

## Agreement in Principle

**Mr CHRIS HARTCHER** (Terrigal) [10.04 a.m.]: I move:

That this bill be now agreed to in principle.

As a member of a dog-loving family, I am proud to introduce this bill on behalf of the Liberals and The Nationals. I acknowledge also the co-sponsorship of the Deputy Leader of the Opposition and member for North Shore, who has been an outstanding advocate on this matter. The purpose of the bill is to amend the Companion Animals Act 1998 to allow dogs in outside eating areas, such as café tables on footpaths. This proposed legislation will impact many residents of New South Wales. Statistics reveal that in 2007 this State had 1.209 million dogs, which represented in the order of 70 per cent family dog ownership.

In New South Wales people are at liberty to go out and enjoy their lifestyle in a common-sense way. Unfortunately, under current legislation people who depend on their dogs for companionship cannot take them to outdoor eating areas to have a chat and a cup of coffee with a friend or have any food served to them. They either have to leave their dog at home or grab a takeaway coffee and/or food, rather than catch up with friends. This problem has created some concern in local communities. Although in Europe dogs are allowed into dining areas, this bill provides that dogs cannot go into totally covered areas. A well-behaved dog on a lead, sitting down, does not represent a health hazard. Currently, section 14 of the Companion Animals Act provides:

(1) Dogs are prohibited in the following places (whether or not they are leashed or otherwise controlled):

(b) Food preparation/consumption areas (meaning any public place, or part of a public place, that is within 10 metres of any apparatus provided in that public place or part for the preparation of food for human consumption or for the consumption of food for humans).

(4) A dog is not prohibited under the section in a place that is a food preparation/consumption area if the place is a public thoroughfare (such as a road, footpath or pathway).

Although these sections appear to be contradictory, the Department of Local Government has indicated that section 14 (4) relates to dogs being walked through areas of footpath where outdoor dining has been approved, not allowing them to stay in such areas. Section 21 (1) of the Food Act 2003 states:

(1) A person must comply with any requirement imposed on the person by a provision of the Food Standards Code in relation to the conduct of a food business or to food intended for sale or food for sale.

Clause 24(1) "Animals and Pests" in chapter 3 of the 2001 Australian New Zealand Food Standards Code provides:

(1) A food business must:

(a) subject to paragraph (b), not permit live animals in areas in which food is handled, other than seafood or other fish or shellfish

The guide to food safety standards indicates that this requirement prohibits all animals from areas in which food is handled unless the live animal is seafood or other shellfish. Areas in which food is handled include those in which food is made, manufactured, produced, collected, extracted, processed, stored, transported, delivered, prepared, treated, preserved, packed, cooked, thawed, served or displayed. Food businesses may keep security animals outside provided the area is not used for outdoor dining or drinking. Clause 24(1)(b) of the food standards code states:

(b) permit an assistance animal only in dining and drinking areas and other areas used by customers;

Clause 24(2) states:

(2) In subclause (1), 'assistance animal' means an animal referred to in section 9 of the Disability Discrimination Act 1992 of the Commonwealth. It should be noted that this section refers to a guide, a dog trained to assist a person in activities where hearing is required and any other animal trained to assist a person to alleviate the effect of a disability.

Under the Roads Act 1993 an outdoor dining approval may be granted on such condition as council may determine. The prohibition on dogs in food service areas only came to light last year when Mosman Municipal Council received complaints from two residents regarding dogs in Balmoral cafes. The problem, however, is not restricted to Mosman. Cafe proprietors in Cronulla Plaza have indicated that they are losing 8 to 10 customers

each day because they were unable to serve people with dogs in outdoor eating areas. According to Cheryl Brown, who has collected more than 500 signatures from Cronulla dog owners on a petition protesting against the enforcement of the provisions of the Food Act, older people are particularly distressed that they could no longer sit with their dogs at an outdoor eating area.

This bill provides that a dog is not prohibited from being in an outside eating area despite existing provisions in the Companion Animals Act 1998, the Food Act 2003 and the Food Standards Code under that Act that prohibit dogs from being in food preparation and consumption areas. These provisions will not prohibit a dog from being in an outside eating area as long as the dog is under the effective control of a competent person, is kept on the ground and is restrained by a chain, cord or leash that is not more than one metre in length. An outside eating area is defined as an area in which food is consumed by humans that is not enclosed and that can be entered by the public without passing through an enclosed area in which dogs are prohibited by the Companion Animals Act 1998. Such access by dogs will, at all times, remain at the discretion of the operator of the food business.

It is not necessary to state in the bill that the owner of the cafe retains a right to refuse entry or deny service to a person with a dog as the provision only overrides the specific legislative restrictions on having dogs in outside eating areas and does not interfere with private property rights. This legislation is supported by Mosman Municipal Council, the directors of the Royal New South Wales Canine Council trading as Dogs New South Wales, and the Local Government Association of New South Wales. The Executive of the Local Government Association of New South Wales supported a late conference motion received from Mosman Municipal Council, at the behest of the deputy mayor, Councillor Simon Menzies. In South Australia the regulations to the Food Act were amended in 2003 to allow the presence of dogs in outside eating areas which are not enclosed. Dr Duncan McFetridge, MP, shadow Minister for Health and shadow Minister for Mental Health, a veterinary surgeon and proponent of the South Australian private member's bill, which led to the amendment of the regulations, stated:

The regulatory change was a victory for common sense and good living. There are no issues about dogs biting people or urinating on furniture.

This bill is probably quite a small matter in the total scheme of things, but it is an important issue relating to the lifestyle of tens of thousands of people in New South Wales. I acknowledge also the assistance of Councillor Simon Menzies from the Mosman Municipal Council and thank the Deputy Leader of the Opposition, Jillian Skinner. I urge the New South Wales Government to support the bill as it represents an improvement, albeit a minor one, in the lifestyle of tens of thousands of New South Wales residents. I urge honourable members to support the bill and I commend it to the House.