



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Colin Neil Amatto
Hearing dates:	4-5 and 11-12 March 2024
Date of final submissions by the parties:	10 March 2025
Date of findings:	16 April 2025
Place of findings:	Coroners Court of NSW, Lidcombe
Findings of:	Deputy State Coroner Carmel Forbes
Catchwords:	CORONIAL LAW - Dog attack - Examination of the <i>Companion Animals Act 1998</i> regulatory regime - Recommendations for regulatory changes
File number:	2019/68724
Representation:	<p>Dr D Kell SC with Mr C McGorey, Counsel Assisting, instructed by Ms R Campbell and Ms Y Edgell, NSW Crown Solicitor's Office</p> <p>Ms K Edwards SC, instructed by Mr A Avery, for Penrith City Council</p> <p>Mr C Zoppo, solicitor, Sparke Helmore, for Blacktown City Council</p> <p>Mr L Chapman, instructed by B Moroney and R Garrett, Moray & Agnew Lawyers, for the Office of Local Government</p> <p>Ms S Love, instructed by J Pereira, Wotton Kearney, for the Commissioner, NSW Police Force</p>

Non-publication order:	Orders for non-publication have been made in this Inquest. The Orders may be found on the Registry file.
Findings:	I find that Colin Neil Amatto died on 1 March 2019 at Westmead Hospital NSW. I am satisfied the cause of his death was septic complications from injuries he received from multiple dog bites he sustained in his own home on 24 January 2019. The dogs were known to him and ordinarily were kept at his residence.
Recommendations:	<p>I recommend to the Chief Executive of the OLG and the NSW Commissioner of Police:</p> <ol style="list-style-type: none"> 1. The OLG and the Commissioner of Police consider developing a model or overarching memorandum of understanding (MOU), which can be adopted and utilised for councils and Police Area Commands or Police Districts regarding the coordination of responses (including investigation and enforcement), and formalising of roles and responsibilities of Police and councils, with respect to dog attack incidents. <p>I recommend to the Minister for Local Government and the OLG:</p> <ol style="list-style-type: none"> 2. The Minister and the OLG develop a standardised training package for council rangers in NSW that are expected to respond to reports of dog attacks on people or other dogs and of dog escapes. 3. The Minister and the OLG further review and update the functionality of the CAR to enable councils readily to access the regulatory history of dog owners (penalty notices, court outcomes, warnings issued, suspected

contraventions).

4. The Minister and the OLG consider possible amendment of s 16 of the *CA Act* to delete subsection (2)(b).
5. The Minister and the OLG consider possible amendment of s 18 of the *CA Act* to broaden the scope for exercise of that power.
6. The Minister and the OLG examine the appropriateness of the statutory thresholds and framing of the provisions in the *CA Act* for the issuance of notices to declare a dog a *menacing* or *dangerous dog*.
7. The Minister and the OLG examine the possible amendment of the *CA Act* to include an additional stand-alone offence of a dog attack causing serious harm or death to a person.
8. The Minister and OLG consider the possible amendment of the *CA Act* to confer upon police officers the power to make *dangerous* and *menacing dog* declarations.
9. The Minister and the OLG examine the possible amendment of the *CA Act* to introduce a provision empowering an authorised officer to direct an owner or person in control of a dog to secure the dog with a muzzle and / or lead for a specified period.
10. The Minister and the OLG review, or continue to review, the appropriateness of the rehoming provisions of the *CA Act* regarding dogs involved in serious or fatal attacks.

11. The Minister and the OLG investigate, or continue to investigate, facilitating reasonable access to DNA testing in NSW to assist in breed identification of dogs.
12. The Minister and the OLG examine, in consultation with councils, the development and implementation of a Statewide public awareness and education campaign to educate dog owners and the community generally about the risks posed by dogs and how safely to interact with them.
13. The Minister and the OLG, in consultation with councils and other stakeholders, consider introducing a licensing requirement for dog ownership, which may involve particular licence conditions calibrated for particular breeds of dogs and with applicants being required to undergo education with respect to safety and risk management.
14. The Minister and the OLG examine the adequacy of the maximum penalties for the offences provided by ss 12A, 13, 14, 16 and 17 of the *CA Act*.
15. The Minister and the OLG review the adequacy of the penalties for non-compliance with registration and identification requirements for dogs in the *CA Act* and the *Regulation*.

I recommend to the Chief Executive Officer of Penrith City Council:

16. The Council continue to review its standard operating procedures concerning responding to dog attack incidents and the training provided to authorised officers as regards the exercise of statutory powers

under the *CA Act*, including the making of declarations, and with a view to ensuring proper coordination of responsibilities if the NSW Police Force is also involved in responding to a dog attack incident.

I recommend to the Commissioner, NSW Police Force:

17. The Commissioner consider reviewing the NSW Police Force's standard operating procedures, and the training provided to officers, regarding responses to suspected dog attacks, the statutory powers available to police under the *CA Act*, and in ensuring proper coordination of responsibilities between Police and councils in respect of a dog attack incident.

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REASONS FOR DECISION

INTRODUCTION

1. This is an inquest into the tragic death of Mr Colin Amatto. On 24 January 2019, Mr Amatto (40 years of age) was attacked by two dogs that he lived with at Tregear (Tregear Residence), both Staffordshire Bull Terriers. He suffered severe injuries, with more than 80 bite wounds to his neck, torso, limbs and face.
2. After the attack he became unresponsive and was taken by ambulance to hospital. He remained in hospital for 36 days. He did not regain consciousness and underwent multiple surgical procedures. On 1 March 2019, in consultation with Mr Amatto's family, the intensive care team ceased life support, and he was pronounced deceased.
3. About 18 months earlier, on 24 July 2017, one of the two dogs had severely attacked another person. The primary issue for this inquest is why no protection from that dog was put in place after that attack.
4. The role of the coroner is to make findings as to the identity of the deceased and the date and place of the person's death. A coroner must also identify the physical or medical cause of the death and the circumstances surrounding the death.
5. Those matters are not in contest. Pursuant to section 82 of the *Coroners Act 2009* the coroner has the power to make recommendations concerning any public health or safety issues arising out of the death in question.
6. During this inquest there has been an examination of the efficacy of the regulatory regime for the control and management of dogs in NSW. Material relevant to related inquests into other fatal dog attacks has been received into evidence in this inquest and is also relied upon to inform relevant recommendations that may enhance the prevention of a similar death, as Mr Amatto's, in the future.

COLIN AMATTO

7. Mr Amatto was a proud Yuin man. He came from a big family, he was one of the youngest of 24 first cousins and he had over 200 close family members, who were all impacted by his death.
8. Mr Amatto's sister, described him as funny, charismatic, proud, with a big heart and a wicked sense of humour. He always had a good story to tell. Mr Amatto was excellent at sports, making the local papers when he was young, with his batting abilities in cricket.
9. Family meant so much to Mr Amatto. His sister explained that their family have so many happy memories of him that fill their spirits and make them laugh. She has relied on those memories to help her through the trauma of losing him.
10. She informed the court that while he was in hospital for the five weeks after the dog attack and fighting for his life, that his family came in droves, coming to see him as often as they could, from near and far. She drove to the hospital every day of those 5 weeks, in the hope that there might be a positive turn in his health. Not only was he attacked with over 80 lacerations to his limbs and torso, his legs were stripped so he had hardly any skin left, the dogs took part of his nose and his ears. She made the difficult decision to amputate his arm to try and save his life, however, unfortunately, this measure was not successful. She then, along with other family members, made the gut-wrenching final decision to let him be at peace.
11. Mr Amatto's father and stepmother could not attend this inquest as they are still suffering and coming to terms with their loss.
12. Many of the family members have developed a dog phobia and find it scary just walking down the street knowing what dogs are capable of, regardless of when their owners tell them that the dog is friendly.
13. The Amatto family are hoping that changes can be made that will prevent any other family suffering the trauma they have, and are, experiencing. They are particularly concerned as to why one of the dogs wasn't put down two years earlier when it had

severely attacked another person. They cannot understand that missed opportunity that may have ultimately saved Mr Amatto's life.

THE DOGS

14. *Boof* was a white and brindled male (desexed) dog, aged about 7 years. At the time of the attack on Mr Amatto, *Boof* weighed about 30 to 35kg. He was described variously as a "Pit Bull" or, as an *American Staffordshire Terrier*. At the time of microchipping, and in later registration, *Boof's* breed was recorded as a *Staffordshire Bull Terrier*. He had been bought online (from Gumtree) when he was a pup and *had* been advertised for sale as an *American Staffordshire Terrier*.
15. *Hope* was a brown and white female dog, aged 13 years. At the time of the attack on Mr Amatto, *Hope* weighed about 25kg. Her owner described her as a Staffy-cross.
16. At the time of microchipping, *Hope's* breed was recorded as a *Staffordshire Bull Terrier*.
17. According to their owner, both *Boof* and *Hope* were loving dogs.
18. *Baby* was an older female English Staffy, aged about 17 years. *Baby* was not very mobile and, although present in the Tregear Residence, was not involved in the attack on Mr Amatto.

Expert Opinion

19. Professor Paul McGreevy, of the Sydney School of Veterinary Science at the University of Sydney, examined photographs of *Boof* and *Hope*. He confirmed that *Boof* and *Hope* were both *Staffordshire Bull Terriers*.

Identification/registration history

20. *Boof* was microchipped on 30 August 2012. The following information was recorded at that time:
 - (i) Breed: Bull Terrier (Staffordshire).
 - (ii) Type: male (desexed) that "white and brindle" coloured.

(iii) Date of birth: 2 May 2012.

21. *Boof* was about 6 years old at the date of the attack on Mr Amatto in January 2019.
22. On 1 August 2017, *Boof* was registered on the Companion Animal Register (CAR) as residing at 29 Walker Street, Werrington (Werrington Residence).
23. *Hope* was microchipped on 15 March 2014. The following information was recorded at that time:
 - (i) Breed: Bull Terrier (Staffordshire).
 - (ii) Type: female - “brown and white” colour.
 - (iii) Date of birth: 1 January 1999.
24. *Hope* was never registered.

ATTACK ON MR AMATTO

25. Mr David Murray, Ms Laura Graham, and their two-year-old daughter had resided at the Tregear Residence for about 12 to 18 months.
26. Mr Amatto had been living with them for just over a year.
27. The perimeter of the residence’s yard was fenced, and the back yard was separated from the front.
28. According to Mr Murray and Ms Graham, Mr Amatto got along well with the dogs. He looked after them when they were away. He also played and wrestled with *Boof*, and the dogs would sleep with him at night.¹ The dogs were allowed inside the house on a regular basis.

23 January 2019

29. On Wednesday, 23 January 2019, Mr Amatto’s ex-partner, Ms Leah Casperson, and her two daughters, then aged 15 years and 10 years of age, stayed overnight at the Tregear Residence while visiting Mr Amatto.

¹ Ex 1 Vol 1 Tab 10

30. Ms Casperson and Mr Amatto were previously in a relationship, from about 1995 to 1996. They had a daughter born in 1997. Ms Casperson had travelled from Queensland, with her two children.
31. Ms Casperson, and her daughters, arrived at the residence at about 5:00 pm on Wednesday, 23 January 2019. At that time, *Boof* and *Hope*, were put in the backyard by Mr Murray. Mr Murray later told Police he did this because the dogs were “*funny with new people*”.²
32. About an hour or so later, Mr Murray let the dogs back inside the house – so that, “*they [the dogs] could meet the people [the visitors] and ... get used to them and all of that*”.³
33. According to Mr Murray, *Hope* growled under its breath at Ms Casperson occasionally,⁴ but there were otherwise no issues or anything to cause alarm, and “*the dogs were fine with them*.”⁵
34. Ms Graham said that once the dogs were brought in from outside “[t]here wasn’t any problems there at all”,⁶ everything was fine that night,⁷ and none of the dogs seemed to have any issues with anyone in the house.⁸
35. That evening, either one or both dogs slept on the bed that Ms Casperson’s two daughters were using.

24 January 2019

36. The next morning, Thursday 24 January 2019, Mr Amatto left to go to work, while Ms Casperson and her two girls stayed at the house with Mr Murray and Ms Graham.
37. At about 11:00 am, Mr Murray, Ms Graham (and their baby daughter) went to a doctor’s appointment, leaving Ms Casperson and her daughters alone at the residence.

² Ex 1 Vol 1 Tab 10

³ Ex 1 Vol 1 Tab 10

⁴ Ex 1 Vol 1 Tab 10 pp 11-12, and 13.

⁵ Ex 1 Vol 1 Tab 10 p 11.

⁶ Ex 1 Vol 1 Tab 11, p15.

⁷ Ex 1 Vol 1 Tab 11, p15.

⁸ Ex 1 Vol 1 Tab 11, p16.

38. About 40 minutes after Mr Murray and Ms Graham left for the doctor's appointment, Mr Amatto came back from work.
39. Ms Graham said that, before they left to go to the doctor's appointment, she put the (two) dogs outside.
40. Mr Murray agreed and said that before he and Ms Graham left to go to the doctor's he saw Ms Graham put *Boof* and *Hope* outside. Mr Murray also said that, out of habit, he double checked the security door (the back door) was shut by giving it a push and a pull to ensure it was secure.
41. Ms Casperson said that the dogs were left inside the house.
42. Either way, after Mr Murray and Ms Graham left the residence to go to the doctor's appointment:
 - (i) At some point, Mr Amatto arrived home from work.
 - (ii) At some point, all 3 dogs were in the house, together with Mr Amatto, Ms Casperson and her two children. Either the two younger dogs, *Boof* and *Hope*, were already in the house or, by some means, they had got back inside the house, possibly when Mr Amatto came home.
 - (iii) At about 1:00 pm, inside the house, one of the two dogs bit Ms Casperson's daughter on her abdomen and back causing her to scream. Her daughter later received treatment at hospital for that injury.
 - (iv) Ms Casperson tried to help her daughter and was herself bitten on her right forearm. She also later received treatment at hospital for that injury.
 - (v) Mr Amatto then intervened to try to help and Ms Casperson and her daughter.
 - (vi) Ms Casperson and her daughters managed to leave the house via the front door, which shut behind them (and locked), with Mr Amatto inside.
 - (vii) *Boof* then savagely attacked Mr Amatto. *Hope* joined in the attack. It was an attack of extreme ferocity.
 - (viii) Shortly before 1:00 pm, Mr Murray and Ms Graham arrived back at the residence. Mr Murray and Ms Graham left their child in their car and entered the residence

through the front door with their key. They saw blood on the lounge room floor and smeared on the walls. The kitchen door was shut with blood on it.

- (ix) The dogs were in the hallway covered in blood and they secured them in the bathroom. Ms Graham said that the dogs were *"just covered"* in blood and *"their eyes were really big."*⁹
- (x) They found Mr Amatto on the kitchen floor, covered in blood, barely conscious. Mr Amatto stated, *"I can't breathe"* and then lost consciousness.

Emergency response

- 43. At about 12:58 pm, the NSW Ambulance Service were called to the residence.
- 44. At about 1:04 pm, paramedics arrived. Mr Amatto was in cardiac arrest with multiple lacerations to his entire body. Paramedics commenced cardiopulmonary resuscitation. Mr Amatto suffered cardiac arrest several more times but was revived by paramedics.
- 45. At about 1:10 pm, Senior Constable Kumar and Constable Horne arrived. They saw Ms Casperson with a bloodied towel wrapped around her arm and her daughter with an abdominal injury.
- 46. Mr Amatto was transported to Westmead Hospital by Care Flight.
- 47. The RSPCA was called to the scene and the dogs were sedated. Mr Murray provided consent authorising them to be surrendered and later destroyed.
- 48. *Boof* and *Hope* were euthanised the next day.
- 49. Ms Casperson and her daughters were taken to Westmead Children's Hospital by ambulance.
- 50. Paramedics observed a large bite wound the size of a fist on Ms Casperson's daughter's left flank with multiple punctures evident. Ms Casperson was also injured, having been bitten on her right forearm.

⁹ Ex 1 Vol 1 Tab 11 p 21.

Mr Amatto's treatment

51. Mr Amatto arrived at Westmead Hospital at about 2:26 pm.
52. He had suffered very extensive injuries. Treating doctors estimated he had over 80 wounds with multiple bite wounds over his body, neck, torso and limbs, and extensive facial wounds.
53. Mr Amatto underwent a transfusion and was taken urgently to surgery. He was admitted as an intensive care patient for the next 36 days and underwent multiple surgeries.
54. In her post-mortem report, the forensic pathologist, Dr Irvine, noted;

'Over the course of the 36 day hospitalisation he developed persistent multi-organ failure in the context of septic shock. Acute kidney injury was multifactorial including sepsis, hypovolaemia and rhabdomyolysis (muscle breakdown because of crush injury). He had ischaemic hepatitis, coagulopathy, and gastrointestinal bleeding because of ischaemic colitis. A tracheostomy was created because of prolonged ventilator dependence. The deceased underwent multiple surgical interventions. His left arm was amputated on 31 January 2019...

Ultimately he developed persistent fungal wound infections, cavitating fungal lesions in his lungs (causing pneumothoraxes, or lung collapse) and possible lesions in his brain. On 1 March 2019 he began to bleed from his lower gastrointestinal tract, likely related to ischaemic colitis. Following discussion with his family regarding his condition and the likelihood of further complications, the decision was made to afford him palliative care. He was pronounced life extinct on 1 March 2019 at 8:04 pm (on the 36th hospital day).'¹⁰

¹⁰ Ex 1 Vol 1 Tab 4

Mr Amatto pronounced deceased on 1 March 2019

55. On 1 March 2019, the intensive care team and Mr Amatto's family determined to cease life support. His ventilator was stopped at about 7:15 pm and he was pronounced deceased later that day.

PRIOR ATTACK

56. On Monday, 24 July 2017, about 18 months prior to this fatal attack on Mr Amatto, there was an earlier attack on a person by the dog *Boof*.
57. The victim of the attack was a property agent, Barry Grant, who was then 65 years old.
58. The attack occurred at 29 Walker Street, Werrington (Werrington Residence), which was a rented property where Mr Murray and Ms Graham lived (with their dogs) prior to moving to the Tregear Residence. The Werrington Residence fell within the local government area (LGA) of Penrith City Council. Mr Amatto was not living with Mr Murray and Ms Graham at that time.
59. Mr Grant attended the Werrington Residence, without an appointment, in his capacity as a property agent, for the landlord, to try to speak with the tenants. The property at 29 Walker Street, Werrington was a two-story residence, with one set of tenants living on the ground floor, and a second set of tenants living on the upstairs level.
60. Mr Murray lived on the ground floor level.
61. Mr Grant knocked on the front door of the property, which was the entrance to the upstairs level, but there was no answer.
62. Mr Grant went to the wooden gate at the front of the property. This was the entrance to the downstairs level. On Mr Grant's account, the wooden gate was not locked and upon knocking on it, it swung backwards (towards the rear of the property).
63. A brown dog appeared, which appeared to be friendly and which Mr Grant bent down to pat. A second dog, which Mr Grant described to Police as appearing to be a "white

Pit-bull",¹¹ and which was in fact *Boof*, ran towards Mr Grant, jumped at him and attacked him.

64. The dog latched on to his left arm, pulled its head from side to side and pulled Mr Grant backwards. The dog also bit his leg, thigh, and stomach.
65. Mr Grant yelled out for help and struggled to try to get away. He was able to pick up a broom from the front porch and tried to fend off the dog with it.
66. A brave 15-year-old boy from a neighbouring property, Mr Delton Monti, heard Mr Grant screaming for help and saw Mr Grant being attacked. Mr Monti ran to assist Mr Grant. He picked up a small plastic chair from the front part of the property and used it to fend off the attacking dog. I commend the actions of Mr Monti which may well have saved Mr Grant's life.
67. Following the attack, Mr Grant was taken by ambulance to Nepean Hospital for surgery on his arms and where he remained for 4 days. He then spent several weeks receiving outpatient treatment for his injuries.
68. Medical records obtained as part of the coronial investigation indicate that Mr Grant suffered bite wounds and lacerations to his left and right forearms and hands, abrasions to his abdomen and a puncture wound to his left thigh.¹²
69. NSW Police attended the scene and spoke with Mr Grant (while he was in the ambulance, and then later in hospital) and also spoke with Mr Murray, the owner of the dogs.
70. The COPS record stated:

"At 15:00 pm Police attended the address of 22 Railway Street, Werrington and spoke to the VIC who was in the rear of the Ambulance vehicle at the time. Police checked on the welfare of the VIC before obtaining his particulars. Police also to the resident of the address who had helped free the VIC [Delton Monti]. Police were informed that the dog had gone back to where it comes from while pointing out the double storey home in the

¹¹ Ex 1 Vol 3 Tab 61

¹² Ex 1 Vol 3 Tab 65

adjacent street. The VIC was conveyed to Nepean District Hospital for further assessment.

Police contacted the dog catcher [the Council] to attend the location.

Police attended the address of 29 Walker Street, Werrington and spoke to the downstairs occupant who is the owner of the dog [Mr] MURRAY. MURRAY informed Police that the dog was in the rear yard secured. Police spoke to the OWNER obtaining his particulars. OWNER informed Police that he has owned the dog throughout its entire four-year existence and that he has never done anything like this. The owner told Police that he was not expecting the VIC to attend his address and that there was no appointment made.

The OWNER further told Police that he had only just gone out with his partner and young child for a short time locking his wooden gate before leaving. The OWNER arrived home around 30 minutes later and opened the wooden gate using his key, in opening the gate he had observed a set of car keys as well as a folder containing several documents situated on the ground by the gate. The OWNER later observed what appeared to be droplets of blood on the gate. A short time later Danielle from Animal Services [the Council] attended the location and spoke with Police as well as the owner. The OWNER had agreed to walk "BOOF" out to the rear of the caged ute where the dog was safely secured before being taken to Hawkesbury Animal Services [the pound] where he will be caged and housed. With consent of the occupant, Police looked over the rear yard of the owner observing the owner's other two dogs. After looking along the side colourbond fence police were satisfied that the yard is well secured. The OWNER appeared shocked and apologetic further telling Police that his dog has never attacked anybody in the past, questioning why the agent had opened his gate. Photographs of the yard and side gate obtained."¹³

¹³ Ex 1 Vol3 Tab 62

NSW Police and Penrith City Council

71. No steps were taken by NSW Police or Penrith City Council towards declaring the dog Boof to be a “menacing” or “dangerous” dog under the *Companion Animals Act 1998* (NSW) (CA Act). No charges were laid or Court Attendance Notices filed for any potential offences under the *Companion Animals Act* or otherwise.

72. An internal Investigations Note of a Companion Animals Officer with Penrith City Council¹⁴ records her understanding that the dog attack was a Police investigation and that, in effect, the Council could provide:

“Assistance in relation to details of The Companion Animals Act 1998 and any other requests police may have for possible action, orders, etc... I said that I’m led to believe that the dog may have been defending his property and therefore this may not be an offence / attack matter that we are dealing with.”

73. On 27 July 2017, NSW Police provided a written document authorising the release of the dog Boof back to the owner. A COPS system entry states:

“On Thursday the 27 July 2017, police were contacted by Animal Services Officer, Amanda Burns from Penrith City Council in relation to the release of the dog. While speaking with Amanda Burns, she advised police that as the victim entered the rear yard without the consent or knowledge of the owner, the dog was an "animal in defence of property", and as such no offences were committed.

Police have provided Amanda Burns consent to release the animal to its owner. Event to be finalised...

History:

On Monday the 24th of July 2017, a male American Staffy attacked a male in the rear yard of 29 Walker Street, Werrington. This attack resulted in the male sustaining bite injuries to both arms which have required hospital treatment. As a result, police attended the premises and with the assistance

¹⁴ Ex 1 Vol 1 Tab 49

of an animal services officer, seized the dog. Since this date the dog has been held at Hawkesbury Animal Services. The dog has been held at this location until police could determine the circumstances of the incident and whether action was required against the behaviour of the dog.

Current Situation

Police investigations to date have identified that the victim of this dog attack entered the rear yard of the premise without the consent or knowledge of the owner. As a result, it is the view of police that the dog was an "animal in defence of property", as it was on its own land. As a result, it has been determined that no offence has been committed. The dog can now be returned to its owner with no further police action anticipated."

74. The dog *Boof* had, until then, been unregistered. As a requirement of the release of the dog *Boof* from the pound, Mr Murray was required to pay the \$55 fee for the dog to be registered on the CAR.¹⁵

REGULATORY REGIME FOR OWNERSHIP AND CONTROL OF DOGS

75. The regulatory regime for dog ownership in NSW is comprised of the *CA Act* and the *Companion Animals Regulation 2018 (NSW) (Regulation)*. The regulatory regime confers powers and responsibilities on the Chief Executive of the Office of Local Government (the Chief Executive) and local government councils. The Minister for Local Government is responsible for the *CA Act*. The enforcement of the regime falls principally to the local government councils within their respective LGAs.
76. The *CA Act* imposes obligations on dog owners for the securing and safe management of dogs owned or under their control. The regulatory regime seeks to ensure compliance with its requirements by imposing criminal sanctions for non-compliance.

¹⁵ *CA Act*, s 64(4) (an unregistered animal that is required to be registered cannot be claimed until an application for registration has been properly made and any registration fee has been paid).

Registration

77. Part 9 of the *CA Act* provides for the creation and operation of the Register of Companion Animals (CAR).
78. Owners must ensure that, from the time that a “companion animal” (which, relevantly, includes a dog) is 12 weeks old, it is “identified”: s 8(1). By reference to the *Regulation* (cl 5), the dog is to be identified by a microchip. Identification information includes “*the type of animal (dog or cat), and the breed of the animal*” (cl 8(g), *Regulation*). The owner of a dog can be guilty of an offence if the dog is not so identified: s 8(3).
79. Owners must also ensure that a companion animal is registered s 9. This is a step separate from the identification requirement referred to above. The information recorded for a dog is to include its breed: s 80(1)(g). Registration of dogs can be undertaken at a relevant Local Government administration building or online through the NSW Pet Registry.

Provisions for control and seizure

80. Sections 12 to 28 of the *CA Act* set out provisions dealing with the responsibilities for control of dogs. A limited power of seizure is provided by s 18.
81. Section 18 relevantly provides as follows:

“18 Dog that has attacked or bitten may be secured or seized

(1) If a dog attacks or bites any person or animal (except vermin) otherwise than in the circumstances referred to in section 16(2), an authorised officer may, at any time within 72 hours after the attack or bite—

(a) secure the dog on property that the officer has reason to believe is occupied by the dog’s owner, or

(b) seize the dog.

(2) Any other person may seize the dog if the dog is on property owned or occupied by the person.

(3) If the dog is on property that an authorised officer has reason to believe is occupied by the dog's owner, the officer may seize the dog only if the officer is satisfied that—

(a) the dog cannot be kept adequately secured on that property, or

(b) the dog cannot be kept under the effective control of some competent person while it is on that property, or

(c) the owner of the dog has repeatedly failed to keep the dog secured on that property or under the effective control of a competent person while it is on that property (regardless of whether the dog is secured or under effective control at the relevant time).

...

(6) This section applies whether or not any injury is caused to a person or animal by the dog's attack or bite."

82. Section 16, which is an offence provision, relevantly provides as follows:

"16 Offences where dog attacks person or animal

(1) If a dog rushes at, attacks, bites, harasses or chases any person ... whether or not any injury is caused to the person ...—

(a) the owner of the dog, or

(b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the dog at that time—that other person, is guilty of an offence.

Maximum penalty—

(a) 100 penalty units except in the case of a dangerous, menacing or restricted *dog*, or

(b) 400 penalty units in the case of a dangerous, menacing or restricted dog.

(2) It is not an offence under this section if the incident occurred—

- (a) as a result of the dog being teased, mistreated, attacked or otherwise provoked, or
- (b) as a result of the person or animal trespassing on the property on which the dog was being kept, or
- (c) as a result of the dog acting in reasonable defence of a person or property, or ...”

Restricted, dangerous and menacing dogs

1. The CA Act contains additional provisions, including restrictions, relating to dogs that fall within the statutory definitions of “*restricted dog*”, “*dangerous dog*” and “*menacing dog*”.
83. The magnitude of requirements for these categories descends from *restricted* to *menacing*, with the former having the most restrictive obligations and the latter the least restrictive. This reflects the legislature’s view of the respective dangers of each category of dog.
84. A “*restricted dog*” includes specific breeds (including American pit bull terriers or pit bull terriers), a dog declared to be a restricted dog, or any breed, kind or description prescribed by the *Regulation*: s 55(1).
85. An *American Staffordshire Terrier* is not a “*restricted dog*” under the CA Act.

Process for making a declaration

86. A dog relevantly becomes a *dangerous dog* or *menacing dog* upon the making of a declaration to that effect (s 5(1)), which can occur only after notice of an intention to make such a declaration has been served on the dog owner and consideration has been given to any objections made, within 7 days, by the dog owner: ss 34(1) and (1A), 35 and 37.

87. Only an authorised officer of a council, not a police officer, can issue such a notice of intention and make a declaration.

88. Section 34 of the *CA Act* relevantly provides:

“34 Authorised officer may declare dog to be dangerous dog or menacing dog

(1) An authorised officer of a council may declare a dog to be a dangerous dog if the authorised officer is satisfied that—

(a) the dog is dangerous, or

...

(1A) An authorised officer of a council may declare a dog to be a menacing dog if the authorised officer is satisfied that—

(a) the dog is menacing, or

...

(2) A declaration can be made on the officer’s own initiative or on the written application of a police officer or any other person.”

89. Key criteria in the operation of s 34, and of which the authorised officer must relevantly be satisfied before a declaration can be made, are the definitions of “*dangerous*” and “*menacing*”. In this respect, ss 33 and 33A provide definitions of “*dangerous dog*” and “*menacing dog*” as follows:

“33 Meaning of “dangerous”

(1) For the purposes of this Act, a dog is ***dangerous*** if it—

(a) has, without provocation, attacked or killed a person or animal (other than vermin), or

(b) has, without provocation, repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin), ...”

And:

“33A Meaning of “menacing” and “menacing breed or kind of dog”

(1) For the purposes of this Act, a dog is *menacing* if it—

- (a) has displayed unreasonable aggression towards a person or animal (other than vermin), or
- (b) has, without provocation, attacked a person or animal (other than vermin) but without causing serious injury or death.

(2) The regulations may declare a breed or kind of dog to be a *menacing breed or kind of dog*.

...¹⁶

Obligations on dog owner if declaration made

90. If a declaration is made, the *CA Act* imposes obligations on owners of, relevantly, *dangerous dogs* or *menacing dogs*. Owners must obtain annual permits for a dog that is, or has been declared to be, a *dangerous dog*. A permit is not required for a dog declared to be a *menacing dog*.
91. More significantly, the *CA Act* imposes obligations on owners in relation to:
- (i) the enclosure; and
 - (ii) the control of *dangerous* and *menacing dogs*, along with the selling and acceptance of ownership of such dogs.

¹⁶ The term “serious injury”, referred to in s 33A(1), is defined, non-exhaustively, in s 33A(4). Note also that s 33A(2) provides that the regulations may declare a breed or a kind of dog to be a *menacing* breed or kind of dog. The power to make that regulation is subject to s 33A(3). No such regulation has been issued to date.

Enclosure requirements

92. Regarding the enclosure requirement:

- (i) *Dangerous dog*: While on the property at which it is ordinarily kept, a *dangerous dog* must be kept in an enclosure that meets the requirements prescribed by the *Regulation*: s 51(1).¹⁷
- (ii) *Menacing dog*: While on the property at which it is ordinarily kept, and while it is not under the effective control of a person aged 18 years or above, a *menacing dog* must be enclosed to prevent a child accessing it: s 51(1A).¹⁸

93. Clause 32 of the *Regulation* specifies requirements for the enclosures on properties for *dangerous dogs* (but not for *menacing dogs*). These include that the enclosure must:

- (iii) be fully enclosed, constructed and maintained so the dog cannot dig under or escape from it;
- (iv) be constructed so a person cannot have access to it without the assistance of an occupier of the property who is above the age of 18 years;
- (v) be designed to prevent children having access to the enclosure;
- (vi) not be positioned on the property such that people are required to pass through it to gain access to other parts of the property;
- (vii) have a minimum height of 1.8 metres and a minimum width of 1.8 metres;
- (viii) have walls, a fixed covering and a (self-enclosing) gate constructed of brick, timber, iron, or similar solid material or material that otherwise meets the specified requirements, as well as a floor constructed of sealed concrete.

94. A person is prohibited from owning a *dangerous dog* unless a certificate of compliance is in force for the enclosure in which the dog is required to be kept under s 51(1)(a): s 58H(1).

¹⁷ CA Act, s 51(1). The owner of the dog must obtain a certificate of compliance in relation to the prescribed enclosure: s 58H.

¹⁸ CA Act, s 51(1A). The CA Act does not require that a *menacing dog* enclosure satisfy the certification requirements applicable for *restricted* or *dangerous dogs*.

Control requirements

95. The CA Act imposes on owners of *dangerous* and *menacing dogs*:

- (i) *Dangerous dog*: Whenever outside its enclosure, a *dangerous dog* must be under the effective control of a competent person by specified means (chain, cord or leash) and muzzled: ss 51(1) and 56. This requirement applies even when the dog is within the property at which it ordinarily resides if it is outside its enclosure.
- (ii) *Menacing dog*: Whenever a *menacing dog* is outside the property at which it is ordinarily kept it must be under the effective control of a competent person by specified means and muzzled. This requirement does not apply when the dog is within the property at which it ordinarily resides s 51(1A).

96. If the control requirements are not complied with, an authorised officer is empowered to seize a *dangerous dog or menacing dog*: (s 52).

ISSUES

97. The NSW Government has made a commitment to review the CA Act and Regulation in 2025. The following issue arose out of Mr Amatto's tragic death.

Why did the Companion Animal Regulatory Regime not provide any protection from a further attack by *Boof* after the vicious attack on Mr Grant in 2017?

Was the attack on Mr Grant appropriately investigated?

98. The attack on Mr Grant in 2017 was investigated by two agencies, namely the Police and Penrith City Council. The Police conducted the investigation, with the Council offering assistance.
99. The fact that two agencies are involved in responding to a dog attack raises the potential for unclear areas of responsibility. Local Police do not have the training and expertise with the operation and enforcement of the CA Act that council officers have.

100. The Council officers gave evidence that there had been frustration on their behalf in instances when Police commenced a dog attack investigation and then passed, or attempted to pass, the investigation on to the Council. With respect to the attack on Mr Grant there were timing issues with Police being on duty and the speed in which information was coming back to the Council, particularly when they were concerned about whether the seizure of the dog was authorised and whether or not they were to make a declaration in relation to the dog.
101. Penrith City Council has informed this inquest that a more formal understanding is being put in place between the Council and the local Police. At present there are Memoranda of Understanding between Police Area Commands and two Local Councils in relation to the *CA Act* in NSW. One with Sutherland Shire Council and one with Campbelltown City Council. The Police are of the opinion that it would be more practical and pragmatic to enter into an overarching or model Memorandum of Understanding with the OLG. That document could then be implemented by all local councils and Police districts throughout NSW.
102. I propose to recommend that the OLG and the Commissioner of Police consider developing a model or overarching Memorandum of Understanding, which can be adopted and utilised for councils and Police Area Commands or Police Districts, regarding the coordination of responses, including investigation and enforcement, and the formalising of roles and responsibilities of Police and councils with respect to dog attack incidents.
103. The CAR records information regarding the history of a dog including penalty notices, outcomes, warnings issued and suspected contraventions. Council officers do not have ready access to the CAR in the field. The information may inform an officer's decision and actions in response to an event, such as a dog attack or escape, including assessments of the competence of an owner to keep his or her dog under effective control and to take appropriate measures to secure the dog within the property at which it is ordinarily kept.
104. The Penrith City Council officer informed this Court that this was a significant limitation of the CAR and emphasised that the CAR should include accessible histories of regulatory actions against an owner and also adverse interactions, or penalty notice and

court outcomes, in relation to *CA Act* offences. I propose to recommend that the OLG review and update the functionality of the CAR to enable councils readily to access the regulatory history of dog owners.

105. I also propose to recommend to the Chief Executive Officer of Penrith City Council that the Council continue to review its standing operating procedures concerning responding to dog attack incidents and the training provided to authorised officers as regards the exercise of statutory powers under the *CA Act*, including the making of declarations, with a view to ensuring proper coordination of responsibilities if the NSW Police Force is also involved in responding to a dog attack incident.

Did the investigating authorities have the power to seize Boof after the attack on Mr Grant in 2017?

106. Mr Grant described in his evidence that as he knocked on the wooden gate at the Werrington Residence it swung open and he took a step into the property and patted a first dog before he was then pulled further into the property in the attack by *Boof*. It is not in dispute that his actions of entering the property in that manner in the circumstances of attending the property without any prior arrangement amounted to a trespass at law.¹⁹
107. After the attack, Police arrived at the scene and requested the Penrith City Council to send an Animal Services Officer (ASO) to seize *Boof* while Police investigated the matter further. The ASO took *Boof* to the pound. She believed she was exercising a power of seizure under s 18(1) of the *CA Act*. She also believed that the Police were going to investigate the attack.
108. Penrith City Council became concerned as to whether there had been a lawful basis for seizing *Boof*. It was thought that in the circumstances of s 16 (2)(b) *CA Act* (person trespassing) or s 16(2)(c) *CA Act* (dog acting in reasonable defence of property) that the seizure powers in s 18 (1) *CA Act* might have been precluded.

¹⁹ For a discussion on the legal principles of trespass in the circumstance see Counsel Assisiting's Closing Submissions dated 11 December 2024 pp 32-37

109. As a result of that concern, the owner, Mr Murray, was not required to pay the impound fees when *Boof* was released from the pound on 28 July 2017.
110. The steps taken by Police and, principally, Penrith City Council to arrange for the dog *Boof* to be seized, while a Police investigation took place, arose in circumstances where the full factual position was still emerging. The dog had attacked Mr Grant with extreme ferocity, causing significant injuries. There was an understandable concern, on the part of Police (and, in turn, the Council) that an apparently vicious dog be seized and removed, in the interests of public safety, while the matter was investigated.
111. That said, the concerns held by Penrith City Council as to whether the seizure was lawful were justified. On the information obtained from Police at the scene, it appeared that the victim of the attack had, or may have, entered the rear of the property without permission.
112. The power conferred by s 18 is exercisable only in limited circumstances and is significantly constrained by its reference to s 16(2).
113. Council officers who respond to a suspected dog attack should have the clear authority to seize the dog. They may have incomplete information about the circumstances of the attack and related matters. They may have little information of the manner in which the dog was secured or controlled by its owner and how effective such arrangements might be in the future. They also may have little information on the history of the dog or the dog owner including as to their past compliance with the obligations under the *CA Act* and *Regulation* and any other information relevant to an assessment of their competence and reliability.
114. The interests of public safety may be undermined if a general power of seizure and impounding, at least as an interim measure, is not readily available to an authorised officer and which makes appropriate allowance for such difficulties.
115. It is in the interests of both clarity and public safety in there being a clearly conferred power of seizure under the *CA Act* to permit an authorised council officer to seize and impound a dog, at least for an interim period while investigations are undertaken, and which does not have the existing restriction imposed by the connection to s 16(2).

116. I propose to recommend that there be an amendment to s 16(2)(b) *CA Act*. That section applies irrespective of the severity of the attack and even if the entry of a person on a property where the dog is being kept is momentary. The section affects the seizure power in s 18 *CA Act*. I propose to recommend an amendment to s 18 *CA Act* to broaden the scope for the exercise of the power to seize a dog so that council officers and/or police officers may seize a dog while an investigation into an attack is undertaken.
117. I propose to make a recommendation to the NSW Commissioner of Police that the Commissioner consider reviewing the NSW Police Force's standard operating procedures, and the training provided to officers, regarding responses to suspected dog attacks, the statutory powers available to police under their *CA Act* and ensuring proper coordination of responsibilities between Police and councils in respect of a dog attack incident. I note that the Commissioner of NSW Police supports this recommendation.

Why was Boof not declared a dangerous or menacing animal after the attack on Mr Grant?

118. The process for making a *dangerous dog* or *menacing dog* declaration, and the consequences of so doing, is described in paragraphs [86]-[96] above. The key criteria, in the definitions of *dangerous dog* and *menacing dog*, are contained in ss 33 and 33A of the *CA Act*, as set out at [89] above.
119. Under the *CA Act* the Council is the entity empowered to make a *dangerous* or *menacing dog* declaration.
120. After the 2017 attack on Mr Grant, Penrith City Council did not take any steps towards making a *dangerous dog* or *menacing dog* declaration with respect to *Boof*. The Council gave evidence that because the matter involved an investigation being conducted by Police that the Council was waiting on information from Police and notification of an outcome from the Police investigation. The Council gave evidence that, because of their concern about the seizure of *Boof*, there was some urgency in the Council finding out what Police had determined in terms of whether there was an offence on the property and whether the Council would therefore be commencing some action for a *dangerous* or *menacing dog* declaration, or whether the dog was to be returned to its owner.

121. On 27 July 2017 the Police determined that no offence had been committed by *Boof* and that he could be returned to his owner. Consequently, the Council arranged for the dog to be returned to its owner.
122. A dog can only be declared a *dangerous dog* if it has “without provocation” attacked a person (s33(1)(a)). The CA Act does not define the term “provocation” or the expression “without provocation”. It is arguable that the presence of a person in the rear of a property who is a trespasser at law may constitute provocation for a dog that attacks that person. The Council officer gave evidence that she certainly considered a person entering the property without consent would amount to provocation of a dog, even if all the person did was to greet and pat it.
123. A dog can only be declared a *menacing dog* if it has displayed unreasonable aggression towards a person, or without provocation attacks a person. The concept of unreasonable aggression is not straightforward. The Council officer was of the opinion that *Boof’s* actions did not amount to unreasonable aggression. That an attack in the property in which a dog is normally kept upon a trespasser does not amount to unreasonable aggression.
124. Even if *Boof* had been declared a *menacing dog* it is unlikely that any of the enclosure or control requirements obligations placed on the owner would have operated in such a way to protect Mr Amatto.
125. The provisions of the CA Act were not able to protect Mr Amatto from *Boof* despite the vicious attack on Mr Grant.
126. The OLG should examine the appropriateness and framing of the terms “without provocation” and “unreasonable aggression” and “acting in reasonable defence or person or property”. Furthermore, consideration of whether the CA Act should make clear whether any trespass, even momentary trespass, should be taken to constitute provocation or to involve a dog acting in reasonable defence of a personal property.
127. I propose to make a recommendation to the Minister for Local Government and the OLG that the appropriateness of the statutory thresholds and framing of the provisions in the CA Act for the issuance of notices to declare a dog a *menacing* or *dangerous* dog be reviewed.

128. I also propose to recommend that the *CA Act* include an additional standalone offence of a dog attack causing serious harm or death to a person. The penalties should include, at the least, control and enclosure obligations on the owner including in their own home.
129. The *CA Act* does not confer power on a police officer to declare a dog *dangerous* or *menacing*. I propose to recommend that upon the review of the *CA Act* that consideration be given to confer upon police officers the power to make *dangerous* and *menacing dog* declarations. I note that the Commissioner of NSW Police is of the opinion that authorised officers of council are more appropriately trained and resourced to make such declarations. However, it appears incongruous that Police may be involved in investigating a serious dog attack incident including in determining what enforcement action should be taken under the *CA Act* and yet have no power to make a declaration which may well be appropriate in the interest of public safety.
130. The *CA Act* does not provide statutory power to permit an authorised officer to make a direction to the owner of a dog to secure the dog with a muzzle or lead (whether in public or while the dog is in the property at which it is ordinarily kept). It is in the interest of public safety for authorised officers to have such a power. The circumstances in which a risk to public safety from a dog may arise are wide, varied and impossible to predict in advance. The contemplated power is particularly significant while further investigations and potential processes are undertaken, or pending other measures being implemented such as securing a faulty gate or hole in a property fence from which a dog may be able to escape.
131. I propose to recommend that the *CA Act* be amended to include a provision empowering an authorised officer to direct an owner or person in control of a dog to secure the dog with a muzzle and or lead for a specified period.

What is the incidence of serious injury from dog attacks in NSW?

132. The matters being considered by this Court, both at the present inquest hearing and in other inquest matters involving fatal dog attacks, reveal a concerning number of fatal dog attacks in NSW between 2009 and 2023, namely:

Date of the fatal attack	Matter	Key facts
January 2009	<i>Burke Inquest</i>	<p><i>Deceased:</i> child (3 years old).</p> <p><i>Location of attack:</i> residential home of friends of the deceased's parents. The deceased and her sibling (14 months old) were visiting (being minded by their parents' friends). The dogs ordinarily lived at that home.</p> <p><i>Breed of dogs (4 dogs suspected to be involved in attack):</i> breed of dogs not specified in findings (at least 3 of the 5 dogs at the home described to be <i>Bull Mastiff-Cross-Rhodesian Ridgebacks</i>²⁰).</p>
March 2018	<i>Jones Inquest</i> ²¹	<p><i>Deceased:</i> infant (13 months old).</p> <p><i>Location of attack:</i> residential home of a family member (grandmother). The attack occurred when the deceased, and her parents, were visiting the family member's home.</p> <p><i>Breed of dog (1 dog):</i> Rottweiler.</p> <p><i>Registration status:</i> dog not registered (was microchipped).</p> <p><i>Known history to council (before fatal attack):</i> no known prior attacks on animals or people.</p>
May 2019	<i>O'Reilly Inquest</i>	<p><i>Deceased:</i> adult female (72 years old).</p> <p><i>Location of attack:</i> residential home at which the deceased lived with the dog and her husband.</p> <p><i>Breed of dog:</i> registered as <i>American Staffordshire Terrier</i>.</p> <p><i>Registration status:</i> registered (and microchipped).</p> <p><i>Known history to council (before fatal attack):</i> no known history of attacks or aggression.</p>

²⁰ See <https://www.smh.com.au/national/frenzied-dogs-killed-ruby-lea-inquest-20110920-1kjdy.html#>.

²¹ The holding of an inquest into the death of JK was dispensed with on 19 September 2018

June 2019	Smith Inquest	<p><i>Deceased:</i> adult male (50 years of age).</p> <p><i>Location of attack:</i> inside the residential home at which the deceased ordinarily lived. The dog belonged to the deceased's flat mate and ordinarily lived there.</p> <p><i>Breed of dog:</i> registered as a <i>Staffordshire cross</i>.</p> <p><i>Registration status:</i> registered (and microchipped).</p> <p><i>Known history to council (before fatal attack):</i> no known history of attacks or aggression.²²</p>
March 2020	Holland Inquest	<p><i>Deceased:</i> adult female (90 years of age).</p> <p><i>Location of attack:</i> public beach after the 3 dogs left their property unaccompanied. Before and after the fatal attack, the dogs attacked four other people, including the deceased's adult daughter and a 79-year-old female friend of the deceased causing serious injuries.</p> <p><i>Breed of dogs (3 dogs):</i> crossbreed of multiple breeds which included <i>Staffordshire Bull Terrier</i> (not restricted breed).</p> <p><i>Registration status:</i> none of the 3 dogs registered (only one microchipped).</p> <p><i>Known history to council (before fatal attack):</i> several notices and penalty notices issued for non-registration of dogs. One report of an unprovoked attack on a person living near to the dogs' home about one week before the fatal attack.</p>
July 2021	MJ Inquest	<p><i>Deceased:</i> infant (5 weeks old).</p> <p><i>Location of attack:</i> family home (where the dog ordinarily lived).</p> <p><i>Breed of dog (1 dog):</i> <i>American Staffordshire Terrier</i> (not restricted breed).</p> <p><i>Registration status:</i> registered (and microchipped).</p> <p><i>Known history to council (before fatal attack):</i> one report of suspected attack on another dog about one month before fatal attack.</p>

²² The holding of an inquest into the death of SG was dispensed with on 25 February 2020

November 2022	Pollard Inquest	<p><i>Deceased:</i> child (2 years old).</p> <p><i>Location of attack:</i> motel accommodation at which the child, sibling and mother were temporarily staying and where the dogs ordinarily lived (owned by motel operator).</p> <p><i>Breed of dogs (2 dogs):</i> Rottweiler (primary attacker) and Australian cattle dog (crossbreed).</p> <p><i>Registration status:</i> neither dog registered (only one dog microchipped).</p> <p><i>Known history to council (before fatal attack):</i> no known history of attacks or aggression against people for either dog.</p>
Feb 2023	RM Inquest	<p><i>Deceased:</i> infant (5 weeks old).</p> <p><i>Location of attack:</i> residential home of a family member (not the deceased's home). The attack occurred when the deceased, and her parents, went to a family gathering at the family member's home.</p> <p><i>Breed of dogs (2 dogs):</i> Rottweilers.</p> <p><i>Registration status:</i> both dogs registered (and microchipped).</p> <p><i>Known history to council (before fatal attack):</i> no known history of attacks or aggression for either dog.</p>

Breeds involved in attacks

133. The OLG is the NSW Government agency responsible for strengthening the sustainability, performance, integrity, transparency and accountability of the local government sector. As the OLG website states, the OLG has a policy, legislative, investigative and program focus in regulating the State's 128 local councils and also works collaboratively with the local government sector to support local councils to deliver for their local communities. The OLG, which is part of the Department of Planning, Housing and Infrastructure, is the key adviser to the NSW Government on local government matters.²³

²³ See OLG website: <https://www.olg.nsw.gov.au/>.

134. The OLG collates annual statistics on dog attacks sourced from councils throughout NSW. Quarterly NSW council statistics indicate that, of all dog breeds, the *American Staffordshire Terrier* had the highest incidence of attacks in NSW between 2018 and 2021, while *Rottweilers* were also involved in a relatively high number of attacks:²⁴

Total dog attacks reported by NSW Councils per year		2021*	2020	2019	2018	Total
		2401	4274	5080	5028	16783
Top 20 attacking dog breeds in NSW		Number of attacking dogs in NSW by breed per year				
		2021*	2020	2019**	2018	Total
1.	American Staffordshire Terrier	413	677	506	433	2029
2.	Bull Terrier (Staffordshire)	210	435	397	335	1377
3.	Australian Cattle Dog	138	232	212	205	787
4.	German Shepherd Dog	115	204	202	189	710
5.	Bull Terrier (Staffordshire) – Cross Breed	60	135	116	120	431
6.	Rottweiler	58	128	121	109	416
7.	Australian Kelpie	61	95	96	76	328
8.	American Staffordshire Terrier – Cross Breed	39	95	79	78	291
9.	Mastiff – Cross Breed	32	82	75	95	284
10.	Border Collie	56	99	63	63	281
11.	Siberian Husky	50	77	76	76	279
12.	Labrador Retriever	44	60	57	70	231
13.	Australian Kelpie – Cross Breed	49	27	60	52	188
14.	Bull Terrier	0	46	63	71	180
15.	Bull Mastiff	15	69	31	51	166
16.	Australian Cattle Dog – Cross Breed	35	15	59	51	160
17.	Mastiff	36	46	51	20	153
18.	Boxer	17	57	18	31	123
19.	Bull Mastiff – Cross Breed	0	41	36	41	118
20.	Jack Russell Terrier	0	42	37	33	112

*01/01/2021-30/06/2021 **The 2019 July-September data is not publicly available

135. In the view of the OLG, there is underreporting of dog bite attacks. In this respect, most attacks occur in the home where the dog lives and owners may be reluctant to report such attacks owing to a concern as to the consequences for the dog, which may be removed from the home, impounded and possibly destroyed.²⁵

²⁴ A caveat with respect to this data is the potential inaccuracy with breed identification in particular cases, given the difficulties in accurate identification based on features and/or the unreliability arising from self-reports of owners. Nor do these statistics provide figures for the number of attacks relative to the total number of dogs of the particular breed type.

²⁵ Ex 3 at [47]

Dog attack hospital admissions

136. The authors of an academic article titled “The incidence of public sector hospitalisations due to dog bites in Australia 2001-2013”, published in the Australian and New Zealand Journal of Public Health (2017), relevantly state:²⁶

*“This study has identified a number of patterns in the statistical data for dog bite injuries in contemporary Australia. On average each year between 2001 and 2013, 2601 persons required hospitalisation for dog bite injuries in Australia at an annual rate of 12.39 per 100,000. **The highest incidence density was for infants and children aged 0–4 years and the next highest was for 5–9 year olds.**”* (emphasis added)

137. An article published in 2022 by clinicians at the Sydney Children’s Hospital (SCH), titled “Paediatric dog bite injuries: a 10-year retrospective cohort analysis from Sydney Children’s Hospital”,²⁷ relevantly found that:

- (i) Some 628 patients presented to SCH with dog bites during the study period (seemingly 10 years);
- (ii) of those persons, 273 (43.5%) patients received treatment in the Emergency Department only with the remaining 355 (56.5%) patients admitted for further treatment;
- (iii) the average patient age was 5.69 years;
- (iv) facial and other head and neck injuries were most common (64.4%); and
- (v) the mean clinical cost per dog bite injury was \$2,968.

Other reports / literature

138. In 2012, the Australian Veterinary Association (AVA) published a report titled *Dangerous Dogs – A Sensible Solution* (AVA Dangerous Dogs report). In that report, the AVA stated (citations omitted):²⁸

²⁶ Ex 13 Vol 3 Tab 26

²⁷ Ex 13 Vol 3 Tab 27

²⁸ Ex 3 Annexure D

“Most scientific studies report that children are more likely to be bitten by dogs than adults. In their 2001 paper, ‘A community approach to dog bite prevention – AVMA Task Force on Canine Aggression and Human–Canine interactions’, Beaver et al noted that:

‘Children are the most common victims of serious dog bites. Seventy per cent of fatal dog attacks (Sacks et al 2000) and more than half of bite wounds requiring medical attention involve children.’ (Beaver et al 2001)

In a review of United States research into victims of dog bites, Overall and Love found that:

- *Most dog bites affect children under 15 years of age.*
- *60-75% of those bitten are under 20 years of age, and most are 5-9 year olds.*
- *After 1 year of age, the incidence increases through to ages 5-9.*
- *Children are bitten 2-3 times more frequently than would be expected on the basis of their population proportion.*
- *45% of 3,200 children 4-18 years of age reported being bitten during their lifetime.*
- *Children are at least three times more likely to experience a bite needing medical attention than are adults.*

An extensive telephone-based survey of 1184 families in Belgium revealed a 2.2% annual prevalence of dog bites to children, and research from Indiana, USA mirrored these findings. Far less than 50% of bites were reported to medical or legal authorities (Kahn et al 2004).

The number of dog bite cases presented to hospital emergency departments was about one quarter of those caused by road accidents and one-third of those caused by burns received at home. Of the dog bite cases, 65% of patients were bitten at home and 35% in public. In 86% of the home bites

and 31% of the public bites, the bite was determined to result mainly from the child's or adult's behaviour. Bites at home occurred when there was no adult supervision (Kahn et al 2003).

Figures like these are from medical reporting sources and reflect the likelihood of a bite being reported. Children are generally shorter, weaker and have poorer judgement than adults. They also actively interact with dogs differently to adults, so are more likely to be bitten on the face and head causing complex, serious, and disfiguring injuries. However, children typically require significantly shorter periods of hospitalisation than do adults (Ozanne-Smith et al 2001). Beaver (2001) concisely summarises the findings:

'Children's natural behaviours, including running, yelling, grabbing, hitting, quick and darting movements, and maintaining eye contact, put them at risk for dog bite injuries. Proximity of a child's face to the dog also increases the risk that facial injuries will occur.'

Increased risk of attack by dog that has previously attacked a person or animal

139. In a supplementary report dated 9 March 2024,²⁹ Professor Paul McGreevy provided his expert opinion to the effect that a dog that has been involved in an attack on a person or animal is thereafter at increased risk of attacking a person or animal in future. Professor McGreevy relevantly stated (at [2.1]):

"There are no peer-reviewed reports on this possibility, not least because the ethics of establishing a definitive empirical study of this sort would be unacceptable. However, in my opinion, if a dog is involved in an attack on an animal or person, that dog is thereafter at increased risk of attacking a person or animal in future. This likelihood reflects the proximate increase in arousal of the dog after its first attack and what it is likely to learn from the encounter.

Dogs have the dental weaponry to inflict severe wounds and to kill members

²⁹ Ex 13 Vol 2 Tab 18

of their own social group, let alone strangers. So, the costs of combat can be significant. In general, they avoid conflict and their ability to keep the peace is remarkable.

However, under extreme conditions in nature and under manufactured conditions in the fighting pit, they may cross the threshold into combat. They may be motivated to show agonistic responses (i.e., defence or aggression) to push away a fear-eliciting threat or defend their resources (e.g., food, territory or offspring). After crossing the threshold into conflict, they may either die from the encounter or survive and learn from it.

The dog that survives physical combat will either be emboldened and learn to cross the threshold more readily to guard resources or be more fearful, as a result of the encounter, and therefore more highly motivated to remove threats. Either way, it is generally at increased risk of attacking in future.”

140. The *Companion Animals Amendment (Rehoming Animals) Bill 2022* (NSW) places restrictions on councils’ powers to euthanise a dog that has been seized following a serious attack. Section s64B is added to the CA ACT and states that a council cannot destroy a seized or surrendered animal without:

- (i) giving written notice to at least two rehoming organisations that an animal is available for rehoming and will remain available for at least seven days from the day the notice is given; and
- (ii) taking reasonable steps to advertise on a web page or through a social media platform than an animal is available for rehoming.

141. Subsection 3 states that if a rehoming organisation gives the council written notice it can rehome an animal the council must not destroy the animal and arrange for collection of the animal.

142. This could allow the rehoming of dogs that are not suitable. Based on the available expert evidence it is important that councils are vested with a discretionary power to euthanise a dog that has been seized following a serious or fatal attack against a person. I propose to make a recommendation to the Minister for Local Government and the

OLG that the appropriateness of s 64B (1) and (3) of the *CA Act*, regarding dogs involved in serious or fatal attacks, is reviewed.

Limitation of the restricted dog provisions

143. The *restricted dog* provisions of the *CA Act* are focused on the breed of the dog and not a specific event. However, the protection afforded by this part of the regime depends, *inter alia*, on:

- (i) The breeder, supplier, and / or owner accurately identifying that the dog is one of the breeds identified in s 55(1) and complying with the applicable restrictions.
- (ii) The authorised identifier accurately identifying the breed at the time of microchipping.
- (iii) If the dog comes to the attention of a council but has not yet been identified as a *restricted* breed, the dog's breed then being accurately recognised such as potentially to enable a *restricted dog* declaration to be made.
- (iv) If a subsequent dispute follows over the breed, the approved breed assessor accurately identifying the dog's breed.

144. However, difficulties may arise:

- (i) in accurately identifying whether a dog is an American Pit Bull Terrier or pit bull terrier, or a crossbreed thereof; and/or
- (ii) in accurately distinguishing American Pit Bull terriers or pit bull terriers (which are *restricted* breeds) from American Staffordshire Terriers and Staffordshire Bull Terriers (which are not *restricted* breeds).

145. The difficulties with correct breed identification provide a significant impediment to the efficacy of the *restricted dog* provisions of the *CA Act*.

146. If a *restricted dog* is not accurately identified, its owner will not be made subject to the obligations that the legislature considers are necessary for such animals in the interests of community safety.

147. Given the difficulties in accurately identifying the breed of a dog by visual inspection, and the availability of DNA testing, I propose to recommend that the minister and the OLG facilitate reasonable access to DNA testing in NSW to assist in breed identification of dogs.

Importance of public education and awareness campaigns

148. Public education and awareness campaigns have an important role to play in protecting the community from dog attacks. This is particularly so given:
- (i) The vast ownership of dogs in the community.
 - (ii) The prevalence of dog attacks, which sometimes cause significant injury and even death.
 - (iii) The importance of dog owners being educated as to the significant risks posed by dogs, including particular breeds, and the responsibilities of dog owners in terms of ensuring their dog is effectively controlled and secured to minimise the risk of an attack, both in the home and in public.
 - (iv) The limitations of the protections provided by the *restricted*, *dangerous* and *menacing dog* provisions in the CA Act (outlined above).
149. The Australian Veterinary Association (AVA) Dangerous Dogs report noted studies showing that well designed and appropriately targeted programs to educate children and parents about behaviours around dogs have been effective. The AVA recommended that a proportion of dog registration fees be directed to education, with specific recommendations regarding training parents about protecting small children from dogs and about safe behaviour of children around dogs.³⁰
150. In a Law Society Journal article titled “*Dog attacks inquest prompts debate over laws and public education*”, the Manager of Animal Rehoming for Blacktown City Council is quoted as stating that there is “*an urgent need for a statewide campaign – similar to*

³⁰ Ex 3 Annexure D

the sunscreen campaign designed to win over sceptics – that targets dog owners who don't understand why, or do not want to desex, register and train their dogs".³¹

151. Typically, individual councils provide their own education campaigns around dog ownership.

152. In an institutional statement dated 16 February 2024, the OLG described its involvement in education programs. Without being exhaustive, this has included:³²

- (i) Since 2011, OLG's implementation with councils of a Statewide responsible pet ownership and dog safety education program known as the Responsible Pet Ownership Education Program (RPO).
- (ii) The RPO is the most direct intervention the OLG is involved with in terms of education to owners, families and the wider community about animal safety.
- (iii) The RPO involves trained staff ("Pet Educators") attending schools and pre-schools throughout NSW (as of February 2024 the RPO had conducted 13,587 visits to primary / pre-schools and provided 23,628 education sessions to 914,055 children).
- (iv) In 2013, the OLG launched an online learning tool for children's education (Kindergarten to Year 2) around responsible pet ownership and dog safety.
- (v) In October 2023, the OLG contacted all councils in NSW and offered to attend companion animal or pet related events run by respective councils to provide information, brochures and advice around responsible pet ownership and promote community engagement.
- (vi) As of February 2024, the OLG was reviewing the scope of the RPO and was said to be committed to improving the content of its website.
- (vii) The Minister for Local Government has committed to a review of the companion animals legislative framework, which will include considering recommendations from the dog attack coronial inquests and recent parliamentary inquiries into pounds and veterinary services.

³¹Tab 13 Vol 3 Tab 31, p 3

³² Ex 3 at [15]-[36] pp 2-4.

153. Increased consideration could be given to whether such programs are likely to be more effective if they are coordinated by a central executive body, such as the OLG, rather than the bulk of such programs being individually provided by councils. Potential benefits from such a focus would include:
- (i) better resourcing, with greater economies of scale as opposed to individual councils each engaging in their own education programs;
 - (ii) potentially greater reach across NSW, particularly from a Statewide advertising campaign like that utilised in South Australia;³³ and
 - (iii) and more consistent messaging.
154. In any Statewide public awareness campaign, consideration could be given to informing the public about matters including:
- (i) the severity of injuries that dogs can inflict, particularly dogs of muscular builds like *American Staffordshire Terriers*, *Staffordshire Bull Terriers* and *Rottweilers* (or crossbreeds thereof);
 - (ii) that in some cases serious or fatal injuries are inflicted on infants and children, although adults are also at risk;
 - (iii) that serious and fatal dog attacks have been inflicted on people with whom the dog ordinarily lives or whom the dog already knows; and
 - (iv) that dogs that have committed fatal attacks have had no known history of past aggression or attacks on animals or people (and that the presence of such past aggression is not necessarily a reliable indicator of whether a dog may attack a person).
155. I propose to make a recommendation that the Minister and the OLG examine, in consultation with councils, the development and implementation of a Statewide public awareness and education campaign to educate dog owners and the community generally about the risks posed by dogs, in particular some dog breeds, and how to safely interact with them.

³³ See <https://dogandcatboard.com.au/gooddogsbaddays>.

Licensing Regime for Dog Owners

156. The existing regulatory regime under the *CA Act* and the *Regulation* requires that all dogs be identified (microchipped) and registered on the CAR. The regulatory regime does not require satisfaction of a dog owner's fitness or capacity to comply with regulatory requirements before registration of the dog takes place.
157. The *CA Act* does provide that, in the case of a *dangerous dog*, an annual permit is required to own the dog (s 11C) and, in the case of a *restricted dog* (including one declared as such), an annual permit is required to own the dog (ss 11D and 56(1)(i)).
158. As for the issuance of permits, the Departmental Chief Executive may, upon receipt of an application for a permit, carry out any investigations and inquiries that the Departmental Chief Executive considers necessary to enable the proper consideration of the application: s 11I(4). A permit may be subject to any condition prescribed by the *Regulation*, or any condition imposed by the Departmental Chief Executive: s 11K. By s 11N, the *Regulation* may make provision regarding the grounds for refusal of permits.
159. Part 4 (cII 26-28) of the *Regulation* concerns annual permits. Part 4 does not specify criterion for eligibility to hold a permit (e.g., fitness / competence) or specify the matters to be considered in granting or refusing an application for a permit.
160. Whatever potential protection the permit requirement for *dangerous* and *restricted dogs* might be thought to offer in terms of public safety, such protection is necessarily limited by virtue of the fact that, in the case of a *dangerous dog*, a dog will be declared *dangerous* only if an event or incident occurs. It is possible a dog that commits a serious or fatal attack may have no known history of aggression or attacks and not be subject to a *dangerous dog* declaration. Further, in the case of a *restricted dog*, breeds such as the *American Staffordshire Terrier* and *Rottweiler* are not captured by the provisions. There may also be dogs that are not accurately identified as to their breed type and thus not the subject of action under provisions dealing with *restricted dogs*.
161. Outside of the permits required for the ownership of a *dangerous* or *restricted dog*, the regulatory regime does not require people to be licensed to own or possess a dog.

162. The licensing regime for firearm possession and use reflects the significant dangers that firearms pose (e.g., to cause fatal injuries). It also reflects the risks posed when firearms are not secured and used responsibly by fit and competent persons.
163. Even if it be accepted that dog ownership does not pose the same level of risk as firearm ownership, the possession of dogs can pose considerable risks to children and vulnerable adults, especially if the dog owner has inadequate awareness of the risks and does not put effective measures in place to minimise such risks, such as by securing and controlling their dog.
164. Material supportive of a regime that would require owners to be educated in responsible dog ownership and to demonstrate some level of competency has formed part of the evidence in the dog attack inquests. This includes the opinion of Dr Emetia Cull, an experienced veterinarian, to the effect that dog owners ought to be licensed so as to ensure that persons are competent and have training on how to deal with specific issues with animals. This would assist to ensure their animals are not put in situations of risk. Training would also assist owners to pre-empt a circumstance when their dog may be uncomfortable, and which could lead to aggressive behaviour. Training around the risks of permitting a child to have unsupervised exposure to a dog would also be beneficial.³⁴
165. In the Victorian Inquiry, Professor Coleman of the Animal Welfare Science Centre told the inquiry:
- "I am of the view that pet owners, but particularly dog owners ... should be licensed. So it is not the dog that is licensed, it is the owner that is licensed, and I think to get that there should be some sort of, even if it is fairly rudimentary, hurdle to pay. We do it for drivers licences. We have no difficulty in having somebody go up to the desk, answer 20 questions and get their licence. Why not do that for companion animals?"*³⁵
166. In its final report, the Victorian Inquiry touched on the possibility of "Licensing of owners or mandatory education in responsible ownership" (Chapter 7 at [7.7]).²⁵²

³⁴ Ex 13 Vol 2 Tab 20

³⁵ Ex 13 Vol 1 Tab 3, p 265

Ultimately, the Victorian Inquiry did not make recommendations in favour of such a proposal, stating:

“The Committee considers that these powers, combined with education campaigns and an effective suite of measures to combat irresponsible owners, are a more practical option than owner licensing. Incentives such as reduced registration fees may also be an effective way of encouraging owners to undertake training for themselves and their dogs.”

167. There are powerful considerations in favour of a person being required to be licensed to own a dog, particularly to own a breed of dog that is known to have killed people. The continuing instances of serious and fatal attacks by dogs in NSW justifies examination of such a proposal. I propose to make a recommendation that the Minister for Local Government and the OLG consider the issue of introducing a licence requirement for dog ownership, which may involve particular licence conditions calibrated for particular breeds of dogs.

CONCLUSION

168. The vicious attack on Mr Grant in 2017 was a red flag that *Boof* could be dangerous and may go on to attack someone else.
169. Nothing in the companion animals regulatory regime offered any warnings or protection to persons who encountered *Boof* after that attack. At the very least, if *Boof* had been required to be kept in an enclosure, or otherwise muzzled when not in an enclosure, this may have impacted on the likelihood or nature of the fatal attack on Mr Amatto.
170. The OLG has informed this inquest that it is committed to focusing closely on each of the recommendations arising from this inquest. The government has confirmed that it is committed to achieving a modern and outcomes based legislative framework, so that, as far as reasonably practicable, future tragedies can be avoided or at least minimised.

171. I am of the opinion that any disadvantage of stricter regulation around dog ownership is outweighed by the possible prevention of a similar attack as the one Mr Amatto suffered.
172. I express my sincere condolences to Mr Amatto's family.
173. Finally, this inquest has been greatly assisted by the cooperative provision of information and statements by the Penrith City Council, the OLG and the Commissioner of Police. The proactive steps taken by Penrith City Council are commendable and I note that the council has sought and continues to seek to address the systemic issues involved in animal management and the companion animals' regulatory regime.

SECTION 81 FINDINGS

I find that Colin Neil Amatto died on 1 March 2019 at Westmead Hospital NSW. I am satisfied the cause of his death was septic complications from injuries he received from multiple dog bites he sustained in his own home on 24 January 2019. The dogs were known to him and ordinarily were kept at his residence.

RECOMMENDATIONS PURSUANT TO S 82 CORONERS ACT 2009 (NSW)

I recommend to the Chief Executive of the OLG and the NSW Commissioner of Police:

1. The OLG and the Commissioner of Police consider developing a model or overarching memorandum of understanding (MOU), which can be adopted and utilised for councils and Police Area Commands or Police Districts regarding the coordination of responses (including investigation and enforcement), and formalising of roles and responsibilities of Police and councils, with respect to dog attack incidents.

I recommend to the Minister for Local Government and the OLG:

2. The Minister and the OLG develop a standardised training package for council rangers in NSW that are expected to respond to reports of dog attacks on people or other dogs

and of dog escapes.

3. The Minister and the OLG further review and update the functionality of the CAR to enable councils readily to access the regulatory history of dog owners (penalty notices, court outcomes, warnings issued, suspected contraventions).
4. The Minister and the OLG consider possible amendment of s 16 of the *CA Act* to delete subsection (2)(b).
5. The Minister and the OLG consider possible amendment of s 18 of the *CA Act* to broaden the scope for exercise of that power.
6. The Minister and the OLG examine the appropriateness of the statutory thresholds and framing of the provisions in the *CA Act* for the issuance of notices to declare a dog a *menacing or dangerous dog*.
7. The Minister and the OLG examine the possible amendment of the *CA Act* to include an additional stand-alone offence of a dog attack causing serious harm or death to a person.
8. The Minister and OLG consider the possible amendment of the *CA Act* to confer upon police officers the power to make *dangerous* and *menacing dog* declarations.
9. The Minister and the OLG examine the possible amendment of the *CA Act* to introduce a provision empowering an authorised officer to direct an owner or person in control of a dog to secure the dog with a muzzle and / or lead for a specified period.
10. The Minister and the OLG review, or continue to review, the appropriateness of the rehoming provisions of the *CA Act* regarding dogs involved in serious or fatal attacks.
11. The Minister and the OLG investigate, or continue to investigate, facilitating reasonable access to DNA testing in NSW to assist in breed identification of dogs.
12. The Minister and the OLG examine, in consultation with councils, the development and implementation of a Statewide public awareness and education campaign to educate dog owners and the community generally about the risks posed by dogs and how safely to interact with them.
13. The Minister and the OLG, in consultation with councils and other stakeholders,

consider introducing a licensing requirement for dog ownership, which may involve particular licence conditions calibrated for particular breeds of dogs and with applicants being required to undergo education with respect to safety and risk management.

14. The Minister and the OLG examine the adequacy of the maximum penalties for the offences provided by ss 12A, 13, 14, 16 and 17 of the *CA Act*.
15. The Minister and the OLG review the adequacy of the penalties for non-compliance with registration and identification requirements for dogs in the *CA Act* and the *Regulation*.

I recommend to the Chief Executive Officer of Penrith City Council:

16. The Council continue to review its standard operating procedures concerning responding to dog attack incidents and the training provided to authorised officers as regards the exercise of statutory powers under the *CA Act*, including the making of declarations, and with a view to ensuring proper coordination of responsibilities if the NSW Police Force is also involved in responding to a dog attack incident.

I recommend to the Commissioner, NSW Police Force:

17. The Commissioner consider reviewing the NSW Police Force's standard operating procedures, and the training provided to officers, regarding responses to suspected dog attacks, the statutory powers available to Police under the *CA Act*, and in ensuring proper coordination of responsibilities between Police and councils in respect of a dog attack incident.



C Forbes

Deputy State Coroner

16 April 2025