

Impact Analysis Statement template

A Summary Impact Analysis Statement (IAS) must be completed for all regulatory proposals. A Full IAS must also be completed and attached for proposals that have significant impacts. Once completed, the IAS must be published.

Summary IAS

Details

Lead department	Department of Agriculture and Fisheries
Name of the proposal	Stronger dog control laws
Submission type	Summary IAS
Title of related legislative or regulatory instrument	<i>Animal Management (Cats and Dogs) Act 2008</i>
Date	October 2023

What is the nature, size and scope of the problem? What are the objectives of government action?

Australia has one of the highest dog ownership rates in the world. Queenslanders have embraced dog ownership and recorded significant increases since the COVID-19 pandemic shifted traditional work and social behaviours and interactions.

Ascertaining a definitive assessment about dog attacks is complicated by jurisdictional differences, varying rates and circumstances of dog ownership, recording and reporting practices (including age of relevant studies) and under-reporting. What is clear however, is increasing trends in aggressive dog and attack complaint numbers with corresponding higher rates of harm being caused to people and their pets.

In Australia in 2021-22, approximately 9500 people experienced *hospitalised injuries* associated with dog bites/attacks, equating to a rate of approximately 37 people per 100,000 population¹. That is similar to the rate of accidental poisoning, higher than for burns and is around half the rate of hospitalisation for car accidents² (except for children who are in fact, more likely to be hospitalised from a dog attack than a car accident³).

Queensland patient admission data shows 2553 hospitalisations from dog related incidents in 2021-22⁴. Earlier research indicates that Queensland recorded the third highest rate of dog bite hospitalisation nationally, behind the Northern Territory and the Australian Capital Territory⁵. Research from 2016 recorded

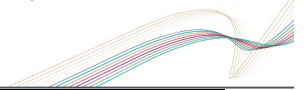
¹See Table 2 Australian Institute of Health and Welfare. (nd). *Injury in Australia: contact with living things*. Retrieved 17th September 2023, from <https://www.aihw.gov.au/reports/injury/contact-with-living-things>

² See table B20 in Table B: Australian Institute of Health and Welfare (nd). *Injury in Australia: Data*. Retrieved 17th September 2023, from <https://www.aihw.gov.au/reports/injury/injury-in-australia/data>

³ Animal Welfare Victoria. (nd). *Preventing dog attacks in the home*. Retrieved 17th September 2023, from <https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/dogs/dog-attacks-dangerous-and-menacing-dogs/preventing-dog-attacks-in-the-home>.

⁴ Queensland Health (2023). SDLO advice note: Presentations and admissions for dog bites 17/04/23.

⁵ Rajshekar et al (2017). The incidence of public sector hospitalisations due to dog bites in Australia 2001 – 2013. *Australian and New Zealand Journal of Public Health*, 41(4), 337-380. <https://doi.org/10.1111/1753-6405.12630>.



Australia's mortality rate from dog bites and attacks as approximately 0.004 per 100,000⁶ while 53 dog-related deaths were reported to an Australian coroner between 2001 and 2017 of which 49.1% resulted from biting and 41.5% from falls (predominantly aged people being knocked over/ lunged at aggressively by dogs)⁷.

Over the 10 years from 2011-12 to 2021-22, Queensland's emergency department *presentations* for dog bites and attacks increased by 64.5%, in comparison to Queensland's population growth of approximately 24.1% over that same period. Increased dog ownership, and closer and extended contact with dogs, particularly during the COVID-19 pandemic, is suggested to have contributed to this growth. However, hospitalisations due to dog bite were increasing prior to the COVID-related shift in household profiles⁸. International longitudinal studies have also recorded increases and noted that increases in human and/or dog populations alone cannot account for the shift⁹.

Available research and data reveals patterns that support action. Vulnerable cohorts such as children under 4 years old have the highest *occurrence* of hospitalisation rate, with the highest recorded place of occurrence being within a private residence¹⁰. According to KidSafe, around 81% of attacks happen in the child's own home¹¹. Older people, however, suffer more *fatalities*¹² and have longer hospital stays when attacked or bitten by a dog, with length of hospital stay vastly increasing once a patient hits 50 years of age¹³.

Public costs associated with dog attacks include investigations, hospital treatment and coronial enquiries associated with deaths. One older 2001 study¹⁴ reported the estimated annual cost associated with dog bite treatment in Australia at over \$7 million. Another study in a Sydney hospital revealed the mean clinical cost was \$427 per emergency department patient and \$4,795 per admitted patient, with children often requiring plastic and reconstructive surgery due to greater incidences of attacks to their heads, necks and faces¹⁵. Although practices vary depending on the nature of an investigation and the manner in which local governments deal with an event, information from one council indicates that an average of approximately 9.6 officer hours are allocated to investigation and resolution of each dog attack. With thousands of aggressive dog events being reported across the state annually, it could be expected that those costs are in the vicinity of between \$5 million to \$10 million.

Private costs associated with dog attacks include veterinary bills, loss of animals; health insurance claims, lost work and costs; psychological injury and loss of life. One study found that the average cost of an emergency veterinary treatment for dog victims of dog attacks in Melbourne was about \$380¹⁶. Psychological injury is difficult to quantify, but New Zealand studies of adult dog bite victims found that around 72% of respondents described psychological impacts¹⁷.

The *Animal Management (Cats and Dogs) Act 2008* (the Act or AMCDA) provides for the identification, registration, effective management and responsible management and breeding of dogs. The Act gives powers and responsibilities to local governments, which can also make local laws about dogs generally. Owners and people who are responsible for a dog must take reasonable steps to ensure the dog does not attack, or act in a way that causes fear to a person or another animal. Failing to take reasonable steps is an offence.

Offences under the Act include an escalating maximum penalty depending on the harm caused to a person - with the highest maximum penalty of 300 penalty units applying if the attack causes death or grievous bodily harm. Currently, the maximum penalty does not include a provision for a term of imprisonment. Depending

⁶ Sarenbo S, Svensson PA (2021). Bitten or struck by dog: A rising number of fatalities in Europe, 1995-2016. *Forensic Science International*. 318 (2021). 110611. <https://doi.org/10.1016/j.forsciint.2020.110592>.

⁷ National Coronial Information System (2020). *NCIS fact sheet: Animal-related deaths in Australia*. <https://files.ncis.org.au/2023-06/Fact%20sheet%20-%20F20-01%20-%20Animal-related%20deaths%20in%20Australia.pdf>.

⁸ Supra No.3.

⁹ Supra No.4.

¹⁰ Supra No.3 and 4.

¹¹ Kidsafe Qld Inc. (2006). Dog attacks: Fact Sheet. *Child Accident Prevention Foundation of Australia*. <https://kidsafeqld.com.au/wp-content/uploads/2020/12/dogattacks.pdf>.

¹² Supra No. 2.

¹³ Kreisfeld and Harrison. (2005). AIHW National Injury Surveillance Unit Briefing: Dog related Injuries. Australian Institute of Health and Welfare and Department of Health and Ageing.

¹⁴ As cited in Chiam et al. (2014) Retrospective review of dog bite injuries in children presenting to a South Australian tertiary children's hospital emergency department. *Journal of Paediatric Child Health*, 50; 791 – 794. and Pekin et al (2021). Dog bite Emergency department presentations in Brisbane metro south: Epidemiology and exploratory medical geography for targeted interventions. *One Health*, 12 (2021) 100204. <https://doi.org/10.1016/j.onehlt.2020.100204>.

¹⁵ Sulaiman et al (2022). Paediatric dog bite injuries: a 10-year retrospective cohort analysis from Sydney Children's Hospital. *Australia and New Zealand Journal of Surgery*, 92 (2022) 1149 -1152. <https://doi.org/10.1111/ans.17581>.

¹⁶ Heyward et al (2018). Characteristics and outcomes of dog attacks to dogs and cats in Melbourne, Australia: A retrospective study of 459 cases. *Preventive Veterinary Medicine*, 201,2022. <https://doi.org/10.1016/j.prevetmed.2022.105609>.

¹⁷ Duncan-Sutherland et al. (2022) Systematic review of dog bite prevention strategies. *Injury Prevention* 2022;28:288-297.



on the circumstances of an individual case, a dog owner may also be prosecuted for other criminal offences or be liable to a civil claim for damages as a result of a dog attack.

Most Queensland councils have adopted *Model Local Law No. 2 (Animal Management) 2010* which deals with some lower animal offences including dogs not being kept under effective control in public places. Councils may issue penalty infringement notices (PINs) for this offence. The model local law does not deal with menacing dog behaviour or dog attacks. Those matters are dealt with by the AMCDA to ensure consistent treatment across the state. Currently, council cannot issue PINs for dogs biting other animals. Court prosecutions levels for bites to people are low compared to the occurrence incidence rates (for further detail see information below).

As a result of dogs menacing or attacking people or other animals, local governments across the state have declared, on average, 500 dangerous dogs annually over the last three years (to end of calendar year 2022). To date, over 230 dogs have been declared dangerous since the start of 2023. In late 2021, following a recent spate of dog attacks on both humans and other animals, the Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities (the Minister) received representations from community organisations and local government Mayors seeking a review of the Act to further strengthen the laws which deal with dog ownership and dangerous dogs. The Animal Management (Cats and Dogs) Act Taskforce was established to carry out a targeted review of the Act. In April 2023 the Taskforce endorsed a proposed reform agenda, including a state-wide ban on restricted dog breeds, more regulatory tools for local government and increased penalties, particularly for the more serious offences, and the streamlining of decisions and appeals processes concerning destruction orders. Community consultation on the proposed reforms endorsed by the Taskforce as outlined in the *Strong Dog Laws: Safer Communities* discussion paper (the discussion paper) demonstrated overwhelming support for the reforms.

The increased risk of dog attacks requires a commensurate enforcement effort. Compared to more than 8,500 complaints to local governments and approximately 2,500 Queensland hospitalisations from dog attacks, there were only approximately 56 successful prosecutions on average each year relating to a dog attacking or causing fear under the AMCDA¹⁸. This compares to approximately 401 successful prosecutions each year in Victoria¹⁹ (population adjusted). Local government officers, who are generally the first responders to dog attacks, should be supported with to collect or manage evidence appropriately. Many local governments have limited capacity to complete investigations or undertake prosecutions at the level at which this social issue is rising.

The proposal involves creation of a new investigations and prosecution unit with the Department of Agriculture and Fisheries (DAF); support for councils around future regulatory changes for a range of compliance and enforcement measures; and other measures required to monitor and evaluate other changes to the regulatory arrangements being proposed in the discussion paper (including streamlining processes in relation to applications to QCAT for appeal of destruction orders).

Without the associated financial resourcing, it is unlikely that the outcomes in the discussion paper could be delivered in other ways given the taskforce recommendation of putting in place a Departmentally supported investigations and prosecution unit within state government.

In summary the four objectives of the proposal are:

1. A reduction in the number of dog attacks.
2. Reduction in harm caused by dog attacks: hospitalisations, ED presentations and recorded less serious bites.
3. Enhanced community safety and justice in relation to dog attacks.
4. A uniformly accessible framework.

¹⁸ Queensland Wide Interlinked Courts Database.(nd). *Number of defendants finalised at Queensland Magistrates Court pursuant to Animal Management (Cats and Dogs) Act 2008 by court location, order, monetary amount, charge title an year for the period 1 July 2018 to 30 June 2023*. Extracted on 19th September 2023. Note entries excluded where acquittal or non-adjudicated outcomes were recorded and that for entries with less than 5 defendants a high and low range was averaged for those cases because less than 5 defendants were not individually recorded.

¹⁹ Sentencing Advisory Council. (nd) SACStat: A database of sentencing statistics for the Magistrates' Court, County court and Supreme Court of Victoria. Retrieved 20th September 2023. from <https://www.sentencingcouncil.vic.gov.au/sacstat/browse-offences.html#N-all-offences-mc.>



What options were considered?

Proposal 1 – Banning certain breeds

More than a decade ago, the Federal Government enacted border protection legislation prohibiting the importation of listed dogs that are used in other countries for dog fighting. As dog fighting is not an accepted part of Australian culture, this prohibition made good sense.

In the case of the Pit Bull Terrier however, this import prohibition came too late to prevent significant numbers from being established in all jurisdictions of Australia. All Australian State Governments (except ACT) subsequently, supported the Federal Government's import prohibition legislation at the time, by enacting State legislation that restricted the keeping and breeding of these listed breeds.

Section 63 the Act defines restricted dogs as those listed in the *Commonwealth Customs (Prohibited Imports) Regulations 1956* (Cwlth). These breeds are:

- Dogo Argentino
- Fila Brasileiro
- Japanese Tosa
- American pit bull terrier or pit bull terrier
- Perro de Presa Canario or Presa Canario.

The Act limits ownership of these breeds of dogs to people who have been issued a specific permit by a council in relation to an individual dog. It is an offence to own or be responsible for a restricted dog without a permit and the current maximum penalty is 75 penalty units. There are currently less than 10 permits issued for restricted dogs in Queensland, however it is possible that more restricted breed dogs are kept in Queensland without a permit. Restricted dogs have additional controls imposed on them, including that they must be desexed, muzzled in public and kept in an enclosed area according to criteria prescribed under the Act.

Option 1 – Maintain status quo

The five identified breeds are prohibited from import under Commonwealth legislation due to their inherent aggressive behaviour and use in dog fights. These breeds can only be kept under a permit with a condition to be desexed and cannot be bred.

This option will eventually remove these breeds from the community over time (unless illegal breeding is occurring), without implementing any further regulation. However, under this option, a person could still apply and have approved, a permit to keep a restricted dog in Queensland, such as someone moving from interstate or buying a restricted breed from another jurisdiction which does not impose the desexing or breeding ban. This would result in the breeds being present in Queensland over a longer period of time and would not allay community concern around the presence of restricted dogs.

Option 2 – Ban restricted breeds

This option proposes to ban the five identified restricted breeds in Queensland and would lead to removing these dogs from the community faster than under Option 1.

It is proposed that the ban will come into effect six months after assent to allow time for owners of restricted dogs currently not under permit, to apply for a restricted dog permit. The revocation of permit provisions in Queensland will deliver consistency in permitting arrangements across all local governments by addressing local policy and local law variations in relation to the granting of permits.

This option will include a grandfather clause to allow restricted dogs already kept under permit to continue to be kept, as long as the permit was issued prior to the prohibition commencing. The implementation period could include a limited grace period during which owners could continue to apply for a permit under the current law for a restricted breed dog. Any owners who obtained a valid permit during this grace period would be able to keep the relevant dog after the prohibition commences.



Under this option, restricted breed dogs will not be allowed in Queensland and no restricted breed dog will be present once currently permitted dogs die out. The restricted dog register held by DAF identifies the youngest restricted dogs as 12 years old.

Where a restricted dog is kept without a relevant permit, local governments would be able to issue penalties to owners, seize restricted dogs and issue a destruction order.

Proposal 2 – Effective control requirement under the AMCDA

While about 72 of the 77 Queensland local governments have adopted the model local laws about the effective control of animals in public places, the proposal includes a requirement in the Act which would apply state-wide. The discussion paper proposed that PINs be available for off leash offences and that offences would be *higher* for regulated dogs (e.g. dangerous dogs and declared menacing).

The objective of the proposal is to foster uniformity across the state (objective No.4) and provide higher penalties in order to support objectives 1 to 3 around decreasing incidents and harm.

Option 1 – Maintain status quo

Under this option, councils would rely on their local laws or the Model Laws at the lower penalty rates set above.

Option 2 – New effective control requirements in public places under the AMCDA

The requirements for dogs to be under effective control in public places under the AMCDA will be very similar to the Model Local Law. However higher penalties, as outlined in the discussion paper are proposed. Support for a skilling up regime around effective control requirements under the AMCDA would be put in place. This would include guidelines and other material for councils operating under the new arrangements to help support compliance and support objectives 1 to 3 around decreasing incidents and harm. A one year monitoring and evaluation plan would also be put in place to confirm whether any undue strain was being put on Magistrates courts (i.e. levels of contested fines).

This option will achieve the government objective to provide a uniform and escalating (according to offence seriousness) framework for the state.

Proposal 3 – Review of penalties

The Act includes a range of penalties for offences relating to regulated dogs. Maximum penalties are limited to fines which range from 75 penalty units for owning or being responsible for a restricted dog without a permit to 300 penalty units for the failing to take reasonable steps to ensure a dog does not attack or act in a way that causes fear to a person or an animal when death or grievous bodily harm is caused.

Maximum penalties for failing to comply with standards of responsible dog ownership and regulated dogs should provide a general deterrent that also reflects community expectations. The penalties under the Act for failing to comply with these standards have not been reviewed for some time and require review to better reflect community expectations and improve alignment with those in other jurisdictions.

Reviewing the maximum penalties that apply for offences relating to regulated dogs would enable the seriousness of these offences to be reinforced and ensure the highest penalties apply to the most serious offences. A review would take into consideration the need for general deterrence to strengthen overall responsible dog ownership and improve specific individual deterrence to encourage people who have breached the standards and requirements in the Act to do the right thing in the future.

The government objective is to ensure penalties are reflective of community expectations and to protect community safety by providing a general and effective deterrent to persons responsible for a regulated dog.

The proposed penalties are:

Section	Regulated dog offences	Current Maximum penalty units	Proposed Maximum penalty units	Current PIN levels	Proposed PIN levels
13A(1) (new)	Person must not, without a reasonable excuse, own or be the responsible person for a prohibited		150	NA	15

	dog unless the person has a reasonable excuse				
13(B) (formerly section 66 (1))	A person must not supply a prohibited dog to another person	150	150	NA	15 (note that <u>possess</u> for supply will not be a Pin-able offence)
81(1)	Responsible person for restricted dog must ensure permit condition complied with (transitional)	75	75	15	15
81(2)	Responsible person for restricted dog must ensure permit condition complied with (transitional)	75	75	15	15
93	Owner's obligation if proposed declaration notice in force	75	150	NA	15
97	Declared dangerous dogs - ensure permit conditions are complied with	75	150	NA	15
98	Declared menacing dogs - ensure permit conditions are complied with	75	150	NA	15
134	Failure to comply with compliance notice - for regulated dog	75	150	NA	15

Option 1 – Maintain status quo

Maintaining status quo would not amend penalties associated with for offences related to regulated dogs. This proposal does not reflect community expectations as identified in the feedback obtained during consultation nor does it act as a sufficient deterrent to persons responsible for a dog.

This option does not provide an increased deterrent to persons responsible for a dog in public places and does not meet the governments objectives around protection of the community.

Option 2 – Review of penalties for offences relating to regulated dogs

Reviewing the maximum penalties that apply for offences relating to regulated dogs would enable the seriousness of these offences to be reinforced and ensure the highest penalties apply to the most serious offences.

A review would take into consideration the need for general deterrence to strengthen overall responsible dog ownership and improve specific individual deterrence to encourage people to adhere to the Act.

Currently, the response to all but the most serious dog attacks, such as those resulting in death, has generally been administrative action by local government, usually involving the declaring of an offending dog menacing or dangerous (therefore becoming a regulated dog). Where a regulated dog attacks for a second time, the most common action by councils is to seize the dog and then to issue a notice of destruction.

Proposed penalties will be agreed with relevant state government agencies to ensure consistency across Queensland legislation and would include human rights considerations and compliance with legislative standards.

84% of respondents to the *Strong dog laws: Safer communities* discussion paper, agreed or strongly agreed to reviewing offences relating to regulated dogs. The most common reasons for support for the proposal was increasing penalties for irresponsible dog owners will act as a deterrent to people doing the wrong thing and



will result in fewer incidences of dog attacks; and dog owners should be responsible for their dog's behaviour and act in a way that protects the safety of the community.

There will be limited increased impact on local government who are currently investigating and taking action for these offences. The proposal will, however, provide local government with an escalating suite of enforcement tools, allowing them to apply appropriate enforcement action proportionate to the offence. The proposal also includes support for councils in relation to the new changes.

Proposal 4 – New offence including imprisonment for most serious attacks

Currently, if a dog attack causes bodily harm to a person or another animal, the owner or responsible person for the dog may be subject to criminal or civil liability as a result of the harm caused, depending on the circumstances of the case. However, criminal liability may be on the basis of criminal negligence which may be difficult to prosecute given the higher standard of proof and the requirement for the prosecution to prove beyond reasonable doubt that the person owed the prescribed duty of care, omitted to perform that duty, and this caused the harm to the other person.

The proposal in the discussion paper was to introduce a new criminal offence in the Act that captures conduct of an owner, or responsible person for a dog, who fails to take reasonable steps to effectively control their dog if the dog causes bodily harm, grievous bodily harm or death to a person. This new offence would also include a sliding scale of maximum penalties including imprisonment if the dog is a regulated dog or the owner or responsible person has previously been convicted of an offence relating to a regulated dog.

Laws in each state and territory include criminal offences relating to dog attacks and penalties differ in each jurisdiction. In New South Wales, South Australia, the Australian Capital Territory, Western Australia, Victoria and Tasmania laws include offences with maximum penalties including various periods of imprisonment for the most serious types of dog attacks. Higher penalties generally apply for offences involving greater culpability or more serious matters.

The government objective is to: (a) better reflect community expectations in relation to penalties; (b) improve alignment with those in other jurisdictions; and (c) address what appears to be rising a public health issue where people are being hospitalised.

The *proposed* penalties are:

Section	Effective control offences	New Maximum penalty units	Proposed new PINS* (subject to DJAG approval)
193(1)(a)(i)	if the attack causes the death of or causes grievous bodily harm to a person – if the dog is a regulated dog	600 PU or 2 years imprisonment	NA
193(1)(a)(ii)	if the attack causes the death of or causes grievous bodily harm to a person - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	600 PU or 2 years imprisonment	NA
193(1)(a)(iii)	if the attack causes the death of or causes grievous bodily harm to a person - otherwise	600 PU or 1 year imprisonment	NA
193(1)(b)(i)	If the attack causes the death of or maims an animal - if the dog is a regulated dog	500 PUs	NA
193(1)(b)(ii)	If the attack causes the death of or maims an animal - if the relevant person has been	500 PUs	NA

	convicted of a serious dog offence within the preceding 5 years		
193(1)(b)(iii)	If the attack causes the death of or maims an animal (no preceding conviction and is not a regulated dog)	400 PUs	NA
193(1)(c)(i)	If the attacks causes bodily harm to a person — if the dog is a regulated dog	300 PUs or 6 months imprisonment	NA
193(1)(c)(ii)	If the attacks causes bodily harm to a person - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	300 PUs or 6 months imprisonment	NA
193(1)(c)(iii)	If the attacks causes bodily harm to a person (no preceding conviction and not a regulated dog)	300 PUs	NA
193(1)(d)(i)	If the attack wounds an animal - if the dog is a regulated dog	200 PUs	20 PU (\$3096)
193(1)(d)(ii)	If the attack wounds an animal - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	200 PUs	20 PU (\$3096)
193(1)(d)(iii)	If the attack wounds an animal (no preceding conviction and is not a regulated dog)	150 PUs	15 PU (\$2,322)
193(1)(e)(i)	If paragraphs (a) to (d) do not apply (i.e. a simple off leash offence) - if the dog is a regulated dog	100 PUs	10 PU** (\$1548)
193(1)(e)(ii)	If paragraphs (a) to (d) do not apply (i.e. a simple off leash offence, not a regulated dog and no wounding has occurred)	50 PUs	5 PU** (\$774)

*PINS at the time of writing are \$154.80 per PU

**Councils maximum fine under the relevant Model Local Law is \$309.60

Section	Effective control offences	Proposed new maximum penalty units	Proposed new PINS (subject to DJAG approval)
194(a)(i)	if the attack causes the death of or causes grievous bodily harm to a person – if the dog is a regulated dog	600 PU or 2 years imprisonment	NA

194(a)(ii)	if the attack causes the death of or causes grievous bodily harm to a person - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	600 PU or 2 years imprisonment	NA
194(a)(iii)	if the attack causes the death of or causes grievous bodily harm to a person (no preceding conviction and not a regulated dog)	600 PU or 1 year imprisonment	NA
194(b)(i)	If the attack causes the death of or maims an animal - if the dog is a regulated dog	500 PUs	NA
194(b)(ii)	If the attack causes the death of or maims an animal - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	500 PUs	NA
194(b)(iii)	If the attack causes the death of or maims an animal (no preceding conviction and not a regulated dog)	400 PUs	NA
194(c)(i)	If the attacks causes bodily harm to the person — if the dog is a regulated dog	300 Pus or 6 months imprisonment	NA
194(c)(ii)	If the attacks causes bodily harm to the person - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	300 Pus or 6 months imprisonment	NA
194(c)(iii)	If the attacks causes bodily harm to a person (no preceding conviction and not a regulated dog)	300 PUs	NA
194(d)(i)	If the attack wounds an animal - if the dog is a regulated dog	200 PUs	NA
194(d)(ii)	If the attack wounds an animal - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	200 PUs	NA
194(d)(iii)	If the attack wounds an animal (no preceding conviction and not a regulated dog)	150 PUs	NA
194(e)(i)	Otherwise (i.e. no physical harm to either human or animal but relevant person	100 PUs	NA

	failed to ensure dog doesn't attack or cause fear) - if the dog is a regulated dog		
194(e)(ii)	Otherwise (i.e. no physical harm to either human or animal but relevant person failed to ensure dog doesn't attack or cause fear) -for a dog that is not a regulated dog	50 PUs	NA
195(1)(a)(i)	if the attack causes the death of or causes grievous bodily harm to a person – if the dog is a regulated dog	700 PU or 3 years imprisonment	NA
195(1)(a)(ii)	if the attack causes the death of or causes grievous bodily harm to a person - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	700 PU or 3 years imprisonment	NA
195(1)(a)(iii)	if the attack causes the death of or causes grievous bodily harm to a person (no preceding conviction and not a regulated dog)	700 PU or 2 years imprisonment	NA
195(1)(b)(i)	If the attack causes the death of or maims the animal - if the dog is a regulated dog	600 PUs	NA
195(1)(b)(ii)	If the attack causes the death of or maims an animal - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	600 PUs	NA
195(1)(b)(iii)	If the attack causes the death of or maims an animal - otherwise (dog not regulated, no conviction of serious dog offence in last 5 years)	500 PUs	NA
195(1)(c)(i)	If the attacks causes bodily harm to the person — if the dog is a regulated dog	400 PUs or 2 years imprisonment	NA
195(1)(c)(ii)	If the attacks causes bodily harm to the person - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	400 PUs or 2 years imprisonment	NA
195(1)(c)(iii)	If the attacks causes bodily harm to the person	400 PUs	NA

	(no preceding conviction and not a regulated dog)		
195(1)(d)(i)	If the attack wounds an animal - if the dog is a regulated dog	300 PUs	NA
195(1)(d)(ii)	If the attack wounds an animal - if the relevant person has been convicted of a serious dog offence within the preceding 5 years	300 PUs	NA
195(1)(d)(iii)	If the attack wounds an animal (no preceding conviction and not a regulated dog)	200 PUs	NA
195(1)(e)(i)	Otherwise (i.e. no physical harm to either human or animal but person failed to ensure dog doesn't attack or cause fear) - if the dog is a regulated dog	150 PUs	NA
195(1)(e)(ii)	Otherwise (i.e. no physical harm to either human or animal but person failed to ensure dog doesn't attack or cause fear) -for a dog that is not a regulated dog	75 PUs	NA

Option 1 – Maintain status quo

Option 1 will not introduce any further penalty on owners of dogs who cause the most serious of harm. This option does not act as a sufficient deterrent for responsible persons of a dog to ensure it does not inflict bodily harm or death on a person. Under this option, the penalties for a person responsible for a dog that attacks will remain the same and will not include imprisonment.

Maintaining status quo does not meet the government's policy objectives to: (a) better reflect community expectations in relation to penalties; (b) improve alignment with those in other jurisdictions; and (c) address what appears to be rising a public health issue where people are being hospitalised.

Option 2 – New maximum penalty including imprisonment as a maximum penalty

It is proposed there would be a sliding scale of maximum penalties ranging from terms of imprisonment where there is an attack that results in death down to more minor penalties.

It is proposed to introduce a new criminal offence in the Act that captures the conduct of an owner, or responsible person for a dog, who fails to take reasonable steps to effectively control their dog if the dog causes bodily harm, grievous bodily harm or death to a person. The highest penalty would be available for a person who has encouraged a dog to attack where death or grievous bodily harm has been inflicted on a person (with longer sentences if the dog is a regulated dog, the person was convicted of a serious dog offence in the preceding 5 years).

The new offences would complement existing offences and offences available at criminal law to create an appropriate hierarchy of offences reflecting various levels of culpability. It would also bring Queensland in more line with laws in New South Wales, Tasmania, the Australian Capital Territory, Victoria and Western Australia which have maximum penalties that include imprisonment for the most serious types of dog attacks.

In relation to a new offence including imprisonment, 81% of respondents to the discussion paper supported the proposal. The most common reason for supporting the offence was to ensure owners were accountable, and improved community safety. Respondents believe such a proposal would act as an incentive to either

not own a dangerous dog, or to do the right thing in public. There was however, an acknowledged need for context to be considered when determining the level of penalties, particularly for imprisonment.

In the most serious of cases (grievous bodily harm and death of a person), cases are currently, and will likely continue to be, investigated by the Queensland Police Service as Criminal Code offences, with DAF undertaking intermediate level prosecutions under a newly established investigations and prosecutions function for the AMCDA. Although the scope is yet to be finalised, this will likely include bodily harm and death of animals or where a jail term is proposed for an offence. The proposal includes funding for establishment and ongoing operation of DAF investigations and prosecutions function for the AMCDA. Councils will remain responsible for preliminary investigatory matters for referral to either QPS or DAF and doing compliance for lower-level matters. The proposal includes a capability uplift package to assist council in adopting this new model (e.g. development of guidelines, interpretation material etc councils doing that preliminary work).

Service industry organisations such as Energy Queensland were also supportive of this proposal particularly where intent could be proved. The Queensland Council of Civil Liberties was also supportive of the proposal provided the penalty was used only in the most serious of cases.

Proposal 5 – Clarifying when a destruction order can be made

As a result of dogs menacing or attacking people or other animals, local governments across the state have declared, on average, 500 dangerous dogs annually over the last three years (to end of calendar year 2022). To date, over 230 dogs have been declared dangerous in the 2023 calendar year.

Currently, there is no guidance provided in the Act about when a destruction order for a dog can be made. The absence of clear legislative guidance contributes to inconsistent or arbitrary decision making, creating an avenue for owners of a dog subject to a destruction order, to seek an appeal.

An appeal process can be drawn out and results in increased costs for local government for the duration of time the dog is kept in its care, in some cases, for periods of up to 12 months. The uncertainty can generate emotional turmoil for the owner and the dog during this period.

QCAT Practice Direction No.2 of 2023 provides procedural guidance about applications for review of decisions made about animals under the Act. It contains information to assist parties to understand the process and provides directions to them about some of the things they must do.

In the absence of clear statutory guidance, QCAT developed a test to be applied when applications are made for external review²⁰.

Local government have expressed concerns in relation to the extended timeframes and dog maintenance costs associated with determining internal and external reviews and appeals of administrative decisions may by local government about regulated dog declarations, the seizures of dogs and destruction orders. Review and appeal timelines can lead to delays in some control measures being imposed by local government.

The objectives of government action are to simplify and make clear when a destruction order must be made for a regulated dog and to provide further guidance on when a destruction order may be made for a dog other than a regulated dog. In addition to providing further clarity, the provisions should improve consistency for decision makers in QCAT.

The impacts of the changes are unclear at this stage. Having more defined guidance may reduce uncertainty. It is proposed to fund a one-year monitoring and evaluation plan to check on QCAT impacts.

Option 1 – Maintain status quo

This option will not amend the Act and therefore will not achieve the government objective of clarifying when a destruction order must or can be made for a dangerous dog.

This option will also not achieve the additional objectives of setting clear expectations of when the protection of the community outweighs the rights of a dog owner, nor will it provide clarity and improve consistency for decision makers in QCAT.

²⁰ See for example, *Gligoric v Gold Coast City Council* [2020] QCAT 320

Option 2 – Clarifying when a destruction order must be made

The proposal includes amending the Act to make it clear that a destruction order must be made for a seized regulated dog as a consequence of that dog having attacked, threatened to attack or acting in a way that causes fear to a person or another animal, or is a risk to community health or safety.

The proposal will also generate mandatory guidelines that clarify when an authorised officer may make a destruction order for a dog other than a regulated dog.

It is proposed that the term 'cannot be effectively controlled' would be determined, taking into consideration the matters developed and followed in recent review and appeal cases by QCAT including:

- the relevant history of the behaviour of the dog giving rise to consideration of the making of a destruction order
- any other relevant history of the behaviour of the dog including the circumstances giving rise to the declaration that the dog is a regulated dog
- the current behaviour of the dog including whether the behaviour of the dog has been, and/or could be, modified through appropriate training
- the arrangements for the dog at its place of residence including the security of any enclosure and whether any interaction by the dog with persons, including household members and other persons upon entering the property, poses a threat of harm to such persons
- the risk the dog poses to community health or safety including the risk of harm to people and other animals outside the place of residence of the dog
- compliance by the owner of the dog with any permit conditions imposed as a result of the dog being declared a regulated dog
- whether the owner of the dog demonstrates insight into and understanding of the dog's behaviour and has acted appropriately to mitigate any risk posed by the dog to people or animals
- the rights of individuals including the owner of the dog.

Implementation of this option will achieve the government objective of clarifying when a destruction order must, and can be, made and clarify decision making policy for councils while achieving better consistency for the decision makers in QCAT. The guidelines will clarify expectations about when the protection of the community outweighs the property rights of dog owners.

The option will reduce the cost associated with holding dogs during appeal processes noting that the implementation will remove subjectivity reducing grounds for appeal and potentially reducing appeal timelines. It is proposed that the monitoring plan would also apply to QCAT matters.

Proposal 6 – Streamline appeal processes

Local government have expressed concerns in relation to the extended timeframes and dog maintenance costs associated with determining internal and external reviews and appeals of administrative decisions made by local government about regulated dog declarations, the seizures of dogs and destruction orders. Review and appeal timelines can lead to delays in some control measures being imposed by local government.

Most external review applications made under the Act relate to destruction orders for regulated dogs. In some cases, it can take more than 12 months for the review and appeal mechanisms to be exhausted. During that time, the dog is impounded by local government at its cost.

The making of a destruction order must be subject to appropriate review and be consistent with principles of natural justice. However, the multiple levels of internal and external review and appeal can result in significant delay with adverse consequences for dogs, local government, and the community.

A destruction order can be contested by the dog's owner or responsible person applying for an internal review of council's decision within 14 days of being notified about the order. An internal review involves the making of the destruction order being considered afresh. If the person is not satisfied with the outcome of the internal council review, they can apply to the QCAT for an external review of the destruction order. The external



review by QCAT is an administrative review process and QCAT has a fresh hearing of the making of the destruction order.

If the owner or responsible person is not satisfied with the outcome of the external review by QCAT, they can appeal the decision to the QCAT Appeal Tribunal. Generally, an appeal to the QCAT Appeal Tribunal on a question of law is as of right. An appeal on a question of fact or mixed law and fact may only be made with the leave of the Appeal Tribunal.

This can be costly and time consuming and place significant burden on local government, have further impacts on the welfare of the dog, and result in emotional uncertainty for the owner and community.

The government objective is to reduce the burden and costs to local government and dog owners by reducing the circumstances in which an appeal can be made to the QCAT Appeal Tribunal and reduce the emotional uncertainty experienced by dog owners and community members.

It is proposed that the monitoring plan would also apply to appeals to the QCAT appellate jurisdiction.

Option 1 – Maintain status quo

This option will not amend the Act and will continue to allow appeals on a question of fact or mixed fact and law.

In some cases, continuing to allow appeals on a question of fact or mixed fact and law could result in a continued drawn-out process and will not reduce the burden or costs incurred by local government for housing a dog during the appeals process.

As most appeals to QCAT are initiated by individual dog owners, they often lack legal knowledge. This can complicate the appeals process due to making invalid applications which must be considered, but also further delaying the process.

Emotional uncertainty experienced by the dog owner and community will also not be reduced under this option, nor will the welfare of the dog be increased.

Option 2 – Streamlining appeal process

It is proposed that legislative amendment is progressed to limit when an external review decision about a destruction order can be appealed on a question of law and to clarify that appeals on a question of fact or mixed fact and law are not permitted at all.

Dog owners contesting a decision will still have access to an internal review process and will be able to seek external review of decisions by the Queensland Civil and Administrative Tribunal, but further avenues for appeal will be more restricted.

This amendment is aimed at reducing the number of appeals, therefore reducing the burden and costs on local government of housing a dog through the appeal process. The streamlined process will also provide greater certainty to dog owners and the community and provide more humane outcomes for dogs.

What are the impacts?

The *Stronger Dog Laws: Safer Communities discussion paper* outlined the benefits and impacts of the government's proposed reforms. Community consultation on the proposed reforms indicated strong, to very strong support for all of the measures outlined.

Across all proposals there should be no financial impacts on the community other than exposure to higher levels of penalties for existing offences (either under the AMCDA or comparable sections of the Model Local Laws). The changed appeal provisions will involve some loss of access around hearings for appeals, but only with respect to decisions that have already undergone two reviews involving questions of fact. This change is necessary to address what the community and local government sees as a burdensome, costly and traumatic process for stakeholders. Councils will potentially be both impacted and benefited. Benefits including a range of greater penalty levels, access to PINs for bites to animals by dogs, support from a newly created DAF investigation and prosecution unit, guidance to support the changes and reduction of time of appeals in QCAT etc. Impacts include a possible increase in people contesting their higher PINS and costs of adoption of the new changes including review of the new support material under the package. It is noted



that the measures being proposed will also be supported by a funded, non-regulatory communication and education campaign and a range of support for First Nations people who seek to achieve objectives No. 1 to 3 relating to reduction of harm and incidences occurring.

Proposal 1 – Banning certain breeds

Option 1 – Maintain status quo

Under this option a social cost to the community remains as restricted dog breeds will continue to be allowed in the community under permit. Option 1 does not alleviate community safety concerns caused by these breeds being present in the community and will also allow additional restricted dogs to potentially relocate into Queensland from interstate.

There are no additional financial costs associated with this option that would be incurred by restricted breed dog owners to maintain their dog as existing permit conditions would remain.

This option is not effective in achieving the objectives of reducing the risks associated with restricted breeds and increasing community confidence in using public spaces where restricted breed dogs may be present.

Option 2 – Ban restricted breeds

No clear *evidenced* causal link between breed and fatality or biting exits as noted by a variety of animal management groups. Sutherland et al. conducted an efficacy review of interventions to prevent dog bites and dog aggression and point to five 'moderate to high quality' studies suggesting that breed specific legislation (BSL) showing a *possible* (albeit small) effect on dog bite rates (and noted some issues with lack of control groups). These were in Spain²¹, Odense Denmark²², Florence Italy²³, Winnipeg Manitoba²⁴ and a study of mixed provinces in Canada²⁵.

Given the mixed evidence around the efficacy of BSL, it is likely that a breed ban *alone* will not significantly reduce the harm associated with dog attacks. However, the banning of the breed will likely have some psychological benefit to victim groups and the community at large and contribute to the government's objective of increasing community confidence in using public spaces. Recent consultation indicates the public is strongly in favour of a ban.

The proposal will impact a very small group of people's rights to own dogs that have been traditionally bred as blood sport fighting dogs, noting dog fighting is illegal under the *Animal Care and Protection Act 2001*. There are many similar breeds available that these people can own lawfully which may present a lesser risk to the community. There are no additional financials costs associated with this option than those incurred by existing restricted breed dog owners to maintain their dog in-line with permit conditions.

While there is the potential for owners of restricted dogs to 'hide' or not register their dogs due to the associated permit conditions, maintaining status quo also poses this same potential. There is no evidence to support this is the case and therefore, investigation into potential banned breeds would be no different to existing unregistered complaints.

Proposal 2 – Effective control requirement under the AMCDA

Option 1 – Maintain status quo

Under this option, lower levels of penalty are available to local governments under the Model Local Laws and PINS could not be issued for dogs biting other animals.

Given the increasing number of emergency department presentations (which would not occur in relation to bites in public had they been tethered), it appears that penalties under this option are not at sufficient levels to be an effective deterrent and would see councils having to rely on expensive prosecutions in order to financially incentivise cases where dogs bite animals.

21 Villalbi et al. (2010). Decline in hospitalisations due to dog bite injuries in Catalonia, 1997–2008. An effect of government regulation? *Injury Prevention* 2010;16:408–410.

22 Ilson et al. (2018). The effect of breed-specific dog legislation on hospital treated dog bites in Odense, Denmark-A time series intervention study. *PLoS One* 2018;13:e0208393.

23 Mariti C, Sighieri C, Ciceroni C. (2003). Italian breed-specific legislation on potentially dangerous dogs (2003): assessment of its effects in the city of Florence (Italy). *Dog Behaviour*, 2015;2:25–31.

24 Raghavan et al. (2013). Effectiveness of breed-specific legislation in decreasing the incidence of dog-bite injury hospitalisations in people in the Canadian province of Manitoba. *Injury Prevention*; 2013;19:177-183.

25 Dodman et al. (1996). Influence of owner personality type on expression and treatment outcome of dominance aggression in dogs. *Journal of the American Veterinary Medicine Association* 1996;209:1107–9.

Option 2 – New effective control requirements in public places

This option offers a uniform state-wide arrangement for effective control measures across the state and if, as proposed in the discussion paper, there are increased penalties for regulated dogs it would provide greater financial deterrence.

There will be both benefits and impacts for members of the community. Fines are already available for off leash offences, so arguably there is no greater impost to the community (except for any potential rise in fine amounts). It is noted that fines are easily avoidable by people using common sense and applying practical and simple measures to restrain dogs when in public. The risks associated with hardship possibly caused by the measure can be mitigated by measures such as SPER payment plans and other work and development orders (such as community service and treatments etc).

It is possible at these higher levels of fines, people may be more inclined to appeal their PINs. It is envisaged that a one-year monitoring plan would be put in place to monitor levels of appeals to courts against issued PINs to ensure that caseloads are still manageable.

This option is most effective at achieving government objectives of a consistent state-wide requirement, at financial levels that might deter poor behaviour and prevent conditions that can lead to people and animals being bitten.

Proposal 3 – Review of penalties**Option 1 – Maintain status quo**

There are already a range of penalties for dogs being off leash and for dog aggression. However, given that hospitalisations have consistently been rising, this suggests that the existing penalty regimes are not sufficiently providing the level of deterrent needed for behaviour change.

Option 2 – Review of penalties for offences relating to regulated dogs

An increase in penalties is likely to be reflective of community expectations around the management of an increasing public health issue. A review itself does not create any impact. To the extent that penalties are increased, this would act as a financial deterrent and will increase community confidence in utilising public amenities. A general rise in penalties will create additional financial impost on persons who may already be impacted by cost of living pressures. However, the government's proposal is to better align penalties with comparable offences in other jurisdictions, align penalties with the harm caused by the offence and to respond to community demand for penalties to act as a strong deterrent.

The revised penalties are being discussed with relevant agencies including as DJAG. Aspects such as additional burden for lower income earners and impacts for indigenous communities will be taken into consideration when setting revised penalties.

Support will be provided to councils to assist in with changing to the new arrangements.

Proposal 4 – New offence including imprisonment for most serious attacks**Option 1 – Maintain status quo**

Under this option there remains a social cost to the community through loss of confidence in using public amenities such as parks, beaches and cafes where dogs are present, and people are exposed to the risk of attack. Vulnerable groups such as children, older people or trades visitors etc in private homes still lack adequate protection.

This option is not effective in achieving the government objectives as it does not present a sufficient deterrent to persons responsible for a dog and therefore will not increase community confidence in using public places or protect vulnerable cohorts of people. Public costs of hospitalisation will continue to rise as they have done over the last decade. People will continue to privately bear physical and psychological injury as well as vet bills with inadequate sense of justice or redress.

It is noted that in consultation, there was some limited community feedback pressing for no introduction of imprisonment as a penalty, as some were worried about injustice, or think it is unfair for an owner to go to jail because of the dog's actions. It should be noted that offences where jail time is a potential outcome,



these matters would be heard in a court and the principles of natural justice and evidence demonstrating beyond a reasonable doubt would apply (criminal standard of proof).

Option 2 – New maximum penalty including imprisonment as a maximum penalty

Currently, the response to all but the most serious dog attacks, such as those resulting in death, has generally been administrative action by local government, such as declaring dogs menacing or dangerous, or destroying dogs. The owner's impact would be the loss of the dog.

Feedback on the discussion paper clearly shows that the community believes additional deterrence, in the form of increased penalties for offences, is needed to ensure dog owners control their dogs appropriately so they do not attack other animals or humans.

Social benefits under this option are realised, as the increased penalties including imprisonment are a sufficient deterrent to persons responsible for a dog to ensure they maintain their dog under effective control. This will achieve the government objective of increasing community confidence in utilising public amenities such as parks and beaches where dogs may be present.

The proposed penalties will better align Queensland's legislation with that of most other jurisdictions in Australia.

Compared to more than 8,500 complaints to local governments and approximately 2,500 Queensland hospitalisations from dog attacks, there were only approximately 56 successful prosecutions on average each year relating to a dog attacking or causing fear under the AMCDA²⁶. This compares to approximately 401 successful prosecutions each year in Victoria²⁷ (population adjusted).

Under the government reform framework DAF and QPS would provide support local governments with the carriage of prosecutions arising from serious dog attacks, to reduce the impact burden on councils. In the most serious of cases (grievous bodily harm and death of a person), cases are currently, and will likely continue to be, investigated by the Queensland Police Service as Criminal Code offences, with DAF undertaking intermediate level prosecutions under a newly established investigations and prosecutions function for the AMCDA. It is anticipated that intermediate level prosecutions will rise under the new laws and will be the area where state government support for councils will be most focussed.

Proposal 5 – Clarifying when a destruction order can be made

Option 1 – Maintain status quo

Last financial year, there were around 47 animal management matters on QCAT's general review list²⁸.

As legal representation is generally not permitted, the costs associated with QCAT hearings for them is more likely to be a feature of how long processes last. QCAT's average time to finalise a review of government agency decisions under its Civil, Administrative and Disciplinary or CAD Division is around 45 weeks (315 days/11.25 months)²⁹. The costs associated with the State's administering of reviews and appeals concerning dog destruction decisions is estimated to be in excess of \$600 000 annually.

The Local Government Association of Queensland has provided other examples of local government costs. This is particularly when legal advice has been sought; with one example of over \$1M in costs for a particularly protracted 3.5 year matter³⁰.

²⁶ Queensland Wide Interlinked Courts Database. (nd). *Number of defendants finalised at Queensland Magistrates Court pursuant to Animal Management (Cats and Dogs) Act 2008 by court location, order, monetary amount, charge title an year for the period 1 July 2018 to 30 June 2023*. Extracted on 19th September 2023. Note entries excluded where acquittal or non-adjudicated outcomes were recorded and that for entries with less than 5 defendants a high and low range was averaged for those cases because less than 5 defendants were not individually recorded.

²⁷ Sentencing Advisory Council. (nd) SACStat: A database of sentencing statistics for the Magistrates' Court, County court and Supreme Court of Victoria. Retrieved 20th September 2023, from <https://www.sentencingcouncil.vic.gov.au/sacstat/browse-offences.html#N-all-offences-mc>.

²⁸ Queensland Government Open Data Portal. (nd). *QCAT applications by postcode 2022- 23*. Retrieved 21st September 2023 from, https://www.data.qld.gov.au/dataset/qcat-matters/resource/54650df1-fbfe-4ae9-be37-111d9dbcf5d1?inner_span=True

²⁹ Queensland Civil and Administrative Tribunal. (nd). *Timeframes: Average time to finalise an application*. Retrieved on 20th September 2023, from <https://www.qcat.qld.gov.au/applications/timeframes>.

³⁰ Local Government Association. (2023). *Irresponsible dog owners costing the community*. Retrieved 21st September 2023 from, <https://www.lgaq.asn.au/news/article/1438/irresponsible-dog-owners-costing-the-community>.



Option 1 results in a lack of uniformity in decision making for QCAT, creating financial uncertainty for councils and emotional uncertainty for dog owners affected by those decisions. These long periods of shelter in council care may also not be seen as optimal for the dog itself.

Staying with this option will ensure there are now new systems-oriented downward pressures on costs and impacts. This option is not effective in addressing the problem of uncertainty around when a destruction order must, or can be, made for a dog.

Option 2 – Clarifying when a destruction order must be made

Clarifying when a destruction order must or should be made will provide further clarity and consistency for decision makers in local government and QCAT, resulting in reducing cost burdens for stakeholders as a consequence of shortening appeals timelines, appeals-related costs and costs associated with the care of impounded animal. The reduced timelines and cleared decision making will lessen uncertainty and reduce stress and trauma on all persons engaged in the appeals processes.

This option will have social benefits as owners of dogs and community members will have a clear framework and understanding of when a dog must or should be subject to a destruction order. This clarity will reduce emotional turmoil experienced by dog owners, hopeful their appeal will be successful and will reduce the time in which a dog is housed away from its owner. Additional legislative and policy guideline support will enhance decision making within councils and reduce uncertainty and stress on council officers engaged in dealing with sensitive and complex matters.

This is the preferred option as it addresses the problem of uncertainty around when a destruction order must and can be issued and provides clarity and consistency for decision makers in QCAT. Option 2 will also result in improved understanding of when protection of the community outweighs individual rights of a dog owner.

Proposal 6 – Streamline appeal processes

Option 1 – Maintain status quo

Under this option, local government will continue to incur higher costs of keeping a dog for the duration of the review process as described above.

This option is not effective in achieving the government objective of reducing the burden and cost on local governments and dog owners incurred through the review process, nor will it reduce the emotional uncertainty experienced by owners and the community.

Costs applicable to appeals listed above equally apply to this proposal.

Option 2 – Streamlining the appeal process

This option will limit the right of appeal of destruction order external review decisions made by QCAT, on questions of law only. A search of Queensland Civil and Administrative Tribunal's appellate jurisdiction for 2021/22, showed around 9 appeals of dog related matters in the Appeal Tribunal, five of which appear to have filing dates older than 2020. This should reduce the number of appeals associated with external reviews of destruction orders.

Under this option, there will be a small but significantly reduced rate of dogs being kept by local government, reducing the costs incurred from housing a dog through the review process, including costs such as kennelling, food and medical treatment.

There will be some impact to appellants who may see their right to appeal as having been limited. By the time a matter has been decided by QCAT, the decision to issue a destruction order would have been assessed on its factual merit on three occasions (Council original decision, Internal Review and External Review).

Councils will however benefit from curtailing avenues for appeal. The option would also arguably place less stress on impounded animals if the measures result in less impoundment numbers and/ or shorter impoundment periods.

Who was consulted?

Prior to the development of the *Strong dog laws: Safer communities* discussion paper, about 40 operational and policy officers from Queensland local governments were involved in a technical working group with DAF and were tasked with identifying key issues for assessment and data collection.

The technical working group reported to the Animal Management Taskforce which was chaired by the Minister for Agricultural Industry Development and Minister for Rural Communities and attended by senior DAF officers, the RSCPA, LGAQ and mayors or councillors from the local governments of Brisbane, Logan, Moreton Bay, Scenic Rim, Townsville and Fraser Coast.

The *Strong dog laws: Safer communities* discussion paper was subject to public consultation on DAF's eHub webpage for a period of 60 days, closing on 24 August 2023. The discussion paper was promoted through multiple channels including free to air TV, social media and letters to 17 Aboriginal and Torres Strait Islander local governments.

Stakeholders were able to provide feedback by completing a survey via the department's eHub or via written submission. Across all consultation methods, there was a high level of support for all the proposals contained in the discussion paper noting that support for some measures varied across dog ownership status, those with dogs or regulated dogs were less likely to support than those who did not own a dog, and between various organisation types.

A total of 3,969 submissions were received as of midnight 31 August. Of these submissions, 318 were written submissions. Thirty-four of the written submissions were on behalf of organisations such as local government, animal welfare, veterinarian or dog organisations, service industry organisations such as Energy Australia and Australia Post and other groups.

Across all consultation methods, there was a high level of support for the proposals contained in the discussion paper. However, it should be noted that Animal Management in Rural and Remote Indigenous Communities (AMRRIC), a First Nations animal management organisation, was not supportive of most of the proposals due to differing relationships dogs and people have in remote Aboriginal and Torres Strait Islander communities as opposed to non-Indigenous communities. They suggested instead local government authorities are best placed to decide on the appropriate control requirements for their populations. It is noted that the proposal includes specific support for First Nations communities.

Proposal 1 – Banning certain breeds

Banning certain breeds of dogs was the least supported proposal, however, 69% of respondents to the discussion paper, agreed or strongly agreed to the proposal to ban restricted breeds in Queensland. Of those supporting the ban, 70% believe that restricted dog breeds are spontaneously aggressive, known to be dangerous, or fighting dogs.

Of the 318 written submissions, 119 commented on the proposal to ban restricted dog breeds. Of those respondents, 74 supported the proposal, and 45 did not.

The most common reasons for support for the proposal was community safety; that these breeds were historically bred for fighting as they have aggressive tendencies and some are still used in dog fights today; and these breeds are not suited to high density living given their active and aggressive nature.

Comments collated from the submissions identified the following themes:

- Community safety - "Ban all of them before another child gets maimed or killed."
- Not suitable for high density living - "Many breeds of dog are not suitable in populated areas."
- Dog fighting – "I hope this will cut out dog fights as sports."

Common reasons provided for not supporting the ban can be summarised as follows:

- Other more significant factors lead to a dog's aggression: respondents who believe that there are other more significant factors that lead to a dog's aggression. The most mentioned factor was irresponsible owners not properly training and taking care of the dog.
- Counterproductive: respondents who believe that the process of banning breeds is counterproductive.

- Keep current legislation: a respondent believes that the current legislation requiring a permit to own a restricted breed is sufficient, given a good enough reason to own a restricted breed.

Of the 13 local governments that commented on the proposal, 6 supported the proposal, 3 were neutral, and 4 did not support the proposal. Those local governments that were not supportive of the proposal commented that breed is not a key determinant of aggression in dogs and DNA testing is the only reliable method of determining a dog's breed which is expensive and does not provide conclusive results.

Of the 14 organisations that commented on the proposal, 2 supported the proposal, 2 were neutral, and 10 did not support the proposal. Of the animal welfare, veterinarian, and dog organisations, only AWLQ supported the proposal to ban restricted breeds. The 'Queensland canine community' was neutral with the proposal, as although not against banning breeds, they prefer a "deed, not breed" approach. The remaining nine animal welfare, veterinarian, and dog organisations that did not support the proposal noted:

- breed-specific legislation does not work
- breed-specific identification is problematic
- there are other factors in dog aggression
- the challenges when dealing with cross-breeds.

While there was a portion of respondents who did not support this proposal, there was still overwhelming support for the proposal. Some of this non-supportive feedback is a result of having further information about the proposal leading to misunderstanding or incorrect assumptions.

Proposal 2 – Effective control requirement under the AMCDA

Most survey respondents (88%) supported the requirement for all dogs to be effectively controlled in public places, while 6% of respondents were not supportive and a further 5% of respondents were neutral on the proposal.

Of the 318 written submissions, 45 commented on the proposal for a new requirement for dogs to be under effective control when in public places. Of those respondents, 41 supported the proposal, and four did not.

Comments were collated from the survey and the following main themes were identified:

- Community safety – "Have witnessed a lot of irresponsible owners walking with unleashed dogs and experienced scary situations personally."
- Loss of public amenity – "No assertive behaviour on my part will protect me and my child from a dog who weighs more than us, so we simply don't get to enjoy the benefit of walking to and from school."

The most common objection to the proposal was that people are the issue, that the public needs to be aware of how to act around dogs and not approach an unknown dog.

Of the 12 local governments that commented on the proposal, all of them were supportive of the proposal.

Of the nine animal welfare, veterinarian and dog organisations that commented on the proposal, all were supportive.

Energy Queensland supports measures requiring the effective control of dogs in public places to ensure the safety of their employees and contractors, as well as the broader Queensland community.

Proposal 3 – Review of penalties

Most survey respondents (84%) supported the proposal to review penalties for offences relating to regulated dogs, while 8% of respondents were not supportive.

Support for the review was based on a view that irresponsible owners should be punished, that penalties should be stronger and that penalties for emotional and physical injuries or death resulting from dog attacks on both people and other animals should be treated the same as other forms of attack.



Of those not supportive of the proposal, it was because they do not believe it will be useful when laws won't be realistically enforced.

Of the 318 written submissions, 62 commented on the proposal to review penalties for offences related to regulated dogs. Of those respondents, 52 supported the proposal, and 10 did not.

Of the 13 local governments that commented on the proposal to review penalties for offences related to regulated dogs, 12 supported the proposal, and 1 was neutral. Local governments were supportive of a progressive system (scalable penalties) that considers an owner's previous offences relating to a regulated dog, to have an ability to issue PINs for certain offences to reduce burden on local government and to access tools on a scale proportionate to the offence. Local government also identified that dog owners should be strictly liable for any injury or death caused by a dog, and noted this would bring Queensland legislation into line with other jurisdictions.

Of the 12 organisations that commented on the proposal to review penalties for offences related to regulated dogs, 9 supported the proposal, 1 was neutral, and 2 did not support the proposal. Dogs Queensland was neutral on the proposal, as they questioned whether reviewing penalties would have any deterrent effect. Animal Care Australia and Professional Dog Trainers Australia were not supportive of the proposal because they believe current legislation is already sufficient and increasing penalties would not act as a greater deterrent. For the service industry, Energy Queensland and Australia Post both supported a review of penalties to ensure the safety of employees and contractors, as well as the broader Queensland community.

Proposal 4 – New offence including imprisonment for most serious attacks

Most survey respondents (81%) supported the proposal to introduce a new offence including imprisonment as a maximum penalty for more serious attacks, while 10% of respondents were not supportive.

The main reason for supporting the proposal was to ensure that owners are held accountable for their actions.

Of the 318 written submissions, 40 commented on the proposal for a new offence, including imprisonment as a maximum penalty for more serious attacks. Of those respondents, 32 supported the proposal, and eight did not. The main reasons for support were owner accountability and community safety.

Of the 13 local governments that commented on the proposal, all of them were supportive of the proposal. Local government identified that to support this proposal, they would like to see terms such as "effectively controlled" and "responsible dog owner" clearly defined; would like to see an effective framework developed as additional guidance material; and clear articulation of who is responsible for identifying if a dog can be rehabilitated and rehomed following an attack. All of this feedback has been incorporated into drafting instructions.

Of the 11 organisations that commented on the proposal 9 supported the proposal, and 2 were neutral. Energy Queensland supports the proposal of imprisonment as a maximum penalty, especially if intent to harm can be proven. Queensland Council of Civil Liberties (QCCL) supports the proposal; however, they emphasise that the maximum sentence should not be excessive and should only be used in the most serious cases.

Proposal 5 – Clarifying when a destruction order can be made

Most survey respondents (81%) supported the proposal to clarify when a destruction order must be made, while 12% of respondents were not supportive.

The common reason for support was that clarifying when a destruction order must be made will make the community safer due to clear guidelines.

Of those who were not supportive, the main reason was that they believed it was unfair to punish the dog when it is the fault of the owner. Instead of destruction, respondents who did not support the proposal would like to see more humane options such as rehabilitating, retraining, and/or rehoming the dog.

Of the 318 written submissions, 40 commented on the proposal, of those respondents, 33 supported the proposal and seven did not.



Of the 13 local governments that commented on the proposal, all of them were supportive of the proposal.

Of the 11 organisations that commented on the proposal, 10 were supportive and 1 was neutral. Of the eight animal welfare, veterinarian and dog organisations that commented on the proposal, all were supportive.

There was a general view that clear guidance would reduce appeals and the amount of time that dogs were potentially housed by the local government. This was seen as improving animal welfare, reducing costs to local government associated with housing animals and providing greater clarity for owners during what can be an emotional time.

Proposal 6 – Streamline review processes

71% of survey respondents supported the proposal to streamline the review process, while 19% of respondents were not supportive.

Due to the overlap between supportive and non-supportive responses, it was difficult to accurately provide the percentage of respondents who support or don't support the proposal. However, common reasons that respondents gave for supporting the proposal include:

- streamlining and clarifying the process is in everyone's best interest
- streamlining the appeals process will reduce the costs and resources taken up by housing a dog through the review process
- limiting appeals would be more humane for the dog
- owners should not be given a chance to appeal.

For respondents who were not supportive of the proposal, their reasoning was that owners should have the right to appeal and have a fair and accessible legal process and that limiting appeals would mean less thorough reviews, thus resulting in more innocent dogs being destroyed.

Of the 318 written submissions, 29 commented on the proposal. Of those respondents, 21 supported the proposal and eight did not. The most common reason for support was minimising cost and resources taken by housing a dog through a protracted appeals process.

Of the 14 local governments that commented on the proposal for streamlining the review process, all of them supported the proposal.

While of the 13 organisations that commented on the proposal for streamlining the review process, 4 supported the proposal, 3 were neutral, and 6 did not support the proposal. Of the five animal welfare, veterinarian and dog organisations that did not support the proposal, additional suggestions and concerns included:

- owners have the right to follow the appeals process and have their animal returned. A period of 7 days must elapse between the incident and destruction to give the owner a chance to appeal (exceptions would apply where a fatality has occurred). Both sides should be heard before destroying a dog.
- the process could be expedited by councils appointing a panel of qualified independent assessors with expertise in animal behaviour.

QCCL was not supportive of the proposal to limit appeals as it diminishes the recourse of justice and has the potential to jeopardise public faith in the justice system.

What is the recommended option and why?

Proposal 1 – Banning certain breeds

The preferred option is Option 2 – Ban restricted breeds.

While this was the least supported proposal during consultation, almost three quarters of respondents were still in favour of this option. This option will ensure that the identified restricted dog breeds are removed from the community in the quickest timeframe possible, providing the wider community the psychological benefit of a breed ban. This option will achieve the objective of allaying community concern of the risk presented



by these breeds in the community and will increase community confidence in using public spaces. Option 2 will provide certainty and demonstrate the governments strong stance to improve dangerous dog laws. Although it limits the right of a very small number of people who might be looking to purchasing those breeds from interstate in the future, other very similar looking breeds are still available. It is noted that the 'breed' component is supported strongly by other 'deed' measures which are designed to both prevent and respond to dog attacks by any breed.

Option 1 – Status quo does not support the objective of allaying community concern due to the risk posed by restricted breed dogs in the community nor increase community confidence in using public spaces. Option 1 would also allow dogs of these breeds to move from interstate, negatively impacting the community safety sentiment and the potential that these breeds could continue to be found in Queensland due to some other jurisdictions not having desexing requirements for these breeds.

Proposal 2 – Effective control requirement under the AMCDA

The preferred option is Option 2 – Effective control requirements in public places under the AMCDA.

This option will achieve the government objectives of creating a single, consistent state-wide requirement for dogs to be under effective control whilst in public which in turn will increase community confidence in using public places. This option received the strong support during public consultation. Unlike the current framework (i.e. the Model Local Laws), councils under this option would be able to issue a PIN (ticket) for dogs who bite and wound other animals.

Maintaining status quo under Option 1 does not achieve consistency and a better, more appropriate level of penalties. It would limit council's access to PINs for dogs biting other animals, in circumstances where it is not financially viable for council to resource prosecutions of those matters in court.

Proposal 3 – Review of penalties

The preferred option is Option 2 – Review of penalties for offences relating to regulated dogs.

This option will ensure there is a very strong financial deterrent to persons responsible for a dog, reducing the likelihood of threatening behaviour or attack on community members. This option received the strongest support during public consultation, with 88% of respondents either strongly agreeing or agreeing with the proposal.

Option 1 – Status quo is not supported as current penalties do not meet community expectations or act as a sufficient deterrent, resulting in lower community confidence in using public places where a dog may be present.

Proposal 4 – New offence including imprisonment for most serious attacks

The preferred option is Option 2 – New offence including imprisonment as a maximum penalty.

This option will ensure there is a strong deterrent to persons responsible for a dog, reducing the likelihood of attack to community members. This option received strong support for the proposal during public consultation, with 84% of respondents either strongly agreeing or agreeing with the proposal.

Option 2 will also better align Queensland legislation with laws in New South Wales, Tasmania, the Australian Capital Territory, Victoria and Western Australia which have maximum penalties that include imprisonment for the most serious types of dog attacks and meet the government's commitment to improve dangerous dog laws.

Proposal 5 – Clarifying when a destruction order can be made

The preferred option is Option 2 – Clarifying when a destruction order must be made.

This option achieves the government objectives of ensuring there is clarity around when a destruction order must and can be issued, providing clarity and consistency for decision makers in local government and QCAT, setting clear expectations of when protection of community outweighs individual rights of a dog owner



and reducing costs incurred by local governments holding a dog that is subject to a destruction order undergoing an appeal.

This option received strong support during public consultation, with 86% of respondents either strongly agreeing or agreeing with the proposal.

Proposal 6 – Streamline review processes

The preferred option is Option 2 – Streamlining the review process.

This option will limit the circumstances of appeal to those on a question of law and will no longer allow appeals on a question of fact or mixed fact and law.

Reducing the circumstances in which a review can be lodged will reduce the burden and costs incurred by local governments involved with keeping a dog through the review process and provide greater emotional certainty to dog owners and the community.

This option is also more humane for the dog as less dogs will be housed for prolonged periods whilst undergoing review. This option received strong support during public consultation.

Option 1 – maintaining status quo is not supported, as the current review process is costly for local government, results in emotional uncertainty for dog owners and the community and is less humane for dogs that are subject to the review process.

Impact assessment

All proposals – complete:

	First <u>full</u> year (24/25)	First 10 years**
Direct costs – Compliance costs*	Zero <small>(measures increase penalties and mechanisms for imposing penalties but are already required in some form)</small>	Zero <small>(measures increase penalties and mechanisms for imposing penalties but are already required in some form)</small>
Direct costs – Government costs	^\$1.007 (including in-kind contribution) <small>^ Only includes direct costs of supporting legislative related changes</small>	^\$3.7 over 5 years (including in-kind contribution) <small>^ Only includes direct costs of supporting legislative related changes</small>

Signed



Director-General

Date: 26 October 2023



Minister

Date: 26 October 2023