



**Review of the NSW
Companion Animals Act**

REVIEW OF THE NSW COMPANION ANIMALS ACT

The NSW Government has made a commitment to review the *Companion Animals Act 1998 (CA Act)* following recommendations made following two coronial inquests involving the death of a 2-year-old boy and a 5-week-old baby.

Both children died from injuries related to two separate dog attacks. The review aims to examine the suitability of the current legislative framework and determine what changes may be required to better manage companion animals in NSW.

The CA Act has not undergone a comprehensive review since 2005 highlighting the need for the government to conduct a broad review of the CA Act and analyse issues and trends that have arisen since its last review.

Inquest into the death of MJ

The first coronial inquest concerned the death of a 5-week-old baby, MJ, who died between 10 and 11 July 2021 from fatal injuries caused from being attacked inside the family home by the pet dog "Bully". At the time of the attack, Bully was microchipped and registered as an American Staffordshire Terrier which is not a restricted breed under s 55(1)(a)-(d1) of the CA Act.

On 10 July 2021, MJ's father and mother were at home in the lounge room watching the football. MJ's father fell asleep on the lounge while MJ's mother was sitting nearby on a low-lying rocker chair. MJ's mother fell asleep with MJ in her arms. MJ's mother then woke up

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and realised the baby was not there. She then walked in and found MJ on the floor of his bedroom at the opposite end of the house. MJ was found with bruises all over his body and a "big puncture wound" on his chest. MJ was pronounced dead in a nearby ambulance. Police concluded that the evidence at the scene and the injuries viewed on the deceased support the fact that MJ's death was the result of multiple dog bites.

Prior to MJ's death Bully was reported by MJ's parents to have had only a few minor fights with another dog in the period between 2016 to 2018 which occurred while Bully was housed in the same yard as the other dog. However, on 7 June 2021, Council received a report relating to the death of a dog that took place the previous day. The deceased dog and its owners lived at a neighbouring address to the MJ residence and allege that Bully dug a hole under their conjoining fence and attacked and killed their cocker spaniel dog, "Arrow". The owners of Arrow were out at the time of the attack and their dog was being watched by a dog sitter who noticed Arrow was missing and had gone looking for Arrow before finding the dogs body in the neighbours' yard.

As part of Council's investigation, concern was raised that there may have been a misdescription in the breed of the dog on the Register.

MJ's father was issued with a "Notice of Intention to Declare a Dog to be a Restricted Breed" on 10 June 2021. MJ's father submitted a request for an extension of time to respond on the 6 July 2021, advising that his wife had recently given birth, and he would need more time to comply with the Notice.

Following the death of Arrow, no enforcement action under s 16(1) was taken. This was because the offence could not be established due to the possibility that the attack on Arrow was a "result of [Arrow] trespassing on the property". As there were no witnesses to the attack, the possible existence of these circumstances (per s 16(2)(b) of the CA Act) limited the ability to take enforcement action under s 16(1) of that Act.

Upon review, the inquest found that there were no criticisms with the views or actions of Council. Instead, the inquest suggested that more clarity is needed in the CA Act to ensure that enforcement officers are clear on their duties and obligations when it comes to enforcing the regulatory regime.

Recommendations

The inquest into MJ's death made the following recommendations to the Minister and the OLG:

1. To review the adequacy of the penalties for non-compliance with registration and identification requirements for dogs in the CA Act and the Regulation;
2. To develop and implement a statewide public awareness and education campaign to educate dog owners and the community generally about the risks posed by dogs and how safely to interact with them;
3. To introduce licensing requirements for dog ownership, which may involve particular licence conditions calibrated for particular breeds of dogs and with applicants being required to undergo education with respect to safety and risk management;

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4. To examine the adequacy of the maximum penalties for the offences provided by ss 12A, 13, 14, 16 and 17 of the CA Act;
5. To amend s 16 of the CA Act to delete subsection (2)(b);
6. To amend s 18 of the CA Act to broaden the scope for exercise of that power;
7. To amend:
 - (a) the interim control obligations and interim powers enlivened under ss 36 and 58B of the CA Act upon the giving of a notice of intention to declare a dog (i) dangerous or menacing or (ii) restricted; and
 - (b) s 58(4) so as to make clearer its intended operation;
8. To introduce a general power in the CA Act for an authorised officer to direct an owner or person in control of a dog to secure the dog with a muzzle and / or lead for a specified period;
9. To amend s 58C of the CA Act (a) regarding the prohibition of an authorised officer making a restricted dog declaration if the owner provides a written statement by an approved breed assessor or approved temperament assessor; and (b) to require breed and/or temperament assessors to provide an outline of the assessment carried out; and
10. To the extent not already done, investigate, or continue to investigate, facilitating reasonable access to DNA testing in NSW to assist breed identification of dogs.

Inquest into the death of Jyedon

The second inquest concerned a 2-year-old boy Jyedon. Jyedon died on 8 November 2022 at The Children's Hospital at Westmead from penetrating injuries to his head and neck caused by multiple dog bites which were inflicted when he was attacked by one or two dogs at a motel where he was temporarily residing. The dogs involved in the attack were a Rottweiler (Brutus) and a Red Heeler cross (Belle) that were owned by the motel owner and ordinarily resided at those premises. Brutus was microchipped but not registered and Belle was neither microchipped nor registered.

At the time of the attack, neither dog had been the subject of a notice of intention to declare the dog a dangerous or menacing dog, or of an actual declaration, under the CA Act. Neither dog had previously been reported to or come to the attention of the Council and there is no known instance of the owner, Mr McIlhatton having previously been issued a penalty notice of any contravention of the CA Act of the Regulation.

Recommendations

Although several of the recommendations made in the inquest into the death of MJ were also made in this inquest, this case differed from the death of MJ as the attack occurred within hotel/motel accommodation, not at a domestic residence. As such, a recommendation was made to introduce enclosure and/or control requirements relating to onsite dogs owned by hotel or motel accommodation providers. This would

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involve child locks on gates and fences where dogs are being kept on hotel or motel accommodation premises like the fencing requirements for swimming pools.

Both inquests made a recommendation for the Minister and the OLG to consider developing and implementing a statewide public awareness and education campaign to educate dog owners and the community generally about the risks posed by dogs and how safely to interact with them.

Further, the inquests into both deaths recommended the Minister and OLG review the adequacy of the maximum penalties for the offences provided by ss 12A, 13, 14, 16 and 17 and to review the adequacy of the penalties for non-compliance with registration and identification requirements for dogs in the CA Act and the Regulation.

The inquests into the death and surrounding circumstances of MJ and Jyedon demonstrate that it is in the interests of public health and safety for the existing regulatory regime to be reviewed and amended. The Minister for Local Government has manifested his intention to review the CA Act and Regulations this year with submissions for feedback in response to targeted questions in the 'Review of the NSW Companion Animals Laws Discussion Paper' closing on Sunday, 4 May 2025.

Matters for consideration

Our experience in undertaking enforcement action for Councils in relation to companion animals has demonstrated the following areas where amendments to the CA Act may be appropriate. These include:

1. Strengthening the enforcement powers available to Council officers to investigate offences under the CA Act. Such powers could replicate the investigation powers available to Council officers under the *Environmental Planning and Assessment Act 1979* and the *Protection of the Environment Operations Act 1997*.
2. Considering the interplay between the provisions of the CA Act with the requirements of the *Environmental Planning and Assessment Act 1979* and *Crown Lands Management Act 2016*, particularly in light of *Palm Beach Protection Group Incorporated v Northern Beaches Council* [2020] NSWLEC 156. The interplay between these three pieces of legislation is cumbersome and expensive for Councils to amend, adopt or remove off-leash dog parks. This process should be clearer and more streamlined.
3. Clarifying the relationship between offences under s 12A of the CA Act (Preventing a dog from escaping) and s 16 offences (offences where dog attacks a person or animal). This is particularly so in cases where a dog escapes and an attack occurs when the owner (or other person in control) is not present.
4. The appropriateness (or otherwise) of retaining s 94 of the CA Act relating to double jeopardy, particularly given attacks can occur when a dog has escaped and/or the dog is subject to an existing declaration as a dangerous dog.
5. Amending the wording of s 16(1) of the CA Act by making both owners and person(s) present responsible for offences, as in light of *Ryde City Council v*

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Pedras [2009] NSWCCA 248, it is ambiguous whether an owner who is not present can be liable for an offence relating to their dog.

6. Removal of the defences contained within s 16(2) of the *CA Act*. Provocation is regularly raised in proceedings under s 16, which can be difficult for Councils to negate in criminal proceedings.
7. Amending s 51 of the *CA Act* relating to dangerous dog requirements, to ensure that an existing house (or ancillary buildings such as a garage) are not permitted to be used as an enclosure for the purposes of that section.
8. Mandating training (in relation to both the owner and dog) as part of the requirements when a dog is declared menacing and/or dangerous. Training is regularly indicated as a requirement of control orders when an appeal is lodged in relation to a Dangerous Dog Declaration.
9. Consider introducing the ability for Councils and owners of dogs to enter into enforceable undertakings as an alternative to other orders or enforcement options under the *CA Act*. This may obviate the need for control orders in suitable cases.
10. Updating the service provisions contained within s 95A of the *CA Act*, including the use of the contact details contained within the Companion Animal Register.
11. Better resourcing of Councils and vet clinics to deliver pro-active training and education to dog owners.
12. Better resourcing of Councils to offer cadetships / traineeships to hire and train new rangers and animal officers, given these positions are difficult to fill at more experienced levels.
13. Consider the NSW Government offering "cashbacks" or other incentives for owners to take their dogs to puppy school and obedience training, or resourcing Councils to deliver training.
14. Consideration as to whether mandatory licensing should be required prior to purchasing a dog, comparable to needing a native animal keepers licence prior to acquiring a native animal as a pet.
15. Consideration as to whether mandatory training should be required after purchasing a dog, to ensure all dogs receive appropriate socialisation at a young age, and basic obedience training.
16. Consideration of the environmental issues created by roaming cats and safety to cats allowed to freely roam, and whether a curfews on cats roaming outside the home and/or introducing requirements to keep cats indoors is appropriate.

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