Ms Elizabeth Lee MLA

Chair

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

ACT Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

Dear Ms Lee

I write in relation to comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) in its *Scrutiny Report 16* published on 3 April 2018 in relation to the *Domestic Animals Legislation Amendment* Bill 2018 (the Bill).

I thank the Committee for its comments which confirms the appropriate consideration of human rights issues by my Directorate in preparing the Bill.

In relation to the Committee’s concern over provisions in the Bill which amend the range of conditions which can be imposed on licences, I provide the following response.

The ‘condition’ offences are intended to operate so that only the prescribed conditions, as contained in the regulations, are subject to a strict liability offence and infringement notice penalty. This restriction in relation to prescribed conditions will be contained in a revised Magistrates Court Regulation which will support the *Domestic Animals* Act.

The Magistrate Court Regulation cannot be made until the *Domestic Animal* Act amendments have been enacted. The Explanatory Statement for the Bill notes at various places the intention that the infringement notice scheme will only apply to the prescribed conditions. That will ensure that the offence is limited in the ways supported by the Committee’s comments.

The committee sought additional justification as to the registrar’s power to impose conditions on licences and why it is considered appropriate for conditions to be set out in regulation or at the discretion of the registrar.

While there is a suite of conditions that are generally applied and form the basis of the prescribed conditions, there are occasions when conditions need to be created or adapted to deal with the details of a specific case. In such instances, when the prescribed conditions are not sufficient to manage a situation, the registrar needs the administrative discretion to apply other conditions.

Merit review covers the registrar’s decisions involving the application of conditions and thus allows for Tribunal oversight of the registrar’s discretion in relation to conditions. Further, as the discretionary conditions will not be subject to the magistrate’s court infringement scheme, prosecution through the courts will ensure the veracity of the assessment as to a breach of discretionary conditions.

I trust that this explains the situation and addresses the Committee’s concerns.

Yours sincerely

Meegan Fitzharris MLA