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Minister for Transport and City Services

Minister for Skills

Special Minister of State

Member for Murrumbidgee

Mr Jeremy Hanson CSC MLA

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

ACT Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

Dear Mr Hanson

Thank you for the comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (Committee) in its Scrutiny Report 3 (Report) in relation to the Domestic Animals Legislation Amendment Bill 2021 (Bill).

The Committee's comments are addressed below.

Right to privacy and reputation (section 12 Human Rights Act 2004 (HRA))

The Committee addressed provisions in the Bill that may limit the right to privacy and reputation (section 12 HRA) relating to additional personal information that would be required under the annual dog registration system and noted these are justified in the explanatory statement and align with section 28 of the HRA. As noted, the collection of additional information from keepers as proposed in the Bill is necessary to maintain accurate and up-to-date information that the Territory can use to improve public safety and accountability when it comes to animal welfare.

Contact details of previous and current owners, including animal welfare offences, are collected for a legitimate purpose: to improve data capture so that the Territory can deliver targeted and evidence-based domestic animal services to the community. Requiring keepers to provide other information requested in writing by the Registrar to carry out a lawful function under the Act will also facilitate investigations, such as in cases of allegations of irresponsible dog ownership or dog attacks. All this information is consistent with data collected in other jurisdictions and will be handled and stored in accordance with Territory Privacy Principles as provided in the *Information Privacy Act 2014*. There is no less restrictive means to achieve the purpose of the limitation.

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Right to the presumption of innocence (section 22 HRA)

The Committee raised concern around the inclusion of a strict liability offence where a keeper fails to comply with a reminder notice. The Committee noted the explanatory statement recognises that these strict liability offences may limit the right to presumption of innocence protected by section 22 of the HR Act and refers the Assembly to the explanatory statement.

The creation of a strict liability offence for non-compliance with the registration renewal notice discourages people from allowing their dog's registration to lapse. To ensure that the right to presumption of innocence is protected as much as possible, the Registrar of Domestic Animals is obligated to send a reminder notice to the keeper at least 14 days before the dog registration ends. The offence only applies if the keeper has been provided with the reminder notice and fails to comply with it.

The Committee also raised concerns around the limitations of the strict liability offence in proposed section 10A of the Bill, which sets out that failure to comply with a reminder notice for registration renewal under section 10 may result in an infringement notice of 10 penalty units. The Committee noted this offence should apply only to the information set out in the reminder notice under section 10, and not to any additional requirements outside of this.

The Committee is correct in that the offence relates solely to confirming or updating the registration information provided in the notice and providing parental consent where appropriate before the dog's registration ends as set out in section 10(2). Keepers must comply with the requirements stated on the reminder notice only. The strict liability offence only applies to non-compliance to the requirements that are explicitly stated in the reminder notice.

The Committee also noted the provision of automatic registration renewal when the keeper complies with the notice. However, the Committee expressed concern around what offences the keeper may be exposed to in the event the Registrar fails to send a reminder notice. If this was to occur, the strict liability offence will not be applicable as the elements of the offence requires the reminder notice to have been sent. Section 10A of the Bill specifically states that the keeper must be given a reminder notice and fail to comply with it for the strict penalty offence to take effect.

Lastly, the Committee sought further explanation of the need to have two strict liability offences relating to dog registration; one concerning compliance with a reminder notice for registration renewal, and the other concerning keeping an unregistered dog. These strict liability offences will not intersect. If notice is not issued, the new offence section 10A offence will not apply. In cases where dog registration lapses for any reason the new purpose build digital dog database will flag the registration as 'lapsed registration'. A lapsed registration triggers a manual investigation into the cause of the lapse and, if needed, a manual reminder notice. Consistent with the intention of the Bill, Domestic Animal Services will make every effort to contact the keeper for the registration to be renewed or cancelled if it is found there is reason to cancel the registration (e.g., if the dog is deceased).

The explanatory statement has been updated to provide clarification on the comments raised above by the Committee.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Steel', with a stylized flourish extending from the end.

Chris Steel MLA
Minister for Transport and City Services