

26 September 2019

Department of Premier and Cabinet
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Dear Sir

Draft Dog Control Amendment Bill 2019

Thank you for the opportunity to provide a submission on the Draft Dog Control Amendment Bill 2019. This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of the Local Government Sector in collaboration with our Members; all 29 Local Councils in Tasmania.

LGAT is incorporated under the *Local Government Act 1993* and is the representative body and advocate for Local Government in Tasmania. Where a Council has made a direct submission to this process, any omission of specific comments made by that Council in this submission should not be viewed as lack of support by the LGAT for that specific issue.

If you have any questions or would like further information, please do not hesitate to contact Lynden Leppard at lynden.leppard@lgat.tas.gov.au or via phone on (03) 6146 3740.

Yours sincerely



Katrena Stephenson
Chief Executive Officer

LGAT Submission: Draft Dog Control Act Amendment Bill 2019

Introduction

All General Managers were invited to make a submission and provided with the Draft Dog Control Amendment Bill 2019 and the Fact Sheet. Ten Councils provided a response to Phase 2 and two to Phase 1. Several noted the short time difference between Phase 1 and Phase 2 and the challenges that raised by the short time frame for responses.

General Comments

Local Councils agree with the need for changes to the Act and all support the proposed changes. However, most responses raise a need to avoid ambiguity in some instances and several raise consequences arising from the amendments that require consideration. The potential of a smaller penalty for a dog attack on a child than a penguin is a significant example. Specific identification and treatment of ex-racing greyhounds is another.

Kingborough Council raised the following general matter -

It is assumed that the intent of the amendment to s.7(3)(a) "or an amendment of the policy" is confirming Council's ability to amend the Dog Management Policy without having to put the full policy out to public consultation. This is significant when Council acquires new land to which a declaration is warranted. If this is not the intent, can an amendment of this nature please be included.

Finally, a number of councils have noted that the introduction of penalties alone will not be sufficient to prevent future dog attacks on little penguin colonies and that there is a need for the government to consider appropriate resourcing of ranger functions, or equivalent, going forward.

Specific Comments

The specific feedback relating to sections of the Draft Dog Control Amendment Bill 2019 is provided below.

Greyhounds

Section	Reference Summary	Comments / Concerns
18	Effective Control of Greyhounds	<p>Councils support both amendments in principle.</p> <p>Clarence City Council made the following observations about exercising in off-lead areas -</p> <p>It noted that the proposed amendment will allow individual councils the discretion to allow greyhounds in declared exercise areas. This could create confusion for dog owners as there will likely be differences between councils, and dog owners will be unaware that there are differences between different dog exercise areas.</p> <p>Four Councils raised concerns about potential risk to safety of ex-racing greyhounds.</p> <p>Clarence City Council noted that the amendment does not recognise that there are ex-racing greyhounds and greyhounds which have never been exposed to racing. There is an obvious difference in temperament between ex-racing greyhounds and non-racing greyhounds.</p> <p>The Kingborough Council submission argued that the majority are ex-racing and have received significant training and possess a high prey drive towards racing lures which resemble a small animal.</p> <p>Glenorchy City Council made the same point and gave a specific example of a greyhound that had completed and passed the Greyhound Adoption Program (GAP) twice and subsequently attacked a small bred dog on private property.</p> <p>Latrobe and Kentish Councils expressed similar concerns and, with Glenorchy, raised the specific risk to small breed dogs of s.18(2) allowing GAP greyhounds to be off lease without a muzzle in a declared area.</p> <p>Kingborough Council suggestion that a re-call function be inserted within the GAP temperament testing, or that training of this nature be distributed by canine/dog walking associations with each municipality.</p> <p>Clarence City Council noted that that the Act should provide that ex-racing greyhounds be required to pass the GAP before being allowed into a declared exercise area.</p>

Penalties for dog attacks on wildlife

Section	Reference Summary	Comments / Concerns
19AB	Dogs must not injure or kill sensitive wildlife	<p>Councils support this proposal. Four Councils raised specific concerns.</p> <p>Clarence City Council notes that the Minister can specify locations in which the offences will apply and recommends that, to avoid ambiguity, the type of wildlife the offence covers should also be specified.</p> <p>Three Councils noted potential inconsistency between proposed penalties for attacks on wildlife and current penalties for attacks or bites to a person.</p> <p>Kingborough Council notes that a proposed offence against s.19AB(1) "<i>Fine not exceeding 30 penalty units</i>" is higher than an offence against s.19(3) where a dog attacks or bites a person, causing serious injury has a "<i>Fine not exceeding 30 penalty units</i>". Kingborough Council's view is that these penalties are inconsistent with community expectation. It is suggested that a simple amendment is made to increase the maximum penalty to 30 penalty units where a dog attacks or bites a person, causing serious injury.</p> <p>Glenorchy City Council makes the same point and recommends that the penalty for an attack on a person be increased to 30 penalty points.</p> <p>Waratah-Wynyard Council's concern is that by creating a new offence for an attack on prescribed wildlife and increasing the penalty greater than an attack on a person or other animal will result in inconsistency and inequality. Their submission offered a direct experience perspective by noting that council officers hear directly from all dog attack victims, and their sentiment is that current infringements are not sufficient. Public concern would be heightened when they realize the penalty is less than for an attack on a penguin. A more reasonable solution is to increase penalties across the board for dog attacks. The recommendation is to amend the Act and divide section 19 into two distinct offence columns. The first being a dog attack on private premises and the second, which would attract an increased penalty, a dog attack in a public place or prohibited area. This would cover all public areas, as set out in the Act and logically include all prohibited areas, including penguin rookeries. Waratah-Wynyard Council makes the additional point that in most cases a dog leaving the confines of private property and attacking a person or animal in a public place, should attract a larger penalty than a dog biting a person or animal who entered the property of the contained dog.</p>

Collection of a sample by an authorized officer

Section	Reference Summary	Comments / Concerns
19AC	Collection of a sample by an authorized officer.	<p>Clarence City Council considered that there is insufficient detail to comment on the proposed amendment. Others support the amendment and Waratah-Wynyard Council had no concerns with it, providing authorized officers have the ability to undertake DNA testing, particularly where that officer’s department is taking the lead role in an investigation.</p> <p>Latrobe and Kentish Councils also raised concerns about lack of detail and clarity about the definition of authorized officer and the authority of an Animal Control Officer (ACO) in State Reserves and in circumstances where Police and Rangers are not in attendance. It is noted that an authorized officer under the Nature Conservation Act 2002 3(1) expressly states “a Police Officer or a Ranger”, but will this apply to an ACO as an authorized officer in the Amendment Bill?</p> <p>Kingborough Council notes that Councils may not have the resources or skill base to collect samples. Nevertheless Authorized Persons should not be omitted from the provisions and it is suggested that “or an authorized person” be inserted after “An Authorized Officer” in s.19AC(1).</p>

Prohibited areas

Section	Reference Summary	Comments / Concerns
s. 22(2)	Dogs in prohibited areas	<p>Waratah-Wynyard Council recommended a specific amendment to the current wording.</p> <p><i>A person must not take a dog that is not a guide dog or a hearing dog into a prohibited area.</i></p> <p>This part of the Act does not specify a dog at large entering a prohibited area without the knowledge of the owner. By amending the Act as below would allow Council to issue an infringement to an owner of a dog whether or not the dog was taken into the prohibited area by the owner.</p> <p><i>A person must not allow a dog that is not a guide dog or a hearing dog into a prohibited area.</i></p> <p>Clarence City Council also recommends a change from the word 'take' to make it an offence for a dog to be in a prohibited area.</p>

Additional Comment

Section 50(1) – Kennel License

Section	Reference Summary	Comments / Concerns
50(1)	Kennel License comment from Tasman Council	<p>Tasman Council raised an issue of ambiguity.</p> <p>Section 50(1) of the Act currently states <i>"A person, without a license, must not keep or allow to be kept, for any period of time, on any premises –</i> <i>(a) more than 2 dogs, other than working dogs, over the age of 6 months; or</i> <i>(b) more than 4 working dogs over the age of 6 months.</i></p> <p>There could be instances where an owner has 2 working dogs and 2 domestic dogs. The Act in its current format doesn't cater for or provide clarity when dealing with this type of scenario.</p>