

Your Ref:

Our Ref: 21000339/184: Criminal Law Committee

5 October 2011

The Honourable Paul Lucas MP
Attorney-General, Minister for Local Government and Special Minister of State
PO Box 15009
CITY EAST QLD 4002

By Post and Email: attorney@ministerial.qld.gov.au; Jasmina.Joldic@ministerial.qld.gov.au

Dear Attorney

PROPOSAL FOR THE INTRODUCTION OF DANGEROUS DOG LAWS IN QUEENSLAND

We refer to your media release dated 13 September 2011 entitled, "State Government considers strengthening dangerous dog laws". We understand that the State Government will examine if potential amendments need to be made to the Queensland Criminal Code to ensure strict consequences are in place for owners of dangerous dogs who do not take reasonable steps to stop their pets killing or injuring people or other animals.

This issue has been considered by our Criminal Law Committee who has a thorough knowledge of the issues impacting this area of law.

1. Criminal Code Act 1899

We consider that section 289 of the Criminal Code which deals with the duty of persons in charge of dangerous things would be adequate to deal with deaths caused by dangerous dogs. This provision states:

It is the duty of every person who has in the person's charge or under the person's control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health, of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger, and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

2. Animal Management (Cats and Dogs) Act 2008

Furthermore, local councils are empowered by the *Animal Management (Cats and Dogs) Act 2008* to make declarations as to whether a dog is prohibited, dangerous or menacing. Under section 89(2) of this Act, the Council may make a dangerous dog declaration if the dog:

- (a) *has seriously attacked, or acted in a way that caused fear to, a person or another animal; or*
- (b) *may, in the opinion of an authorised person having regard to the way the dog has behaved towards a person or another animal, seriously attack, or act in a way that causes fear to, the person or animal.*

If a dog has been declared dangerous or menacing, its owner must satisfy a number of stringent management requirements. These responsibilities include:

- displaying suitable warning signs;
- provision of a specified enclosure;
- muzzling of the dog when in a public place for a dangerous dog;
- not bringing the dog into an off-leash area; and
- payment of a dangerous or menacing dog registration fee.
- Impounding and seizure of aggressive and dangerous dogs
- Council officers occasionally have cause to seize and impound dogs which present an unacceptable risk to the community due to the aggressive nature of the dogs or if a suitable enclosure to contain the dog does not exist.

In our view, the Council's powers under the *Animal Management (Cats and Dogs) Act 2008* and the ability to prosecute under section 289 of the Criminal Code constitute a suitable dog regulation regime. Therefore, we believe that it is unnecessary to introduce an offence specifically to deal with injuries or deaths caused by dangerous dogs. In our view, it would be more beneficial to introduce a consistent state-wide dog regulation regime, as opposed to the Council-specific regime that is currently in place. This would address any jurisdictional conflicts that may be created by having separate regulations for each Queensland Council.

In the Society's opinion, it would be more effective to provide public education and assistance to owners of prohibited, dangerous or menacing dogs on how to better control their animals. Education for owners and more stringent regulation of dogs and certain dog breeds would be more appropriately adapted to achieving the Government's policy objectives of preventing of injuries and deaths caused by dangerous dogs.

If you have any questions regarding the contents of this letter, please do not hesitate to contact our Policy Solicitors, Ms Binny De Saram on (07) 3842 5885 or b.desaram@qls.com.au or Ms Raylene D'Cruz on 3842 5884 or r.dacruz@qls.com.au.

We look forward to hearing from you.

Yours faithfully

Bruce Doyle
President