

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

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Mr Chris Whiting MP
Chair, State Development and Regional Industries Committee
Parliament House
George Street
BRISBANE QLD 4000

Via email: SCRIC@parliament.qld.gov.au

Dear Mr Whiting

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

The City of Gold Coast (**City**) is pleased to respond to the Agriculture and Fisheries and Other Legislation Amendment Bill 2023 (**AFOLA Bill**), particularly the proposed reforms to the *Animal Management (Cats and Dogs) Act 2008 (AMCD Act)*. We appreciate the opportunity to provide our input on these critical matters that aim to strengthen Queensland's dog laws and better protect our community.

Enforcing Control of Dogs in Public Places

The proposal for the introduction of state-wide requirements for effective control of dogs in public places is welcome. If amendments are made to Schedule 1 to the *State Penalties and Enforcement Regulation 2014 (SPER)* to enable the issue of penalty infringement notices for offences under the proposed new section 193(1)(e)(ii), the City assumes that the relevant infringement notice penalty amount will equate to 1/10th of the maximum 50 penalty units prescribed by the proposed offence provisions. However, should this assumption be incorrect, the City requests that the Committee make recommendations to align the penalty with the maximum 40 penalty units for the equivalent offence under section 25 of the City's *Local Law No. 12 (Animal Management) 2013*.

Should the legislation pass, the City suggests that the public education campaign announced to support implementation and uplift by local government, offer the community a clear understanding of effective control requirements. Additionally, that mechanisms are established for collecting essential data to evaluate the campaign's effectiveness. The City also recommends that guidance be prepared by the Chief Executive of the Department and Agriculture and Fisheries (**DAF**) pursuant to the powers given under new section 209B to assist in the interpretation of the legislative requirements for operational compliance and enforcement purposes.

Reviewing penalties for Offences Relating to Regulated Dogs

The City supports the review of penalties for offences involving breaches of conditions for keeping of regulated dogs to reinforce the seriousness of these offences. However, consistent with submissions provided to DAF in response to the '*Strong Dog Laws: Safer Communities Discussion Paper*', the City recommends amendments to the *Animal Management (Cats and Dogs) Regulation 2019 (AMCD Regulation)* to remove provisions which prevent regulated dogs from being kept in enclosures which form all or part of a building used for residential purposes.

This restriction operates to exclude as a class, persons residing in apartments, townhouses and similar non-detached dwellings which cannot accommodate an enclosure that does not comprise all, or part of a building used for residential purposes.

The City believes that there are compelling reasons to consider (particularly in the case of a menacing dog which as a matter of definition has not been involved in a serious attack) that the restriction and the associated limitation of individual rights is not justified in circumstances where and but for the operation of regulation 10(1)(b)(ii), the owner of a regulated dog could appropriately confine the dog despite residing in a non-detached dwelling (for example, in an enclosure on an apartment balcony or terrace).

To assist the Committee, we note that section 38(1) of the *Domestic Animals Act 1994* (Vic) prescribes the restraint requirements which apply to a declared dangerous dog kept on residential premises. The City endorses this as a model provision for the purposes of amending the permit conditions prescribed by the AMCD Act and AMCD Regulation. We also ask the Committee to note that under the Victorian legislation, there is no requirement to keep a declared menacing dog within an enclosure.

ABS Census data indicates that in 2021, 71.9% of all dwellings in Queensland are separate houses, 16.2 % are medium density dwellings and 9.7% are high density dwellings compared with 70.3%, 17.3% and 11.0% nationally. Local government areas including the City of Brisbane and the City of Gold Coast already have large numbers of high and medium density dwellings and a high proportion of those residents also keep dogs. Pressures of geographic limitations and rapidly growing populations, particularly in South-East Queensland, are increasing demands for land to be re-zoned to permit construction of duplexes on land previously reserved for single homes. Such properties cannot readily accommodate a dog enclosure that satisfies the existing regulatory requirements.

The *State of the Nation's Housing 2022-23* report published by the National Housing Finance and Investment Corporation indicates that cost of living pressures and housing affordability and supply issues are barriers to relocation, particularly for persons who rent.

The *Pets in Australia: A national survey of pets and people* report published in November 2022 by Animal Medicines Australia posits that there is a direct link between the significant increase in the surrender of animals and the financial and social vulnerabilities of their owners.

In local government areas such as ours, there is an increasing probability of a legal challenge arising from a local government decision under section 89 of the AMCD Act to declare that a dog is a regulated dog, because an owner cannot comply with the enclosure requirements prescribed by regulation 10(1)(b)(ii). Owners of a dog subject of a declaration decision may also feel pressured to surrender or euthanise their dog due to being unable to find new housing that allows for a separate enclosure. This situation has potential to worsen the known emotional and financial tolls of impounding and euthanising dogs. It might also discourage Authorised Persons from declaring a dog to be a dangerous or menacing dog, despite an attack incident, which increases risks to public safety which the law is intended to address.

If the Committee is not inclined to recommend that amendments be made to regulation 10(1)(b)(ii), the City alternatively proposes that the AFOLA Bill be amended to insert an express provision, similar to that at the existing section 72 of the AMCD Act, to prescribe who may hold a permit to keep a declared dangerous or declared menacing dog so as to put it beyond doubt that a person residing in an apartment or similar non-detached dwelling is not an eligible person, and to ensure that the policy

objectives and the reasons for the limitation of the individual rights of this class of persons are well understood and explicit.

Enforcement

The AFOLA Bill and the corresponding Explanatory Statement are silent about enforcement or non-enforcement of the legislation creating the new offences against minors. The prosecution of offenders who are minors raises complex legal issues, particularly for local law enforcement and therefore the City requests that the Committee specifically consider this issue in the context of the offences at sections 193, 194 and 195 of the AMCD Act.

We also ask the Committee to make recommendations which clarify whether a prosecution under new section 195(1)(a) of the AMCD Act for the offence of encouraging a dog to attack, with a potential 3-year imprisonment term, should proceed through indictment, or be dealt with in summary proceedings.

Whilst the City acknowledges the necessity of enhancing penalties for severe dog attacks, it is important to highlight local government limitations in terms of resources to conduct in-house criminal investigations and prosecutions. The required skills may be present, but the necessary resources are in general, lacking. Therefore, we request that the Committee's recommendations address the role and responsibilities of the Animal Management Office to be established within DAF vis-à-vis Authorised Persons employed by local government, and about the allocation of additional resources to effectively support these functions. Furthermore, we encourage the Committee to recommend a review of the powers granted to Authorised Officers for issuing penalty infringement notices related to dog attack offences.

Vehicle registry information

The City also requests that the Committee consider and recommend additional amendments to section 207A(3) of the AMCD Act to extend the meaning of vehicle registry information to include boat register information and interstate vehicle register information that is available to the Chief Executive of the Department of Transport and Main Roads through NEVDIS. This amendment would enable Authorised Persons to access Queensland boat registry and interstate motor vehicle registry information for the purpose of investigating the prescribed offences.

Additionally, the City asks the Committee to make recommendations that the information disclosed for an investigation of a prescribed offence can be used for the investigation and enforcement of all offences identified during the investigation of a dog attack, including offences under the AMCD Act and local government animal management laws.

Ban on Prohibited breeds of dogs

The City recognises that the efficacy of breed-specific legislation in reducing incidents of dog aggression is contentious and that the proposed legislation may be difficult to enforce due to the practical difficulties of identifying the prescribed breeds accurately or cost-effectively. If the legislation is passed, we recommend that its implementation is supported by initiatives to improve the collection of standardised and high-quality dog-attack incident data, including information about the actual and claimed breed of dog involved in reported incidents, to assist in the evaluation of the effectiveness of breed-specific legislation and to inform operational compliance and enforcement initiatives.

Streamlining merits review processes

The City acknowledges that streamlining of merits review processes is essential but notes that fairness in administrative decision making is critical. The City requests that the Committee consider and make recommendations for the adoption of state-wide investigation standards and implementing

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electronic investigation management systems. This will assist to create a consistent framework for recording, collating and managing investigations, promoting best practices and legislative compliance, leading to transparent and well-documented outcomes.

Additionally, the City suggests that the Committee make recommendations that the AMCD Act is amended to include an express provision allowing local governments to recover expenses for caring for a seized dog when a QCAT review (under section 188 of the AMCD Act) confirms the initial decision to euthanise the dog. This cost liability may discourage frivolous or vexatious review applications.

Yours faithfully



Gareth Janes
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For the Chief Executive Officer
Council of the City of Gold Coast