

## **Agriculture and Fisheries and Other Legislation Amendment Bill 2023**

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Department of Agriculture and Fisheries  
GPO Box 46  
BRISBANE QLD 4001

Dear Sir/Madam

## **Agriculture and Fisheries and Other Legislation Amendment Bill 2023**

Logan City Council welcomes the opportunity to provide feedback on the Agriculture and Fisheries and Other Legislation Amendment Bill 2023 (the Bill).

Of particular interest and relevance to Logan City Council, are the proposed amendments to the *Animal Management (Cats and Dogs) Act 2008* (AMCDA).

On 25 June 2023, the Strong dog laws: Safer communities discussion paper was released for public consultation. The discussion paper sought community views on a number of proposals to promote responsible dog ownership and better protect the community from dangerous dogs, including:

- developing and implementing a comprehensive community education campaign;
- imposing a new statewide ban on restricted dog breeds;
- reviewing penalties for owners of dogs that cause harm;
- introducing a new offence that includes imprisonment as a maximum penalty for the most serious dog attacks;
- clarifying when a destruction order must be made for a regulated dog; and,
- streamlining the external review process for regulated dogs to minimise unnecessary delays experienced by councils and relevant parties.

Logan City Council has actively advocated for law reform in relation to the management of dangerous dogs for many years. Coupled with this, we have been active participants on the government's Animal Management Taskforce and its Technical Working Group since the Taskforce was announced in 2021.

We have carefully reviewed the proposed reforms outlined in the Bill along with the Explanatory Notes. While we support the intent of the reforms, in line with our response to the discussion paper, we maintain that these must be the first of many reforms made to the legislation. It is in this spirit that we offer feedback on the range of proposed amendments below, in no particular order.

### **1. Developing and implementing a comprehensive community education campaign**

Logan City Council were invited to join the Animal Management Stakeholder Engagement Group (AMSEG) to improve responsible dog ownership through education and awareness campaigns.

As a regulatory body passionate about fostering understanding and awareness of dog behaviour to prevent bites, Council have some thoughts on the current social media campaign. While we appreciate the good intentions to avoid shock or fear, I believe the shared images could benefit from more authenticity and relatable scenarios. Our response to the discussion paper was clear in its intention to address the alarming number of dog attacks on children along with safe entry to properties to improve the safety of utilities or field-based workers.

It would be productive to involve local government in the development process, as it seems there was a missed opportunity for consultation on the social media images. We are optimistic that the development of future educational campaigns will welcome open collaboration.

## 2. Imposing a new statewide ban on restricted dog breeds

The original scope of the limited review of the AMCDA did not include restricted breeds. The intention of the reform was to consider tougher penalties, additional enforcement powers, new offences, easier tracking of dangerous dogs across jurisdictions and streamlining the QCAT process. This included the focus of dangerous and menacing dogs in our communities and better management of dogs, to prevent attacks. The topic of restricted breeds was introduced to the discussion paper without the benefit of stakeholder consultation.

It became evident while observing the public hearing on 12 December 2023 that there was significant confusion around regulated dogs. Chapter 4, section 60 of the AMCDA defines a regulated dog as:

- (a) a declared dangerous dog; or
- (b) a declared menacing dog; or
- (c) a restricted dog.

A restricted dog (also known as a prohibited dog) is a dog of a breed prohibited from importation into Australia under the *Customs Act 1901*. The breeds in question are already subject to federal laws.

It was easy to be compelled by the RSPCA's presentation at the public hearing. As discussed:

- Four of the five breeds don't exist in Queensland. The fifth breed is the American Pit Bull Terrier (pit bull). However, there are key challenges in accurately identifying this breed.
- The only options of identification that exist are the receipt of pedigree papers and with the ban on the importation of these breeds, accessing these documents is not possible.
- This leaves the 21-point identification system (which is subjective at best) and DNA testing. Neither of these methods have proven to be accurate. In fact, it has been determined that it is not possible to precisely identify the breed via appearance or DNA analysis. Geneticists have made it clear that DNA results cannot be used in a court of law for enforcement.

The attempt by the Victorian government in introducing and enforcing breed bans in 2011 required destruction orders being issued to dog owners of breeds such as the pit bull, even if the dog had no aggressive history. Given the volume of external appeals lodged through the Victorian Civil and Administrative Tribunal, resulting in 74% of these appeals being upheld due to the inability to accurately identify the breed, the breed ban was lifted in 2017.

If the reform is requiring authorised persons to enforce this breed specific legislation (namely purebred American Pitbull Terriers), then those enforcing the law must be able to accurately identify the dog. To this end, the State must consider how this can be achieved. This will require a panel of subject matter experts from dog related sectors to develop unwavering guidelines which can be easily adopted and implemented by authorised persons.

As restricted breeds fall under Chapter 4 of the AMCDA – Regulated Dogs, the decision to destroy a regulated dog can be appealed externally through the Queensland Civil and Administrative Tribunal (QCAT).

With the current wait times on QCAT hearings (suggested to be an average of 46 weeks) the additional impact this will have on legitimate appeals being heard will place an increased burden on local government and QCAT. This will direct resources away from other more critical matters such as public safety and responsible pet ownership.

While the amendments include inserting a new definition of prohibited dogs in to the AMCDA, Council is proposing that restricted/prohibited breeds are removed from Chapter 4 Regulated Dogs to reduce ongoing confusion and to allow a standalone management of these dogs should a breed ban be introduced, which prevents opportunity for appeal.

*Of note*, proposed section 103B – Prohibition on Prohibited dogs contradicts itself by stating:

- 1) A person must not own or be a responsible person for a prohibited dog unless the person has a reasonable excuse,
- 2) It is a reasonable excuse for a person to own or be responsible for a prohibited dog if the dog is an assistance animal.

To this end, Council does not support the inclusion of a provision that allows a 'known' restricted/prohibited dog to be kept under any circumstances, let alone as an assistance animal.

## **2. Streamlining the external review process for regulated dogs to minimise unnecessary delays experienced by councils and relevant parties.**

As part of the much-needed reform, working group members have been advocating for review of the external appeal process through QCAT which typically takes significant time (as mentioned above). If the dog subject to an appeal remains under the care of the local government during this waiting period, the cost of caring for this dog is incurred by the ratepayers.

While we strongly support the democratic ability to appeal, once Council's internal review/s have been finalised, supported by evidence that proves the elements of the offence, a request for an additional external review must be able to articulate why the decision was wrong or why/how the assessment, investigation or decision was deficient. The mere expression of disappointment about the decision, questioning the validity of the decision, or seeking further explanation should not be accepted as reason for an external appeal.

The explanatory notes suggest that providing clarity on when a review can be lodged externally are welcomed, however the proposed amendments do nothing to minimise unnecessary delays experienced by councils and relevant parties subject to the wait times of QCAT.

Council suggests the development of a shortened 'queue' time for QCAT matters relating to dogs who are impounded under Council's care to ensure better welfare outcomes for impounded dogs, less cost incurred by Council (via ratepayers) and reducing emotional uncertainty experienced by the dog owner.

Further, where a decision is upheld by QCAT, the recovery of costs incurred by Council could be determined by QCAT.

## **3. Clarifying when a destruction order must be made for a regulated dog**

The explanatory notes inform that clause 66 of the Bill also introduces a mandatory requirement for an authorised person to make a destruction order where the seized dog attacked a person causing grievous bodily harm or death, or attacked an animal and maimed or killed the animal, promoting consistency in the way in which dogs that cause significant harm are dealt with under the Act.

While this amendment is supported, it is Council's opinion that where a dog has attacked resulting in death to a person, a destruction order need not be issued, allowing opportunity for appeal, rather the obligation should be immediate destruction of the dog.

Further, clearer definitions are essential for officers in their decision-making processes. Definitions must be inserted to ensure clarity on the newly introduced (and ambiguous) terms –

- maims
- wounds

## **4. Statewide requirement for effective control**

The explanatory notes inform that the AMCDA imposes requirements on dogs that are restricted dogs or are declared dangerous or menacing – including that they be muzzled and under the effective control of an adult who has control of not more than one dog.

Council is concerned that this is not incorrect. Declared menacing dogs are not required to be muzzled. However, it is Council's contention that the mandatory muzzling of declared menacing dogs be imposed.

Most incidents which result in a dog being declared menacing are those which occur in a public place (causing fear or less serious injury). Ensuring a dog who has the propensity to be aggressive in a public place is adequately muzzled, will reduce the risk of further incidents.

Council supports a statewide requirement for effective control but remains concerned by the suggestion of control of a dog by voice command (when in a designated off leash area) may be inconsistent in its application in different jurisdictions.

When considering effective control of a dog in a vehicle, the Bill states the dog is being confined or tethered in, or on, a vehicle in a way that prevents the dog moving any part of its body beyond the vehicle. The RSPCA in their presentation at the public hearing are suggesting that the definition for animals in vehicles align with the provisions in the *Animal Care and Protection Act 2001* which informs that, *a driver must not transport a dog inside a vehicle if any part of the dog, other than its head, is able to protrude from the vehicle.*

Council strongly opposes the recommendation made by the RSPCA and supports the wording in the AMCDA. The need to ensure the dogs' head does not protrude beyond the vehicle is essential in preventing bites, particularly if the vehicle is stationary.

S191(2) informs, *if the dog is participating in, or being exhibited or trained at..... and is supervised by a body that is recognised by the State as an appropriate body....*

- What factors determine which organisations are approved by the State as an appropriate body?
- How does an organisation become recognised by the State and in turn, the local government?

S192(1) provides for effective control of regulated dogs. While regulated dogs should be encouraged to participate in behaviour modification training, it is not suitable that a regulated dangerous or menacing dog be able to participate in a race, show or other types of social dog events. A regulated dog is required to always meet the requirements of effective control when outside of its regulated dog enclosure (muzzle, collar, tag, on lead, etc) therefore the inclusion at 'events' does not seem achievable.

It is suggested that this section be omitted for regulated dogs.

Also of question will be the much-needed requirement for training council officers on the provision of a consistent script to use when enforcing effective control in a public place under the AMCDA. Successfully obtaining the identification of an offender in a public place, even under our local laws is often a difficult and ignored request, therefore often unenforceable.

**5. Reviewing penalties for owners of dogs that cause harm, and**

**6. Introducing a new offence that includes imprisonment as a maximum penalty for the most serious dog attacks.**

The amendments introduce higher financial penalties for persons who fail to take reasonable steps to ensure their dog does not attack or cause fear, or where a person encourages a dog to attack or cause fear.

Council supports higher penalties however needs to consider:

- impacts on the State Penalties Enforcement Registry (SPER)
- impacts on Council resources for prosecutions
- access to support by the State for legal guidance where jail terms may apply

In addition, Council strongly suggests that the department consider prohibition orders to restrain negligent pet owners from the continuing ability to acquire pets in a manner which poses an ongoing risk to public safety. The concept of prohibition orders were introduced under the *Animal Care and Protection Act 2001* some time ago, and the same should apply here.

## Additional items for consideration

- a) The current provisions do not provide sufficient information in relation to the identification of the owner of a dog.
- Council strongly suggests inclusion of:
    - the date of birth of the owner and,
    - copy of drivers licence number or other form of identification.
- These additions will assist Councils in issuing infringements or other enforcement proceedings against an offending dog owner more accurately.
- b) Council strongly suggests that consideration also be given to what constitutes a responsible dog owner and what constitutes “effectively controlled”, giving thought to practical issues such as homelessness, age, physical capability, mental health, the impact of drugs or other substances or other personal attributes which may impact a person’s ability to control a dog.
- c) Additional requirements for the owner of a regulated dog.
- Council strongly suggests the inclusion of:
    - Evidence of the death of a regulated dog be provided,
    - Mandatory notification to a microchip registry of the dogs’ declaration,
    - Reduction of the 3-month time frame for a regulated dangerous dog to be desexed,
    - Obligation of the dog owner to provide Council evidence of the of being desexed.
  - Council strongly suggests the inclusion of a mandatory annual inspection for a regulated dog enclosure.
- d) Addressing attacks which occur as a result of failing to provide effective control of a dog in a public place is supported.
- Council strongly suggests dogs attacks which occur due to ineffectvie control of a dog on private property being addressed.
- e) Ongoing suggestions include:
- The use of body worn cameras
  - Control of breeding regulated dogs and their offspring
  - Enabling agencies to share information to help enforce legislation
  - Clarity regarding owners ensuring dog is implanted with a microchip
  - History checks for dangerous dog owners (particularly when considering prohibition orders)
  - Recovery of seizure and legal costs
  - Enhancing powers of entry provisions for ongoing regulated dog requirements

## Final comments

Logan City Council welcomes the minister’s previous public comments indicating that this reform does not conclude the continued intention to addressing these issues. This acknowledgement signals a positive relationship between the local and state governments and a commitment to ongoing collaboration, progression and improvement of the AMCDA. Council is committed to continuing in its support of necessary ongoing legislative reform to ensure public safety.

Please do not hesitate in contacting Council’s Animal Management Program Leader, Michelle Burridge, at

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Yours faithfully

Emily Shafto  
City Safety and Liveability Manager