

RESPONSE TO PETITION – HOUSE OF ASSEMBLY

PETITION NUMBER: E1 of 2006



The petitioners ask the House to:

Create the Dog Control Act offence "Leaving a Dog Unattended"; and

Compel enforcement by authorised persons with the words: "It is the obligation of any person on whom a function is imposed or a power is conferred under this Act to perform the function or to exercise the power...."

GOVERNMENT POSITION:

The *Dog Control Act 2000* (the Act) has been in place since April 2001, and with the exception of a minor amendment to assist Councils to prosecute the owner of an attacking dog, the Act has worked well. With many changes to corresponding legislation in other jurisdictions, the Government has established a Working Group consisting of government and non-government representatives from peak agencies to make recommendations regarding the future regulations of certain breeds of dogs and dangerous dogs in Tasmania.

RESPONSE:

- The *Dog Control Act 2000* commenced in April 2001 and followed a long and rigorous consultation process. The working group that developed the Act included representatives of Local Government, animal welfare groups, guide dog owners, dog owners, the community and veterinary surgeons. The Act was designed to encourage responsible dog ownership and to be severe on dog owners, or persons in charge of dogs, that allowed their dogs to attack a person or another animal. Both Houses of Parliament supported this approach.

- The Local Government Office has not received any significant complaints from Councils over the wording of the *Dog Control Act 2000*. Several years ago a Council advised the Government that it had experienced difficulty prosecuting the owner of a dog that had attacked another animal. The Government quickly moved to amend the Act.
- To include an offence of “leaving a dog unattended” would clearly be unacceptable to the large number of Tasmanian households that have dogs that are not causing a noise nuisance.
- The *Dog Control Act 2000* was developed to give Councils considerable enforcement powers, should Councils wish to employ them. It is the Government’s view that each community should have the level of dog control required by that community. For this reason each Council is required to develop a dog management plan in consultation with their communities, and to review these plans at least every 5 years. The Government has provided Councils with a powerful legal framework. Just how and when this framework is applied is left to Councils and their communities.
- It appears that the principal petitioner is proposing that the authorised person be compelled to exercise authority under the Act. While there are many requirements for a General Manager or authorised person to undertake an action, there are very few requirements where a General Manager of a Council must undertake an action. The inclusion of the word ‘must’ normally requires that a penalty be imposed should a General Manager fail to undertake an action. The Act properly provides that Councils exercise some discretion in the way in which the Act is enforced. In particular, action may not be taken if there is insufficient evidence. The Government expects that Councils will diligently pursue their obligations and is satisfied that they are doing so.