

## CLAUSE NOTES

### *Dog Control Amendment Bill 2019*

**Clause 1      Short Title**

Provides the title of the proposed Act.

**Clause 2      Commencement**

Provides that the Amendment Act will commence on the day it receives Royal Assent.

**Clause 3      Principal Act**

Identifies that the amendments relate to the *Dog Control Act 2000* (the Act).

**Clause 4      Section 7 amended (Dog management policy)**

Clause 4 clarifies section 7(2)(b) to remove ambiguity associated with 'the provision of declared areas' in a council's dog management policy.

The amendment provides that a council's dog management policy is to include 'the policy in relation to declarations made, or to be made'. This clarifies that councils must declare all areas under section 24, which are then often included as part of their dog management policy. This amendment reflects current practice in the local government sector.

Clause 4 also makes minor technical drafting improvements, identified by the Office of Parliamentary Counsel, to clarify the intent of 7(1) and 7(3) on the making and amendment of the dog management policy.

**Clause 5      Section 18 amended (Effective control of greyhounds)**

Clause 5 clarifies the intent of section 18 by explicitly stating that the provision applies to the effective control of greyhounds in both a public place and on private premises.

Clause 5 amends section 18 by allowing for greyhounds to be considered to be under effective control where they are in a declared area and are not contravening any conditions set by a local council in relation to greyhounds or all dogs with respect to that declared area.

Clause 5 also amends section 18 by removing current ambiguity and clarifies that greyhounds are under effective control when off-lead on private premises, so long as they are securely confined to those premises.

**Clause 6                      Section 19 amended (Dogs attacking persons or animals)**

Clause 6 amends section 19 by replacing the existing 19(3) with a new 19(3) and 19(3A), to apply different penalties in relation to dog attacks causing serious injury or death to an animal, and those causing serious injury to a person. The penalty for the former is 20 penalty units, and for the latter it is 30 penalty units.

Clause 6 further amends section 19 by making minor technical drafting refinements, identified by the Office of Parliamentary Counsel, to clarify the intent of 19(6) and 19(8).

Specifically:

- 19(6) is amended to clarify that it is not necessary in proceedings to prove that any actual injury was caused to a person, for those offences that do not relate to an injury being inflicted (i.e. being rushed, chased or bitten by a dog); and
- 19(8) is amended to clarify that liability for costs or damage in relation to the conduct of a dog is in relation to the commission of the relevant offence (and not the conduct of the dog more generally).

**Clause 7                      Section 19AA amended (Collection and analysis of a sample from a dog)**

Clause 7 amends section 19AA by including that an authorised officer, within the meaning of the new section 19AC, may request that a general manager authorise the collection of a sample from a dog in relation to an alleged offence committed under section 19(2), 19(3), 19(4) or the new section 19AB(1).

**Clause 8                      Sections 19AB and 19AC inserted**

**19AB. Dogs must not injure or kill sensitive wildlife**

Clause 8 creates a new offence provision in relation to dog attacks that result in the injury or death of 'sensitive wildlife', specified as such by Order by the Minister responsible for Part 4 of the *Nature Conservation Act 2002*, and in a location or locations specified by that Order.

An offence committed under this new section carries a penalty of a fine not exceeding 30 penalty units.

Clause 8 provides that if an owner of a dog is found guilty of an offence under 19AB, the court may also order that the owner pay either or both the reasonable costs incurred from the collection and analysis of a sample from a dog, and compensation for any damage caused or costs incurred as a result of the conduct of the dog in committing the offence. The court may also order that the dog be destroyed.

Clause 8 also defines the terms 'sensitive wildlife', 'sensitive area' and 'wildlife'.

### **19AC. Collection of a sample by authorised officer, &c.**

Clause 8 inserts section 19AC to provide that an authorised officer (being a police officer or a ranger under the *Nature Conservation Act 2002*), can collect a sample from a dog, without seeking the prior approval of the relevant council's general manager.

A further amendment is made to allow a State Government veterinary surgeon to collect a sample from a dog, without first seeking the approval of a general manager.

The new section 19AC also provides that an authorised officer may request a general manager to authorise the collection of a sample from a dog by a veterinary surgeon, to determine whether the dog was involved in the offence.

#### **Clause 9                   Section 20 amended (Exercise areas)**

Clause 9 clarifies section 20 by providing that the conditions relating to a declared exercise area are those conditions specified in the declaration.

#### **Clause 10                Section 21 amended (Training areas)**

Clause 10 clarifies section 21 by providing that the conditions relating to a declared training area are those conditions specified in the declaration.

#### **Clause 11               Section 22 amended (Prohibited areas)**

Clause 11 amends section 22 to provide that the owner of a dog (other than a guide dog or hearing dog) must ensure that the dog does not enter a prohibited area containing sensitive habitat for native wildlife. The current section 22 refers to 'taking' a dog into a prohibited area. The amendment broadens the application of the offence so that it captures instances of where a dog is at large or not accompanied by its owner.

Clause 11 also increases the penalty associated with the offence provision from 10 penalty units to 20 penalty units.

#### **Clause 12               Section 61 amended (Other evidence)**

Clause 12 amends section 61 to include a sample from a dog collected by an authorised officer under the new section 19AC, as being evidence of the identity of that dog.

#### **Clause 13               Repeal of Act**

Provides for the repeal of this Amendment Act a year after all provisions have commenced (at which time the amendments will be incorporated in the Principal Act).