



## Full Day Hansard Transcript (Legislative Council, 30 October 2013, Proof)

Proof

Extract from NSW Legislative Council Hansard and Papers Wednesday, 30 October 2013 (Proof).

### COMPANION ANIMALS AMENDMENT BILL 2013

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Marie Ficarra, on behalf of the Hon. John Ajaka.**

**Motion by the Hon. Marie Ficarra, on behalf of the Hon. John Ajaka, agreed to:**

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

### Second Reading

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [4.51 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### Leave granted.

I am pleased to introduce the Companion Animals Amendment Bill 2013. The principal object of the bill is to strengthen companion animal management in New South Wales to promote responsible pet ownership, to better protect our community and to reduce dog attacks. While the Government recognises the importance of companion animals to individuals and families in New South Wales, the Government also believes owning a cat or a dog comes with responsibilities. These responsibilities include ensuring the welfare of our pets and protecting the safety of people in our community, including the young and vulnerable. The bill therefore also represents a key step in a fundamental shift in the Companion Animals Act and pet ownership in New South Wales from a system that merely manages cats and dogs to a system that more actively promotes responsible pet ownership.

The bill is the outcome of work initiated by the Government in September 2011 with the establishment of the Companion Animals Taskforce to deal with community concerns about companion animals. I take this opportunity to publicly acknowledge the Chair of the task force, the member for Charlestown, Dr Andrew Cornwell, and other task force members for the good work they have done. The task force produced two reports with 38 recommendations, one report in late 2012 and one report specifically dealing with dangerous dog issues earlier this year. The Government was keen to listen to what the community had to say, and it released the reports for public consultation during April and May 2013. Members will not be surprised to learn that there were more than 5,300 submissions from the public. Clearly we care deeply about our pets and want the best for them. But, at the same time, people are rightly horrified and outraged when there are dog attacks resulting in serious injury or death. Sadly, we have heard recently of the death of little Deeon Higgins in Deniliquin and of the savage attack on Rob Nelson as he jogged through the streets of Sydney.

This Government is committed to doing whatever it reasonably can to eliminate or at least reduce the number of such attacks. The bill proposes a number of measures that will address this issue, but the main message is loud and clear: If you are a dog owner then you must be responsible. There are to be no ifs or buts; you must register and properly control your dog at all times. In order to emphasise this message, the bill proposes robust new measures most of which, as I said, respond to the recommendations of the Companion Animals Taskforce. I will chart some of the major initiatives for members. The Act already has significant powers and sanctions to deal with dangerous dogs, but the criteria for categorising a dog as dangerous are very high. Often a dog cannot be classified as dangerous until it kills or seriously injures a person or another animal. The Government's view is that the bar is set way too high and puts the New South Wales community at risk. It should be possible to require controls on dogs that are menacing but have not yet reached the dangerous threshold.

This bill will enable councils to do just that. Councils will have the capacity to categorise a dog as a menacing dog when the dog has displayed aggressive tendencies and/or has attacked a person or another animal resulting in a non-serious injury. The bill will also enable breeds to be declared menacing in the future, if necessary.

This would only be used where there is clear evidence that a particular breed displays unreasonable aggression that increases the risk of attack by that breed. As with dangerous dogs, these menacing dogs will be subject to controls such as a requirement to be on a leash and muzzled in public, and under the effective control of an adult. But those controls will not be as stringent as those which apply to dangerous dogs or restricted breeds. For example, while dangerous dogs will need to be enclosed to ensure the dog is restrained and prevent a child from approaching it, menacing dogs will not need to be kept in a purpose-built enclosure that is inspected and signed-off on by the local council. This will be far less onerous and costly to the owners of menacing dogs. The menacing dog will continue to be socialised at home under adult supervision.

Opportunities for behavioural training will also be promoted to owners, potentially leading to the dog being rehabilitated and, on owner application after 12 months, control requirements may be lifted if the council considers it appropriate. Further, as for dangerous dogs, the bill ensures that council officers will need to act responsibly. The owner of a dog that a council proposes to classify as menacing will be notified and have the opportunity to be heard by the council. The menacing dog category received enormous support from the public when the task force reports were put out for consultation and it is consistent with the regime in other States. The bill also sets out a new dog control framework to give councils a clear and graduated range of options to deal with a variety of antisocial and unacceptable dog behaviour.

Clear options available to councils now range from controlling nuisance dog behaviour, such as barking and repeated chasing and controlling menacing dog behaviour, such as being aggressive or making a non-serious attack, through to controlling dangerous behaviour, such as causing a serious injury or death, and restricted breeds, such as pitbulls. This bill also includes a power for councils to recognise interstate dangerous and menacing dog declarations by reciprocating that declaration in New South Wales. This reciprocity will be of clear benefit in border towns, such as those along the Murray River and Tweed Heads. One of the most important changes proposed in the bill is the increase in penalties. The horrific nature of some of the injuries sustained by dog attack victims means that the courts need a wide sentencing discretion in order to properly reflect the community's sense of outrage when dogs attack.

By increasing the penalties, this Government is making it blindingly clear that dog owners have high standards of responsibility and if they fail to meet those standards they will face stiff penalties commensurate with the gravity of their conduct. This is why the maximum penalties available for the most serious offences—such as a dog attack occasioning serious injury that has been caused by an owner of a menacing, dangerous or restricted dog failing to comply with control requirements—have been lifted to as high as \$77,000 or five years imprisonment, or both. Similarly, the bill has increased penalties for a person who entices a dog to attack. People who entice any dog to attack may end up with a \$22,000 penalty whether or not injury occurs. People who entice a menacing, dangerous or restricted dog to attack face the highest possible penalty of \$77,000 or five years imprisonment. These are severe penalties but they are there to drive home the message that the community will no longer accept that dog attacks are some kind of unfortunate accident—the buck needs to stop with the dog owner or other person in control of the dog.

Further measures included in the bill are the power for council officers to immediately seize a dog subject to a declaration to declare it dangerous or menacing for the purpose of microchipping and registering it. Currently, the Act allows such owners seven days to register their dogs after a proposal to declare it dangerous or restricted. However, as the task force reported, this seven-day compliance period gives some irresponsible owners time to hide their dogs. This means a dog that has attacked can, effectively, disappear and be unable to be traced again. This measure will ensure that all potentially dangerous and menacing dogs are registered and, as a result, can be traced and effectively monitored.

It is one thing to have greater flexibility in classifying the behaviour of dogs but it is crucial that dogs are registered so that councils know what they are dealing with. More than 40 per cent of cats and dogs that are microchipped remain unregistered. This not only means a loss of revenue for councils to carry out companion animal-related activities such as education but also creates a lack of vital information to regulate companion animals and target risk. For this reason the provisions relating to a failure to register have been amended to make it easier for councils to enforce registration. Councils will be able to enforce registration on more than one occasion and no matter where the companion animal is located.

Councils will also be able to issue notices to register a companion animal more frequently and owners will have shorter time frames within which to comply with a notice. Penalties for failing to register have been considerably strengthened. Fines for failure to register a cat or a non-classified dog are going up from \$165 to \$275, with a maximum penalty of \$5,500. Fines for not registering a menacing, dangerous or restricted dog are going up considerably more. These changes are about making it clear that responsible pet owners register their animals and we expect all pet owners to be responsible.

Further, the bill proposes that the limitation period for bringing prosecutions for dog attacks be extended to one year. The task force had recommended an even longer period, but there needs to be some certainty for those who may be accused of criminal activity. The extension of the limitation period to one year is a sensible compromise that will allow councils to collect the necessary evidence to pursue more complex prosecutions without causing undue anxiety to potential defendants. Of course, legislation is not the only way in which we are seeking to improve the companion animal system to promote responsible pet ownership that protects community safety and animal welfare. Education is another vital component of our Companion Animals Program.

The Government will provide funding over three years to significantly expand the successful school-based pet education program to preschool children and parents expecting a child. This will raise awareness amongst families and young children about how to act and be safe around dogs and prevent dog attacks. The Government will also provide a grants funding program to local councils to assist them to deliver targeted microchipping, registration and desexing programs in their local areas. This will particularly target problem areas. For example, areas with large numbers of unregistered animals and undesexed animals may be targeted to tackle cat and dog overpopulation and welfare issues. Further, areas with large numbers of dog attacks may also be targeted to assist councils to manage dangerous dog issues locally.

In order to expand education a new council grants program will be created to assist councils to be more proactive in managing companion animal issues locally, in particular, dangerous dogs. Lifetime registration fees will be increased to bring them into line with consumer price index increases. Lifetime registration fees have not changed for more than seven years. The proposal will increase the fees on an annual basis by the consumer price index, backdated to 2006. It is important to note that the fee increase will only occur in future registrations, not animals already registered. This

means, for example, that the registration cost for a desexed animal will rise from \$40 to \$49. The increased fees will assist councils to fund much-needed council companion animals management services such as ranger services, pounds and education. It will also assist with statewide programs.

Importantly, the bill will be supported by the Companion Animals Amendment Regulation together with other information needed to roll out these changes. This will include guidelines to assist councils with the implementation of the proposed amendments. This bill represents the most significant reforms to companion animal laws in New South Wales in many years. It increases council powers to deal with menacing dogs within a clearer dog control framework, increases penalties for the owners of dogs involved in an attack and encourages registration of cats and dogs to improve prevention. The bill also represents a positive step towards a system that more actively encourages responsible pet ownership.

It is vital that dog owners accept responsibility for the behaviour of their animals, and this bill provides measures allowing councils to proactively target irresponsible owners through the new menacing dog control category. Further work will be done over the coming months to implement more of the task force recommendations, including through a redesign of the companion animals registration system. These reforms, in tandem with the companion animals education proposed, provide a balanced and sensible approach to promoting responsible pet ownership and protecting the community from dangerous dogs and dog attacks in New South Wales. I commend the bill to the House.