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Minister for Transport and City Services

Minister for Skills

Special Minister of State

Member for Murrumbidgee

Mr Peter Cain MLA

Chair

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

ACT Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

Dear Mr Cain

Thank you for the comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) in its Scrutiny Report 13 in relation to the Domestic Animals Legislation Amendment Bill 2022 (the Bill).

The Committee has raised a potential limitation on the right to privacy under section 12(a) of the *Human Rights Act 2004* (the HRA) relating to the Bill's expanded justifications for seizing cats and how this may interact with existing powers to enter a premises under section 128 of the *Domestic Animals Act 2000* (the Act). I note the Committee has recommended the justification for this limitation be included in the detailed human rights analysis of the explanatory statement for the Bill.

As you are aware, there is an existing framework for power of entry by authorised persons under section 128 of the Act which applies to all offences other than excluded offences and to seizure powers for cats and dogs. The Act also provides a comprehensive suite of circumstances for the seizure of dogs, particularly under section 56, and certain circumstances for the seizure of cats under section 86 relating to cat containment and microchipping requirements. These circumstances for the seizure of cats have been expanded in the Bill to include similar provisions to seizing dogs, including relating to registration, illegal breeding, and general responsible care and control.

The Bill does not propose changes to the overarching policy arrangements around seizing cats and dogs and powers of entry to achieve this; however, the Bill does propose to align the justifications for seizing cats more closely with the justifications for seizing dogs. Without the connection between powers for seizing cats and dogs and powers of entry, there is significant risk in fulfilling the purposes of the Act, which includes public safety, animal welfare, and environmental protection.

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Enforcement of all responsible cat and dog ownership requirements under the Act is heavily dependent on seizure powers to maintain animal welfare and management objectives in line with community expectations. As such, maintaining the existing policy around the seizure of cats and dogs is considered of sufficient importance to warrant any limitation on the right to privacy.

It is considered that any limitation on the right to privacy due to seizure powers relating to cats is consistent with current policy and is proportional, reasonable and necessary under section 28 of the HRA in the least restrictive way possible to achieve the purpose of the Act. This will support all responsible cat ownership requirements to achieve the best possible outcomes for the community in implementing the ACT Cat Plan 2021-31.

The detailed human rights analysis within the Bill's explanatory statement has been amended to clarify this justification.

Yours sincerely

Chris Steel MLA
Minister for Transport and City Services
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