it may seem, there is no way one can genetically determine that "this is an American pit bull terrier." I doubt there ever will be a genetic test of breed, which will become clear as I explore the making of breeds. Referenced From book "Dogs: A Startling New Understanding of Canine Origin, Behaviour, and Evolution" by Raymond and Lorna Coppinger, published by Scribner, New York, in 2001. Page 297

Any government/council/individual who says they can is kidding themselves and committing fraud as has been exposed in the case laws mentioned below. How can all breed judges identify a dog they have never judged, it does not exist???????

As for breeders, they are just breeders and not experts. How can any government in Australia legislate a law when the breed is not recognised by any Canine organisation? (John Mokomoko and Christine Tybrax successfully challenged their council after their dogs were wrongfully identified).

(Please see attached several new paper clippings)

Under the Customs Act of 1901 the breeds mentioned as banned have been banned from importation since 25th of November 1991 with two of those breeds never existing in Australia but banned as a precaution. (Document attached media release)

It is highly unlikely given the requirements of the keeping of restricted breeds including de sexing in any local government area, if any of the others exist today to be of concern to community safety.

History of BSL

Pointing the finger at dogs that have done nothing wrong will cause fear, distress and trauma to responsible families in the community.

Last time 'finger pointing' occurred, people were so fearful that their much loved family dog of unknown parentage of being dragged off with catch poles, lined up outside vet surgery's to have them put to sleep. These were innocent dogs that had done nothing wrong.

What does the Queensland Government think that did to people's mental health?

To create a state of perpetually fear in the minds of law abiding people is dangerous.

What is council going to do if people refuse to give up their dogs this time? Would council conduct raids, drag families and children from their beds, drag the dogs out with not one but two catch poles.

That will make local government even more unpopular than it already is.

Remember, the Australian people voted NO in 1974 and 1988 to a third term of government.

It is estimated that fifteen thousand family dogs were seized and destroyed last time someone thought it a good idea to ban a breed of dog that does not exist.

The dogs had done nothing wrong other than to perceive to look like a dog that does not exist.

The damage this did to communities especially when many people did not have the resources to challenge what were later deemed to be unqualified opinions with no science based evidence could return at some stage in class actions.

The identity Check List was made from bits and pieces from the internet.

Identification check list was made from a number of sites on the internet and taught in-house to Animal Management Officers given the power to point the finger.

Some of these law officers still using this check list today are risking being named in litigation.

Dogs of mix breeds had a finger pointed at them by a council officer with a check list on a clip board put together as an identification tool by unqualified persons in local government with a personal theory.

That theory had no scientific backing from anywhere in the world and was dismissed in our Courts.

Council's so called experts were being paid in rate payer's dollars in the thousands of dollars as expert witnesses but were exposed in our courts as unqualified to give an expert opinion. Their statements excluded as evidence.

Time overdue to audit qualifications in government departments

Some examples:

2005: Remember the damage made to the safety of the community and the cost when no one checked Dr. Patel' qualification to work as a surgeon.

2014: The Commission into the Pink Batt Scheme found that the head contractor was not experienced in insulation installation and people died. No one was checking qualifications and experience.

2016: A contractor was charged for incorrect installation at Banks town hospital which killed one new born baby and left another with brain damage. No one checked the work sheets?

2020: Dreamworld owner charged. The report found that staff were poorly trained. People died.

Who is checking the system???

State and Local Government need to revisit the following cases as a matter of urgency to understand the importance and integrity of a frame work in qualifications already agreed to.

The State and Local Government has ignored this very important tool to ensure appropriate qualifications for council's animal management officer so they can have an objective view.

State and Local Government need to take a trip down memory lane before considering changes.

These were just some of the cases won in relation to the miss identification of a breed of dog.

- Dino Da Frey Vs Logan City Council page 88, 1st March 2006 line 24th page 605, day 6 page 590, exposed the fraudulent tool 22 point check list
- Taylor Vs GCCC Council Education and Public Awareness Officer was declared not an expert in breed identification transcript page 45 to 49

- Chives vs GCCC, 2012 QCAT 166 QCAT 2010 QSC 98 Council lost the case. The Supreme court determined that the dog Tango was an American Staffy .

*First, the evidence in this case **did** expose the scientific and technical falsity of the "22 point test" as a breed identification process. Mr Da Frey called a range of professional witnesses with dog breeding, dog judging and scientific qualifications who all stated absolutely and unequivocally that the use of a breed standard as a "**breed ID**" tool for dogs of unknown parentage is professional and scientific nonsense. They all testified without qualification that a breed standard is a document designed and useful only for judging and related purposes when the breed of the dog being judged or assessed is already known and undisputed. See their statements.*

*The Council called **no evidence** to the contrary by any similarly qualified person. Its leading witness **Ms Pomeroy** could point to no-one anywhere in the world that supports her theory about using breed standards as a breed ID tool. She admitted that her assessment technique was entirely "self-taught", and her ultimate response when pressed about the professional or scientific basis for her system was "I use the standards. So obviously I think it works".*

***Ms Perkins** asserted, and firmly maintained, that her undergraduate veterinary degree was a relevant breed identification qualification. A past President of the Australian Veterinary Association, 29 years in practice, told the Court unequivocally that it was not. That aside, her evidence was that her only other formal breed identification qualification was a course designed and taught by Ms Pomeroy. She otherwise asserted, and relied upon, her general experience and expertise.*

The author of the breed standard gave evidence (by telephone from the USA). She dismissed use of the breed standard as a breed ID tool as entirely misconceived.

Second, the Council's public position that it withdrew before final judgement because of the "late" DNA evidence is simply untrue, at least so far as concerns what it said and did in Court.

As the transcripts show, the DNA evidence was given to the Council nearly 3 weeks before the trial resumed on 19 June 2006. The Council did seek an adjournment at the opening on 19 June to further consider the DNA evidence. The public does not know what may have been said, done or intended "behind the scenes". However, that adjournment was refused (in fairness to Mr Da Frey). The Council was then asked by the Court whether it still opposed the appeal. The Council's lawyers told the Court that it did, and the appeal ran, hotly contested by the Council, for the next 3 days, making 6 days in total.

During that period, the Council first tried and failed to attack the DNA evidence and then, when that evidence had been, if anything, strengthened by the Council's cross-examination, turned tack 180 degrees and called Ms Perkins to give further evidence that, yes, she now accepted the DNA evidence after all, but that the (Staffy) mother was also a pit bull. Her final statements to the Court were to "reinforce my already firmly held view that Rusty is a pit bull terrier type of dog".

That was the Council's case, as put before the Court, with full knowledge of the DNA evidence. To say that it then withdrew - about a week later - after evidence but before judgement - because of the DNA evidence is contrary to the clear and simple facts on the

public record. It withdrew because it acknowledged in an open letter to Mr Da Frey that it could not prove that Rusty was an APBT.

*Despite full knowledge of the DNA evidence, the Council's witnesses, Messrs Pomeroy and Perkins, never modified or withdrew their evidence that, based on the 22 point test, they were absolutely certain that Rusty was a pit bull. The DNA evidence made Ms Perkins **more** certain about her identification, not less.*

Author unknown

Genetics of the Dog by Malcolm B. Willis Publisher H. F. & G. WITHERBY LTD pp 66,67,100,118.

Kylie Louise Chivers Vs GCCC 2010 QSC 98

The cost to ratepayers from councils own records was \$140,000 that did not include the invoices that council could not find or any compensation applied for by Ms Chivers

The question to ask - Did Tango harm anyone?

NO TANGO DID NOT HARM ANYONE.

The Supreme Court made a judgement on the same documentation that was presented to the council six and half years earlier, Tango was an American Staffy. The Question to ask here? Was there a personal motive by council in pursuing the matter?

In October of 2010 the Qld State Government made a point to clarify that the American Staffy was not the breed an American Pitt Bull and cemented it in legislation.

Application for review

2. [2]

The applicant brings her application under Pt 5 of the *Judicial Review Act* 1991. She seeks:-

a. (a)

a declaration that the keeping by the applicant of her dog “Tango” at her home ... , in the local government area of the City of Gold Coast, does not contravene s 10 of the respondent’s Local Law No. 12 (Keeping and Control of Animals); and

b. (b)

an injunction restraining the respondent from seizing or otherwise interfering with the dog “Tango” for so long as it is otherwise kept in accordance with the respondent’s Local Law No. 12 (Keeping and Control of Animals).

3. [3]

The grounds upon which the application is brought include:-

a. (a) that Tango is of the breed American Staffordshire Terrier (“AmStaff”).

- b. (b) that the evidence upon which the respondent Council purported to rely in support of its assertion that Tango was an American Pit Bull Terrier (“APBT”) was of no value because the assessment process used by the respondent was incapable of identifying whether a dog was wholly or partly of the breed APBT.

Rate Payers do not want this cost.

As rate payers we do not want to pay such costs and be involved in the trauma for families and their dogs which have not harmed anyone.

The State Government in their very own discussion paper recognizes most dog owners are responsible.

In the leading causes of death in Australia, death by dog does not rate a mention.

As any premature death of a person is terrible, People are more likely to die at the hands of another person.

The proposed changes are not fit for purpose.

In considering the population of dogs in Queensland and the administration failures, would it not be wiser and cheaper to introduce appropriately qualified authorised officers.

Isn't it the purpose of local councils to work for their community and with their community?

s39 of the Animal Companion Act of NSW, gives local council the power to overturn a regulation of a menacing or dangerous dog after 12 months following training and further assessment.

This is encouraging dog owners to gain lifelong skills that will survive long after the life of the family dog.

We were of the understanding that some dog training clubs in Queensland receive fees for discounted obedience courses. These courses targeted dogs rehomed from the pound. Many of these dogs already come with entrenched behavioral patterns particularly of escape.

Victims of a dog attack already have the ability to take legal action against the dog owner.

Withdrawing a review process is a denial of Human Rights

Local Government wants to speed up the process to kill dogs because it is cruel to cage dogs for long periods of time.

Why would local government think it is cruel to keep dogs kept in cages at their own facilities for long periods of time?

Local Government does not think it is cruel to confine hundreds of regulated dogs to a cage for the rest of their life, with little to no access to the family home as is required under the regulation.

If officers have the appropriate training by certified instructors, and qualify under the AQF with the required expertise they would know the enrichment programs to use for the keeping of animals' long term in a kennel situation.

We know of several dogs that had spent ten months to two years in confinement at council run pounds while waiting a QCAT decision. These dogs were released and according to the owners slotted back in to their familiar surroundings as if they had not left.

That is giving some facilities some credit and it usually comes down to the personal care where a bond has developed between dog and a keeper.

Withdrawing review processes is a denial of human rights.

Despite what the local government and its association want, people have the right to procedural fairness under the Animal Management Cats & Dogs Act (AMA) legislation and including the Human Rights Act 2019.

Let's rethink about withdrawing review processes, before more dog owners head to the Human Rights Commission, costing rate payers dearly in compensation.

Having said the above, 'fair hearing' can be achieved from people who are qualified under the Australian Qualifications Framework in animal behavior for dogs and genetics.

The duty, which applies to local governments as well as State and Federal, is referred to in 100 years' worth of case law and quite clearly identified, as an example, in *Cantarella Pty Ltd v Egg Marketing Board (NSW) [1973] 2 NSWLR 366 at 383-4* as follows:-

"The duty of the executive branch of government is to ascertain the law and obey it. If there is any difficulty in ascertaining what the law is, as applicable to the particular case, it is open to the executive to approach the court, or afford the citizen the opportunity of approaching the court, to clarify the matter. Where the matter is before the court it is the duty of the executive to assist the court to arrive at the proper and just result."

Contributory negligence

Contributory negligence by the Queensland State Government is helping to create dangerous dogs in our communities and opens issues of misfeasance and litigation by giving discretionary powers to unqualified people.

Discretionary powers are given under (Section 204 and 202 Local Government Act 2009).

Discretionary powers are given to local government and their agencies by the State Government allowing unqualified people to be employed from the street as authorised officers and allow them an opinion on dogs.

You cannot give discretionary powers to unqualified people to protect the community or to destroy a life, but that is what the Queensland State Government has done.

Discretionary powers are passed on to (Animal Management Officers, Local Law Officers, Rangers and Inspectors) to administer the AMA.

Local government employees are not qualified in animal (dog) behavior, care or genetics to be able to conduct a proper investigation about an animal complaint or conduct an assessment of a dog.

Employees can only have a personal opinion, and not an expert opinion.

This leads to maladministration, and misfeasance, as the records have shown.

The error in the appointment of an authorised officer is destructive to the community at large.

We say destructive with confidence. Sixteen years of documents show a systemic pattern of behavior in animal management in Queensland which many believe has developed into an entrenched culture in the community and people within their own ranks.

Dog owners, victims and staff have been on the receiving end of bullying, harassment intimidation, threats, discrimination and lies if they challenge the Council hierarchy.

Both victims of a dog attack and accused dog owners will agree local government's collection of information is not reliable enough to make a decision let alone to change laws to give them anymore discretionary powers.

Serious flaws in investigations

QCAT members and Magistrates have identified and referred to '*seriously flawed investigations*' conducted by local government in coming to their decisions.

CASE LAWS

- RRC Vs Mathew Tomkins Voir dire –application for the expulsion of evidence was granted in 2015. As a result council withdrew their prosecution of Mr. Tompkins Rock 1694/15 s130 Evidence Act (**Rejection of evidence in criminal proceedings** Nothing in this Act derogates from the power of the court in a criminal proceeding to exclude evidence if the court is satisfied that it would be unfair to the person charged to admit that evidence)
- O'Brien vs Gladstone Regional Council. Ms. O'Brien won the right to appeal a QCAT decision when council withheld evidence she requested to examine prior to her hearing. As a result Council withdrew the proposal on her dog. (2015) QCATA 82

Victims are also victims of a flawed process.

'**Gracie the Cat**'. As they witnessed her being dragged from her yard by wandering dogs Del and Daryl disagreed with their council's decision not to regulate the dogs involved.

The owners of Gracie challenged their council over their decision.

The pursuit of council forced their council to employ an independent investigator outside their council. This was done at considerable cost to ratepayer.

The report identified a number of errors and wrongful interpretation made by council's investigations and review officers in coming to their decision.

After the report from the outside investigator and due process QCAT agreed with Gracie's owners and the dogs were regulated.

As well as losing their beloved pet, it was the council's maladministration and arrogance which caused Del and Daryl the most distress. Del never fully recovered from such treatment.

Not an unfamiliar story.

Alison was knocked to the ground, had her small and only companion ripped from her arms, its lead, its brace, its coat in a public place and mauled by two wandering dogs. That vision can never be erased.

To say that Alison was less than impressed with council's handling of the matter is an understatement.

Less than 20 minutes after the attack, law officers arrived at the back of the vet she took her dog to while she was in a state of shock and trauma to identify the dogs they had in their vehicle.

She was forced to leave the surgery where her dog later died, to identify the dogs in the back of the council vehicle.

Alison said there were multiple witnesses and a person who had secured one of the dogs at the site who could identify the dogs, without worrying her at that moment.

Today ,still angry at the lack of empathy or sympathy from the officers, Alison states the dogs could have been secured for community safety and she could have been contacted later to arrange a suitable time for identification purposes.

Despite s16 and s17 of schedule 4 part 2 of the Information Act, Alison had to go through a long and traumatic process to seek the contact details of the owner of the attacking dogs to seek justice.

Alison was refused the phone number of the owners of the other dogs as it was redacted on the document given to her under FOI but council gave the address.

Council put her safety at risk as she was then forced to approach a property and people she did not know. Alison would have preferred to leave a message for them to contact her as a first step to communications.

As it was the other dog owners had told her, they had given permission to council to pass on their phone details. They also said they had requested her contact details.

Alison had both s16 & 17 and the permission from the dog owners on her side.

The question to ask here, is why was council preventing the parties from communicating with one another?

Flaws - case laws

QCAT and Magistrates have also identified the flaws in council investigation process and overturn council decisions because of those flaws as stated in not only the cases of Mathew Tomkins and Shelly O'Brien case but several other cases where council's destruction orders were overturned by QCAT. It is QCAT view that destruction of a dog is as a last resort.

Why is council not identifying these flaws themselves?

The State government should be ashamed at the attempt to throw together amendments to the AMA in what can only be described as a knee jerk reaction to the spat of recent horrific dog attacks.

What is needed is reliable information and peer review research, to make better laws.

Sixteen years of exposing the fabricated evidence in at least one warrant, and a number of council affidavits, council reports, brief of evidence, trial transcripts, and statements to Tribunals and government departments confirms no one is checking officers work, and no one is checking the system.

Everybody pays the price when officers fail to act impartially and make the evidence fit their case, instead of the other way around.

To give the Department of Agriculture and Fisheries (DAF) the power to delegate special authorised officers to prosecute dog owners under the criminal code is unnecessary and will be costly to rate payers.

Qld Government already confirms most dog owners are responsible.

DAF gives very little weight when dealing with evidence provided to them exposing lies in their own legal documents from a government agency with prosecuting powers.

In addition it would appear gives considerable weight to unsupported information (verbals) from agencies with prosecuting powers, so what assurance does anyone have of impartiality.

(Documents in support of my arguments can be provided if necessary)

Questions

Who would be training these SAO?

Where will the trainers come from?

What qualifications will the trainers have?

Who will be checking the trainer's certifications?

What Registered Training Organization (RTO) will be used?

Who is qualified to make decisions about a dog's life?

Local Government, QCAT, RSPCA and Tribunals and Courts are NOT dog experts.

QCAT recognises their lack of expertise and has on hand Tree Assessors.

QCAT has no qualified Dog Assessors on hand.

QCAT recognises local councils do not have dog experts (case laws)

The last time I looked, QCAT has seventeen qualified Tree Assessors to help them make a decision about tree/trees.

The tree assessors must have a level five under the AQF as an arboriculture or verified equivalent to be an expert witness.

What is a Level 5 Arborist?

Level 5 arborist is the highest [Australian Qualification Framework \(AQF\)](#) that anyone in the arborist industry can obtain. Level 5 arborists are fully knowledgeable and highly qualified regarding tree-related jobs. That means they have the license to remove and cut trees and the training to do so safely and efficiently.

Level 5 Arborists also know the factors prohibiting them from removing a tree. As tree experts, they also have a say in whether it's best to remove the tree, or save it, or relocate it instead.

QCAT has **NO** qualified dog assessors, with a level five or equivalent to help them make a decision about dog/dog's life.

Mr. Gary Blain (A special authorized officer) had the equivalent of a level 5 in animal assessment with his training and licenses. Despite offering his expert services over the years, Local Councils QCAT and Magistrate Courts failed to understand the importance of his training, qualifications and expertise on dog behavior.

The QCAT Act says that local council must help them to make a decision.

How can this be an independent review?

How can a local government help QCAT when they are not dog experts?

Local Council do not have qualified dog experts, have a conflict of interest, biased as previously stated and should not be helping QCAT.

Qualifications in making laws

If we are to change laws to make the community safer from dangerous dogs, shouldn't the information to change laws or make laws come from people who are qualified to give an opinion?

Veterinary Behaviourists

Veterinary behaviourists are veterinarians who have acquired membership of the Australian and New Zealand College of Veterinary Science in Veterinary Behavioural Medicine (VBM) by examination. They have first studied veterinary medicine at University for a minimum of five years. They have then added to their knowledge by studying the behaviour of animals, how animals learn and the causes, diagnosis, management and treatment options for behaviour problems such as anxiety disorders and aggressive behaviours as well as management techniques for common behaviour issues. Before they can sit the membership examinations, they must have been in veterinary practice for a minimum of five years.

Specialists in Veterinary Behavioural Medicine

A registered veterinary specialist in veterinary behavioural medicine is a veterinarian who has undertaken further extensive study and research in veterinary behavioural medicine and been extensively examined in their knowledge of this field. They may be a Fellow of the Australian and New Zealand College of Australian Scientists, a Diplomate of the American College of Veterinary

Behaviourist or a Diplomate of the European College of Veterinary Behavioural Medicine. Only then can they register with their veterinary practitioners' board as a veterinary specialist.

Dr Jacqui Ley is one of three Veterinary Specialists in Veterinary Behavioural Medicine in Australia. As well as being a Fellow of the Australian and New Zealand College of Scientists, she is also a Diplomat of the European College of Animal Welfare and Behavioural Medicine

www.melbvet.com.au

The question here, is this expertise in relation to the administration of medicine?

Dogs Australia

The last word on Animal Behaviourists As mentioned previously, in most countries anyone can call themselves a 'behaviourist,' just like they can call themselves a 'trainer'. In the animal industry, a behaviourist is similar to a trainer. In the academic world, an animal behaviourist has undergone formal training in animal behaviour. Undergraduate degrees e.g. Bachelor of Animal Science majoring in Animal Behaviour, to postgraduate masters and doctorates e.g. PhD in Animal Behaviour, graduates often use the title 'Animal Behaviourist'. It is important to know that a person may have a PhD in Animal Behaviour but may have spent 5 years studying the mating habits of the Drosophila fly, which doesn't give them any further skills... especially in the world of dog training. These days we find that the title is irrelevant- it's the skills, expertise and contemporary know how, also known as 'the proof is in the pudding'.

Using the term trainer or behaviourist does not mean that all are knowledgeable and experienced in all areas of training and behaviour, but attending seminars and workshops to update skills and knowledge and also knowing when to refer to others in the industry are the signs of a true professional.

The workshops and seminars should be by certified instructors under the AQF

Certificate IV Companion Animal Services, Certificate III Canine Behaviour & Training, Dogs NSW member & breeder.

Council's lack of qualification and experts can and have been successfully challenged.

The President of the Local Government Association signed an agreement regarding a National Policy for regulating training, training standards, qualification of instructors, practical and theory examination. All there in the AQF manual.

ACM40121 Certificate IV in Animal Regulation and Management

This is a Certificate under the Australian Standards in Training and Qualification and should be mandatory for all officers in Animal Management in Queensland

Qualification Description. The qualifications describe the skills and knowledge for individuals undertaking animal regulatory and management functions. Animal regulation and management is a function provided by local and state/territory governments to protect the safety and amenity of communities by administering domestic animal legislation, and by community educations and engagement.

ACM40322 Certificate IV in Animal Behavior (Animal Behaviorist)

Who employs Animal Management Officers?

204D and s202 of the Local Government Act 2009

Appointing authorised officers

- (1) *The department's chief executive may appoint a person as an authorised officer for the department if the person has the necessary expertise or experience to perform the functions of the office.*

Unless the person is appropriately qualified in that field of work under the AQF how would the CEO know if the person has the necessary expertise or experience to perform the functions of authorised officer if they cannot show qualifications in that field

Here lies a huge part of the problem and is putting community safety at risk

If a Chief Executive Officer of a local government is not made to give weight to appropriately qualified people to manage and assess animals, could have serious consequences, financially, physically, and emotionally not only for the community but also for the officers.

Above all it will expose the council and the State Government to the risk of litigation.

Australian Qualifications Framework is the entity to determine a person's expertise as already agreed nationally.

Why do we need qualifications under the AQF - Explained?

Council would not employ a builder as a motor mechanic.

The builder may have knowledge about mechanics and demonstrate some skills, but the builder does not possess the right training and examination by peers under the standards in Australia required to be considered competent as a mechanic.

In saying that, the builder then has to undertake further studies and training to become an inspector.

Council could not ask the builder to fix their vehicles for insurance purposes as anyone would allow a mechanic to perform an operation on the human body.

The Australian Standards in qualifications (AQF) is there for the purpose - community safety.

Likewise, the Council should not ask people employed from the street to point the finger at a dog. But yet they have and they do with disastrous result for rate payers.

Councils cannot ask Veterinarians to assess a dog's behavior unless the Veterinarian has undertaken further studies in animal behavioral science and practical in training as is required to give an expert opinion.

Councils must employ appropriately trained and qualified staff to administer the AMA in a way that meets the AQF standards in expertise. It must meet the requirement of natural justice principles in line with their national recognised qualification. It is these qualifications that should give the discretionary powers, not a local government certificate in administration.

Qualification allows people to perform their duties under the national guidelines, for a particular purpose with no interference from their employer as would the same apply to a building inspector.

Nationally recognised qualified people are answerable to their qualifications under the AQF and the legislation not to their employer, who may want to influence the outcome of an investigation.

How can Local Government Save Time? – Natural justice

Many believe the Right to Privacy Act is used by local government to pervert the course of justice by delaying the release of the complaint in full and evidence for the dog owner to examine.

Dog owners challenging a council decision and have the right to do so in a democratic society are prevented from competently responding to a council proposal or destruction order.

Councils it would appear withholds the evidence, referring dog owners to their obligation under the Privacy Act and preventing/delaying the dog owner from getting statements/reports for them to examine.

Dog owners and in some cases victims are denied a copy of statements and recordings to take their matter forward or to respond and can be delayed months, if not years.

Dog owners and victims after being forced to make an application for documents under Freedom of Information or IP Act in the pursuit of procedural fairness.

This is despite s16 and S17 of Schedule 4 part 2 of the RTI Act - Administration of justice

*16 **Disclosure of the information** could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.*

*Referring again to as an example, in **Cantarella Pty Ltd v Egg Marketing Board (NSW) [1973] 2 NSWLR 366 at 383–4 as follows:-***

" A Council acts improperly at law if it conceals relevant information from the Court which would not help its case, and which might adversely affect a proper and just outcome, when it knows of that information, and knows that the affected citizen is not adequately able to present it. The duty has less significance when the individual is competently represented and sufficiently resourced"

Dog owners requesting a copy of the complaint and evidence council say they have in making their decision, are repeatedly denied access to these documents or the documents are heavily redacted.

Waiting 12 months for council's to produce evidence

If the matter is brought before QCAT, the application or dog owners are forced to fill in a QCAT application for the council to produce documents or thing.

It could be over 12 months after an alleged incident, council proposal, and declaration before the dog owners get to see the evidence a local government claims they used to make their decision in order to prepare their case.

Justice delayed is justice denied. <https://en.m.wikipedia.org>.

In some cases, internal reviews with council and external reviews with the Office of the Information Commissioner can take as long as twelve months to produce the documents dog owners and victims need for the purpose of procedural fairness. This also conflict with other rights of review.

Dog owners get 14 days to respond to a council proposal and notice to declare.

Council gets 28 days to respond to FOI application made by the dog owners or victim, and can still deny access to the evidence.

How is that fair?

Regulating menacing and or dangerous dogs

Some dogs can be declared for causing fear. How can that be measured if there is a personal fear of any dogs?

How can something be measured when it is a natural instinct for a dog to chase a bird?

No one is qualified on council to measure the circumstances of an incident and use their discretionary powers. This is a threat to community safety, however council benefits financially from the registration.

2. What else can help to improve community safety?

Understanding dog aggression

There are many forms of aggression in dogs, with scholars producing various lists, but generally they include dominance aggression, pain aggression, prey aggression, fear aggression, intra-dog aggression, possessive aggression, territorial aggression and protection aggression. Most of these behaviours are the result of individual experiences or personality and are at best loosely associated with breed. These are discrete categories of behaviour with different causes, and possibly a different genetic basis. (This is in the Coppinger book too. Dr Stephen Collier, Lecturer in Human and Environmental Studies University of New England, Armidale, NSW 2351

Further discussion relating to educational programs need to take place with educators, qualified behaviorist expert in the field of dogs, disability support workers and other stake holder. ANKC

Young Children: Dos and Don'ts, (Understanding dog behavior)

School Leavers: regarding pet ownership/laws and responsibly. (Understanding dog behavior)

People living with a disability.

People with cognitive and intellectual disabilities

Migrants (newly - non English)

Australian Indigenous communities

3. Discussion about dog breeding

Only a very small percentage of dog breeders in Australia come under regulatory and mentoring organisations regarding breeding standards for health and temperament of dogs.

Attached is a forensic view of puppy breeding in Australia in 2017 by ANKC (Australian National Kennel Club)

In 2017 only 15% of Breeders are registered with the ANKC and 85% are other breeders. Given the gap it is highly unlikely that this has changed.

How can we educate or **regulate** the *other breeders* in planning the breeding understanding the genetics of their dogs for their care, health and temperament and the connection as to the required growing environment for puppies - urgently needs to be discussed by all stake holders.

Dogs bred and trained for the security industry should never be allowed to be sold to members of the public.

Regulating and Licensing of dog trainers in Queensland in particularly dogs trained for the security industry. Whilst there are responsible trainers there are also those who have no interest in the welfare of the dog.

Licensing and regulation should apply to dogs trained and used for hunting.

From Wikipedia, the free encyclopaedia

A **backyard breeder** is an amateur [animal breeder](#) whose breeding is considered substandard, with little or misguided effort towards ethical, [selective breeding](#). Unlike [puppy mills](#) and other animal mill operations, backyard breeders breed on a small scale, usually at home with their own [pets](#) (hence the "backyard" description), and may be motivated by things such as monetary profit, curiosity, to gain new pets and/or working animals, or to show children "the miracle of birth"

A **puppy mill**, also known as a **puppy farm**, is a commercial [dog breeding](#) facility characterized by quick breeding and poor conditions.^[1] Although no standardized legal definition for "puppy mill" exists, a definition was established in *Avenson v. Zegart* in 1984 as "a dog breeding operation in which the health of the mill's dogs are disregarded to maintain a low overhead and maximize profits".^[2] They are cited as being a result of increased demand for household pets,^[3] especially after WWII.^[4] The Veterinary Medical Association of the [Humane Society of the United States](#) defines the main characteristics of a puppy mill as "emphasis on quantity over quality, indiscriminate breeding,

continuous confinement, lack of human contact and environmental enrichment, poor husbandry, and minimal to no veterinary care.

Professional Pet Breeders Australia (PPDBA) is an administrative body for professional pet dog breeders in Australia. It is the expectation that our members have well established breeding programs in place with a professional level of planning involved. The PPDBA supports both purebred and hybrid bred pet dogs

Dogs Australia is a not-for-profit organisation advocating for the preservation of purebred dogs through ethical breeding. It champions the highest standard of animal welfare through education and fostering dog-loving communities. Internationally recognised and established in 1958 as the Australian National Kennel Council (ANKC), the organisation promotes responsible dog ownership; maintains the ORCHID* heritable canine diseases database; funds research into canine diseases; and supports state and territory-based member bodies. Dogs Australia promotes breed conformation shows and community sports for dogs that fulfil a breed's natural inAll Breeds

Breed standards are the guidelines which describe the ideal characteristics, temperament, and appearance of a breed and ensure that the breed is fit for function with soundness essential.



3. Pound Dogs need consideration to make rehoming more successful.

It's no new news that council pounds and shelters are being hammered by unwanted dogs.

What most will agree is the extent of dogs of unknown parentage from medium to large coming into pounds and to rescue sites for rehoming.

Their surrender is for a number of reasons but many seem to have the ability to escape their yard for a number of reasons.

An enormous pressure is placed on rescue groups who volunteer their time to fulfil community expectations of rehoming unwanted and surrendered dogs.

This of course suits councils; they do not have to explain euthanasia rates to the community.

Rescue groups know little about the history of their charges, assessed as suitable for rehoming by unqualified observations in a very short time and usually collected as a last minute reprieve.

What an amazing job these groups do.

They are expected to pick the right home for a dog they have been given little knowledge about.

They have no idea of what training the dog has had before or in the pound environment. It can take a number of months and at least a good 12 months for any traits to become known even after adoption and usually when a situation presents.

It is like tossing a coin.

Please find attached Journal of Veterinarian Behavior

It is the community expectations that council work with rescue groups especially in regional towns to achieve success of each dog rehomed.

State and Local Government need to get serious about de sexing programs for at least 10 years for cats and dogs. This is to tackle any issues before they become a nuisance and a threat to community health and safety. This would especially be for people in our community on a low income.

Micro chipping of unwanted dogs before they leave a pound destined to a rescue group to avoid the risk of dogs falling into the wrong hands through trafficking/smuggling/puppy mills.

Most of our rescue groups do a wonderful job but there is concern others are not what we should expect.

This is especially in the cases of undersexed male/female dogs of a certain breed with no microchip.

The microchip allows for a paper trail.

4. Indigenous dog owners

Australia's very first dog owner's, are badly treated and degraded by local councils to the point of discrimination under the Human Rights Act 2019.

All very well in paying respect to country. Main stream local council staff seem to have very little knowledge of the significant role dingoes played in aboriginal culture and is now being provided by dogs of any breed in their lives today.

First Nations people have been managing their dogs for thousands of years with Information passed down from generation to generation. We now have domesticated dogs mostly in fenced yards.

New ways and rules thought out by non- indigenous people for the management of dogs did not consider first nations people.

The laws do not take into consideration the complex issues surrounding the most vulnerable people in Queensland.

These people do not understand the laws relating to the keeping of dogs because no one in particular owns the dog/dogs. Owner ship is shared. Knowledge is shared.

A review of the relationship between Indigenous Australians Dingoes (Canis Dingo) and Domestic Dogs (Canis Familiaris) June 2009 by Bradley P Smith and Carla A. Litchfield is attached for your convenience.

Communications with officers is mostly verbal and puts these people at a disadvantage because they cannot prove a conversation.

Our experience as advocates in assisting indigenous people with dog issues shows not a great deal of weight is given to the written word for a number of reasons.

Much is said and written about the complex issues suffered by indigenous people living in the outskirts of cities, towns and communities particularly in Queensland.

<https://humanrights.gov.au> and the National Centre for biotechnology information agree Australian aboriginals suffer a higher rate of mental illness and cognitive disability related to poor health and social disadvantage.

We are told by the indigenous people we have worked with; see their dogs as the reincarnation of old people.

Dogs are family members. Destroying their dogs is the same as destroying a family member and does a great deal of mental damage to the whole family.

Many indigenous women are victims of domestic violence and rely on the dogs for emotional support.

In general it is a well-known fact that pets/dogs are caregivers for people with mental illness of many races. Care and responsibility for their dogs/pets can be a target area for educator/mentors done on a consistent but caring basis.

Councils and other government agencies should be working more closely with indigenous dog owners through a culture awareness program, instead of intimidating and bullying them.

It is concerning when we see councils targeting indigenous dog owners because they are vulnerable people in the community and do not have the tools to challenge council.

VULNERABLE PEOPLE in Australia

Vulnerable people are defined as a people aged under 18 or other individuals who may be unable to take care of themselves or are unable to protect themselves against harm or exploitation.

While all people must be protected from harm, there are additional legislative and ethical considerations for protecting vulnerable people. Vulnerable people can include:

- children and seniors
- people with impaired intellectual or physical functioning
- people from a low socio-economic background
- people who are Aboriginal or Torres Strait Islanders

Australia Mutual Recognition Act 2021 vulnerable person character test should apply

Australia Mutual Recognition Act 1992

15 Subsection 4(1)

Insert:

Vulnerable person character test means a character test or a fit or proper person test conducted for the purposes of determining whether a person may carry on an activity in relation to children, young people or vulnerable people

Indigenous dog owners and other vulnerable groups in the community do not seem to fully understand the role of local government and its laws or the process of keeping dogs in today's world.

These dog owners have high SPER debts. This does not improve the situation and plunges these people deeper into disadvantage.

Conclusion

The Queensland State Government needs to

- **Seriously give thought to our many pages of argument in ensuring all Animal Management Officers have the appropriate skills and qualifications under the AQF.**
- **Seriously consider our arguments against the banning of a breed of dog which does not exist.**
- **Has been legally argued does not exist.**
- **Consider the costs to rate payers \$223,000 just in two cases alone 17 years ago.**
- **Consider future litigation costs.**
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