



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Jyedon Pollard
Hearing dates:	23 February 2024
Date of final submissions by the parties:	13 December 2024
Date of findings:	26 February 2025
Place of findings:	Coroners Court of NSW, Lidcombe
Findings of:	Deputy State Coroner Carmel Forbes
Catchwords:	CORONIAL LAW - Dog attack of a two-year-old boy - Examination of the <i>Companion Animals Act 1998</i> regulatory regime - Recommendations for regulatory changes
File number:	2022/335715

<p>Representation:</p>	<p>Dr D Kell SC with Mr C McGorey, Counsel Assisting, instructed by Ms Y Edgell and Ms R Campbell, NSW Crown Solicitor's Office</p> <p>Mr J Pender, solicitor, instructed by Ms S Stewart, Aboriginal Legal Service for T Pollard (family)</p> <p>Mr J Kellaway, instructed by K Saeedi, Kamy Saeedi Law for Mr M McIlhatton</p> <p>Ms A O'Brien, solicitor, Moray & Agnew Lawyers for Cowra Council</p> <p>Mr P Aitken, instructed by C Fryer, DCJ Legal for Homes NSW</p> <p>Mr L Chapman instructed by R Garrett, Moray & Agnew Lawyers for the Office of Local Government</p>
<p>Non-publication order:</p>	<p>Orders for non-publication have been made in this Inquest. The Orders may be found on the Registry file.</p>
<p>Findings:</p>	<p>Jyedon Pollard died on 8 November 2022 at The Children's Hospital at Westmead, New South Wales, from penetrating injuries to his head and neck caused by multiple dog bites which were inflicted that same day when he was attacked by one or two dogs at a motel at which he was temporarily residing in Cowra NSW. The dogs involved in the attack were a Rottweiler and a Red Heeler cross that were owned by the motel operator and ordinarily resided at those premises.</p>

<p>Recommendations:</p>	<p>I recommend to the Minister for Local Government and the OLG:</p> <ol style="list-style-type: none"> 1. The Minister and the OLG, in conjunction with such other state agencies as considered appropriate, examine whether enclosure and/or control requirements should be introduced with respect to onsite dogs owned by hotel or motel accommodation providers, akin to requirements that exist for outdoor pool fencing. 2. 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. 3. The Minister and the OLG, in consultation with councils and other stakeholders, introduce a licensing requirement for dog ownership, which may involve license conditions calibrated for particular breeds of dogs and with applicants being required to undergo education with respect to safety and risk management. Alternatively, introduce a licensing regime for dog owners of breeds which are disproportionately involved in reported dog attacks and fatal dog attacks. 4. 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. 5. The Minister and the OLG examine the adequacy of
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	<p>the maximum penalties for the offences provided by ss 12A, 13, 14, 16 and 17 of the <i>CA Act</i>.</p>
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IN THE STATE CORONERS COURT NSW

LIDCOMBE

SECTION 81 *CORONERS ACT 2009*

REASONS FOR DECISION

INTRODUCTION

1. This is an Inquest into the terrible death of Jyedon Pollard. Jyedon died on Tuesday 8 November 2022 after a dog attack when he was only 2 years old.
2. Between 7 and 8 November 2022, Jyedon, his 5-year-old sister and his mother, Takisha Pollard, were temporarily staying in emergency accommodation at a motel in Cowra.
3. This accommodation was arranged by the NSW Department of Communities and Justice's Housing division (**DCJ Housing**)¹.
4. The motel was leased and operated by Matthew McIlhatton and fell within the local government area of Cowra Shire Council (the **Council**).
5. Mr McIlhatton owned a 2½ year old male Rottweiler dog, named *Brutus*, and an 11-year-old female Red Heeler cross, named *Belle*. He kept the dogs at the motel, generally within fenced areas.
6. At about 9:45am on 8 November 2022, Jyedon made his way on foot to a rear outdoor common area within the motel grounds. Adjoining that common area was a fenced area in which Mr McIlhatton kept the two dogs during the day. The dog area could be accessed from the common area via an unlocked gate.
7. Between 9:45 and 9:55am, Jyedon opened the gate, after which he was attacked by one or both dogs. This was not witnessed by any person or captured on CCTV.
8. This inquest is a public examination of the circumstances surrounding Jyedon's death. Section 81 of the *Coroners Act 2009* (NSW) requires me to record findings with respect to the date and place, and the manner and cause, of his death.
9. In conjunction with the coroner's central task of examining the manner and cause of Jyedon's death, this inquest has also considered, among other matters, aspects of the

¹ Now known as Homes NSW

operation of the regulatory regime for the control and management of dogs and whether recommendations might be made to enhance the efficacy of that regime with a particular view as to whether a similar death may be prevented in the future.

JYEDON POLLARD

10. Jyedon was a Wiradjuri boy. He is survived by his mother, Ms Pollard, two older siblings and a large loving extended family.
11. His passing has had a devastating impact on them. He is described as having been a happy and carefree child. His death has placed a sadness and hurt in their lives and has disturbed them deeply. Jyedon's smiling face is the heart-aching, missing piece at their family celebrations.

BACKGROUND

12. The following is a summary of the undisputed background and circumstances surrounding Jayden's death that was set out in Counsel Assisting's submissions.
13. On Monday, 7 November 2022, Ms Pollard and her children commenced their stay at the Country Gardens Motor Inn in Cowra by way of temporary accommodation (**TA**) through DCJ Housing.
14. At that time DCJ Housing provided TA through DCJ's Housing Contact Centres (**HCC**) and its service called *Link2Home*. *Link2Home* was described as DCJ Housing's "*statewide homeless information and referral telephone service which provides immediate placement of clients in TA (temporary accommodation)*."²
15. Through the TA program, DCJ Housing assists clients who are homeless or unable to be accommodated by other means. The clients include vulnerable people; for example, single parents with young children who require emergency accommodation arising from a domestic violence context.
16. TA is offered through Temporary Accommodation providers (**TA providers**). In most cases, these are commercial accommodation providers, such as low-cost motels and caravan parks. The TA program is intended to provide a "*bridge*" to allow clients to

² Ex 1 Vol 2 Tab 60

secure alternative, longer-term accommodation.

17. When approved for inclusion in the TA program, the TA provider is entered into a database directory maintained by DCJ Housing called the *Vacancy Management System (VMS)*. The VMS is used by DCJ Housing staff to identify a potential TA provider when the need arises.
18. In December 2021, DCJ Housing approved the Country Gardens Motor Inn, operated by Mr McIlhatton, for the purposes of providing TA as utilised by the Cowra DCJ Housing Client Service Team (in effect, the Cowra branch office of DCJ Housing).
19. The DCJ Housing Districts and relevant Community Housing Providers (also known as Social Housing Management Transfer Community Housing Providers or **SHMT CHPs**)¹⁸ were “*responsible for ensuring properties used for TA are suitable for clients seeking TA assistance*” in their locality.
20. DCJ Housing Districts and SHMT CHPs were to assess TA providers, including by a process of physical inspection, to ensure suitability of that commercial accommodation operator as a TA provider. However, COVID-19 restrictions impeded this process.
21. Inspections of TA providers were not completed each time a client was placed in TA. Rather, an inspection was required when a new commercial provider was to be added to the VMS and “*at least annually thereafter*”.
22. A VMS form, titled “*Vacancy Management System: TA Provider Information*”, was utilised by the DCJ Housing employee undertaking the inspection.
23. Inspections were intended to assess the condition, amenity, and accessibility of the accommodation, as well as suitability for particular cohorts of clients to stay, for example mothers and children.
24. After its completion, the VMS form was submitted to *Link2Home*. Assuming the accommodation provider was suitable, the form was then entered into the VMS database.
25. The VMS may have indicated that a TA provider was not suitable for a particular cohort of people. This could then be considered when TA was being sought.

26. Ms Pollard and her children had previously received TA assistance from DCJ Housing in March, May and from July to August 2022. That included a short stay at the Country Gardens Motor Inn between 29 July and 1 August 2022.³ Ms Pollard told police that, with her children, she had patted the dogs that lived at the motel, Brutus and Belle, through a fence, during an earlier stay.

The dogs

27. Mr McIlhatton had owned both dogs since they were pups, and for all the time he had operated the Country Gardens Motor Inn.

Regulatory regime for ownership and control of dogs

28. The regulatory regime for dog ownership in NSW is comprised by the *Companion Animals Act 1998* (NSW) (**CA Act**) and the *Companion Animals Regulation 2018* (NSW) (**Regulation**).
29. The regulatory regime confers powers and responsibilities on (i) the Chief Executive of the Office of Local Government (the **Chief Executive**); and (ii) 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 Local Government Areas.

Obligations imposed on dog owners.

30. 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 criminal sanctions for non-compliance.

Registration

31. Part 9 of the *CA Act* provides for the creation and operation of the Register of Companion Animals (**Register**).
32. Owners must ensure that, from the time that a “companion animal” 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*

³ Ex 1 Vol 2 Tab 62

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).

33. Clause 14 of the Regulation provides that any “companion animal” is to be registered from the time the animal is 12 weeks old or when the animal is first sold. This is a step separate from the identification requirement referred to above. The information recorded for a dog is to include its breed. 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

34. 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.

Restricted, dangerous and menacing dogs

35. The *CA Act* contains additional provisions, including restrictions, relating to dogs that fall within the statutory definitions of “*restricted dogs*”, “*dangerous dogs*” and “*menacing dogs*”.
36. Depending on the category, owners will have more or less, restrictive obligations. A restricted dog attracts the most obligations, and the dogs defined as menacing attract the least. This reflects the legislature’s view of the respective dangers of each category of dog.
37. 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.⁴
38. By s 33(1), a dog is dangerous if it:
- (i) has, without provocation, attacked or killed a person or animal (other than vermin), or
 - (ii) has, without provocation, repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin), or

⁴ The Regulation does not presently prescribe any breed or kind of dog as restricted.

(iii) is kept or used for the purposes of hunting (as defined in s 33(2)).

39. By s 33A (1), a dog is menacing if it:

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

40. A dog becomes a *dangerous* or *menacing dog* only upon the making of a declaration to that effect.

The Breed

41. Independent expert, Professor Paul McGreevy, of the Sydney School of Veterinary Science at the University of Sydney, gave evidence as to the breed of the two dogs owned by Mr McIlhatton, *Brutus* and *Belle*.

42. In the opinion of Professor McGreevy,⁵ based on his review of footage and photos of the dogs:

- (i) *Brutus*: appeared to be a pure-bred *Rottweiler*.
- (ii) *Belle*: appeared to be a crossbreed of Australian cattle dog type (described by the veterinarian who euthanised the dogs as a “*Cattle dog cross Kelpie*”).

43. In each instance, a Rottweiler, an Australian Cattle Dog (Red Heeler), or any crossbreed thereof, is not a “*restricted breed*” under the *CA Act*.

Dogs’ status as of 7 November 2022

44. As of 7 November 2022:

- (i) *Brutus* was microchipped but was not registered.
- (ii) *Belle* was neither microchipped nor registered.
- (iii) Neither dog had ever been the subject of a notice of intention to declare the dog a *dangerous* or *menacing dog*, or of an actual declaration, under the *CA Act*.

⁵ Ex 2

- (iv) Neither dog had previously been reported to, or come to the attention of, the Council.⁶

45. Furthermore, there is no known instance of Mr McIlhatton having previously been issued a penalty notice for any contravention of the *CA Act* or the *Regulation*.

How the dogs were secured at the motel

46. Mr McIlhatton indicated, to police, that it was his practice:

- (i) to keep the dogs secured overnight in a fenced area just outside the main office; and
- (ii) on most days, to shift the dogs from the area outside the office to a fenced grass area at the rear of the motel premises (which provided the dogs with more room for movement / exercise).

Motel Layout

47. The Country Gardens Motor Inn offered 16 ground level rooms for accommodation. The motel's rooms, pool and office buildings formed a "U" shape, with the front entrances of the rooms opening into a centre carpark / open area.
48. The area around the centre carpark / open area was covered by CCTV cameras, footage of which captured comings and goings in and around that area on 8 November 2022. A pathway led from the centre carpark / open area to a rear outdoor common area at the eastern side and rear of the premises.
49. The area where Mr McIlhatton kept the dogs at night (next to the office) is marked "A" in photograph 2 of the Bundle.⁷
50. The rear outdoor common area had a table and chairs, a barbeque, clotheslines, and a large grass area with fencing along its perimeter. Adjoining the rear outdoor common area was the area in which Mr McIlhatton typically put the dogs during the daytime.

CCTV cameras

51. There were CCTV cameras positioned in various spots in the motel's common areas,

⁶ Ex 1 Vol 2 Tab 44

⁷ Ex 6

including cameras facing into the centre carpark area. However, the rear common area and the adjoining rear fenced dog area were not covered by CCTV cameras.

Fenced areas

52. The fenced dog area, where the dogs were kept at night-time (near the office), was accessible from the open centre area via an unlocked gate. The gate latch was positioned on the outside of the enclosed area about 1 to 1.1 metres off the ground.⁸ Next to the fenced office area was a fenced pool for motel customers.
53. As stated above, the rear fenced dog area shared a fence and a gate with the rear outdoor common area: see position of this gate marked “E” in photograph 2 of the Bundle⁹ (Gate 1).
54. The walkway leading from the centre open area to the outdoor common area on the eastern side / rear of the premises is depicted in the images at pp 26 to 27 of the Bundle.¹⁰ The rear grassed common area, along with the adjoining gate and fence, is depicted in the photographs in Exhibit 6 pp 28 to 30 of the Bundle¹¹.
55. The adjoining fence, between the rear fenced area and the rear common area, was constructed of wire strands and mesh / chicken wire and was about 1.23 metres from the ground. The adjoining gate was not locked and had a “D-latch”. This latch was the same as that on the gate at the fenced area next to the office. The rear fenced / common area gate latch faced into the rear fenced dog area.
56. At the rear fenced / common area the top of the gate was 1.29 metres from the ground and the gate’s latch was 1.15 metres from the ground.
57. From what is depicted in the photographs, it is readily apparent that a small child would have no difficulty reaching his or her arm through the gate to the latch and or the dogs within that area.
58. The rear fenced dog area was also accessible via another gate (Gate 2), with an identical

⁸ See close up of gate latch at photographs 12-13 Ex 6.

⁹ Ex 6

¹⁰ Ex 6

¹¹ Ex 6

latch, on the western side of the premises.¹² This was the gate that Mr McIlhatton typically used when he moved the dogs from the enclosure next to the office to the rear fenced dog area.

EVENTS ON 8 NOVEMBER 2022

59. At about 6:30am on Tuesday, 8 November 2022, Mr McIlhatton woke and undertook some paperwork and other managerial duties.
60. At about 8:27am,¹³ Mr McIlhatton took the dogs from the fenced area next to the office (where they slept overnight),¹⁴ along the western side of the property, to the rear grassed dog area. This area was not visible by line of sight from either the office or the carpark area.
61. Mr McIlhatton later told police he fed the dogs inside the rear fenced dog area and, on his account, ensured the gates were closed and secured before attending to other duties around the motel.
62. At about 9:05am, CCTV cameras captured:
 - (i) Jyedon riding a scooter around part of the motel grounds.
 - (ii) Jyedon then approaching the pool's safety gate.
 - (iii) Jyedon then walking over to the fenced area next to the office (where the dogs are kept overnight). That area was empty as the dogs had been already moved, by Mr McIlhatton, to the rear fenced dog area.
 - (iv) At this location, Jyedon is seen reaching up and unlatching the enclosure's gate, and briefly stepping inside.
 - (v) Soon after, Ms Pollard, while on her phone, walks over from Room 3 towards Jyedon. Ms Pollard speaks to Jyedon, shuts the gate, and walks back towards her room with Jyedon.
63. Mr McIlhatton later told police that he was working at Room 16 and saw Jyedon opening

¹² See position of Gate 2 marked F in photograph 2 of the Bundle (Ex 6) and close up photographs of that gate and its latch at pp 40 to 45 of the Bundle. In photograph 2 of the Bundle, Gate 2 is referred to as "*Rear fenced dog area Gate 2*".

¹³ Ex 1 Vol 2 Tab 42 CCTV, Video 42A timestamp 07:27:20.

¹⁴ Enclosed area next to the office is marked A in photograph 2 of the Bundle (Ex 6).

the gate to the enclosure near the office. Mr McIlhatton said he approached Jydon to warn him against doing this.

64. Shortly after 9:30am, Jydon and his sister, are seen on CCTV exiting Room 3 after showering (with Ms Pollard standing close by near the room door).
65. Thereafter, they are seen in the central common / carpark area.
66. At about 9:47am, Mr McIlhatton is seen walking to Room 3 and delivering milk to Ms Pollard. Jydon and his sister were still outside Room 3 moving around at this stage.
67. At about 9:48am, CCTV cameras captured Jydon near to the walkway⁶⁸ leading through the rear common area.
68. His sister is seen scooting towards him. Both go off camera at this point. This is the last time that Jydon can be seen on CCTV before the attack.
69. About 40 seconds later, his sister re-appears on screen on foot, without the scooter, heading towards Room 3 and away from the walkway leading to the rear common area. The scooter is later found on the path leading to the rear common area, close to the eastern side of the property.
70. After her return to Room 3 at about 9:48am, his sister remained there with Ms Pollard.
71. At about 9:54am, Ms Pollard and his sister were captured on CCTV exiting and sitting outside Room 3, each holding a drink in their hand. Ms Pollard later told police that his sister asked for a drink, and she entered Room 3 to get it. When Ms Pollard exited the room, she could not see Jydon.³

Discovery of Jydon injured.

72. At about 9:55am, Mr McIlhatton was captured on CCTV, with white linen, near the walkway entry.
73. Mr McIlhatton later told police:¹⁵

¹⁵ Ex 1 Vol 1 Tab 10B

- (i) He saw one of his cleaning staff who was pregnant carrying a heavy load (of linen), so he assisted by taking the linen from her (linen from Room 16).
 - (ii) He carried the linen towards the laundry of the motel and noticed a scooter lying on the ground in front of him.
 - (iii) At this point he looked to his left and saw his dog Belle positioned in the rear common area, rather than in the rear fenced dog area where he had earlier left her and Brutus.
 - (iv) At about that time, Mr McIlhatton said he heard Ms Pollard calling out for Jyedon.
 - (v) Mr McIlhatton walked further into the rear common area and saw that the dogs were both there outside the rear fenced area.
74. In a recorded interview between Mr McIlhatton and the OIC on 8 November 2022, Mr McIlhatton said: ¹⁶
- “I looked down to my left and noticed the dogs were out, and I knew they were secured this morning. And then when I looked further, I noticed something lying on the ground down there and I ran down and it was a small little boy, um, with a lot of blood around the area and a puncture wound to the neck with my dog sitting over the top of it. So, I collected the little boy, um, and ran up back past the laundry and the kitchen, and I was obviously yelling out ‘call an ambulance.’”*
75. At about 9:55am, CCTV captured Mr McIlhatton entering the central common area / carpark (from the direction of the walkway) carrying Jyedon, with the two dogs following close behind him. Ms Pollard is also seen running to Mr McIlhatton and Jyedon.
76. Mr McIlhatton was screaming, *“Get an ambulance and get them here”*. ¹⁷ Mr McIlhatton was heard by the painter at the motel saying to Ms Pollard, *“I’m sorry, I’m sorry”*.¹⁸
77. CCTV shows Ms Pollard in a very distressed state. She immediately made a call to

¹⁶ Ex 1 Vol 1 Tab 10

¹⁷ Ex 1 Vol 2 Tab 38

¹⁸ Ex 1 Vol 1 Tab 10

emergency services on her mobile phone.

Medical intervention

78. At about 9:58am one of the cleaners drove Mr McIlhatton and Jyedon to the emergency department at Cowra Hospital. This was done because it was thought to be quicker than waiting for an ambulance. Ms Pollard followed in her own vehicle.
79. At about 10:07am, Jyedon arrived at Cowra Hospital and medical staff immediately began CPR as he had no cardiac output. Jyedon had suffered major trauma around his chest, neck and face. Medical staff and emergency services workers continued CPR on Jyedon until a pulse and cardiac activity was confirmed. Medical staff continued packing Jyedon's wounds to stem the blood loss.
80. At around 12:07pm, Jyedon, with Ms Pollard, was transferred via CareFlight helicopter to The Children's Hospital at Westmead (**CHW**) where he arrived at 1:40pm, after a brief stop at Orange Base Hospital for more units of blood. After arriving at CHW, Jyedon was taken straight to theatre.
81. Tragically, Jyedon could not be saved and, that afternoon, medical staff informed Ms Pollard of Jyedon's death.

Events at the motel after Jyedon was taken to hospital.

82. Following Mr McIlhatton appearing with Jyedon in his arms at the motel, a painter working at the motel placed the dogs in the fenced area next to the office.
83. A motel cleaner later told police that after Jyedon was taken to hospital she walked to the rear common area with the painter, where she saw some clothing on the ground. The cleaner then looked at the dogs in the fenced area next to the office and saw blood on the face of the dog *Brutus*, causing her to cry.¹⁹ Other evidence, obtained by police, also showed blood on the face of the dog *Brutus*.⁹¹
84. At about 10:30am, two rangers employed by the Council, Michael McGregor and Brady Burns, arrived at the motel. With the consent of police, they took the dogs to the Cowra dog shelter.²⁰

¹⁹ Ex 1 Vol 1 Tab 10

²⁰ Ex 1 Vol 1 Tab 24

Police response

85. Several police officers arrived at the motel by about 10:20am.
86. The Crime Scene Examiner took a swab of the gate latch which led from the rear common area into the rear fenced dog area. Trace DNA was obtained from that sample, consistent with Jyedon having touched that latch.²¹
87. The Crime Scene Examiner also observed several blood stains, which tested positive as human blood, inside the rear grassed common area and located a child's tracksuit pants and a nappy.
88. Other persons staying at the motel on 8 November 2022 were questioned by police but did not report seeing the attack or seeing the dogs outside the fenced areas.

Seizure of the dogs

89. At about 1:30pm, police attended the Cowra dog shelter.
90. On 9 November 2022, Mr McIlhatton completed a form surrendering the dogs to the Council. Later that same day, the dogs were euthanised by a veterinarian.

AUTOPSY AND PATHOLOGIST'S FINDINGS

91. Doctor Jennifer Pokorny, forensic pathologist, performed an autopsy on 11 November 2022. In her autopsy report, Dr Pokorny concluded that Jyedon's cause of death was penetrating injuries of the head and neck caused by multiple dog bites.²²

ISSUES

The Dog Attack

92. The CCTV footage reveals that Jyedon was off camera, and not under direct sight, at most for about 8½ minutes (from 9:46 to 9:55am).²³
93. The rear common area and rear fenced dog area were not in direct sight of the motel's office or covered by a CCTV camera. The rear common area itself was over 44 metres away from the motel's street frontage. A parent might reasonably expect a young child

²¹ Ex 1 Vol 1 Tab 18

²² Ex 1 Vol 1 Tab 8

²³ Ex 1 Vol 1 Tab 10

who headed to this area unsupervised would be safe.

94. The attack was not seen or heard by any person. Jyedon's DNA was found on the latch to the rear fenced dog area, and I am satisfied on the balance of probabilities that Jyedon made his way into the rear common area and then unlatched the gate leading to the dog area. Soon after, Jyedon was attacked by one or both dogs. The Rottweiler was found sitting over Jyedon and had blood on its face. This is a good basis for inferring that the Rottweiler was the main aggressor of the two dogs.
95. Before the attack on Jyedon, neither of the two dogs had been reported to the Council for attacks or acts of aggression.
96. The dogs were not known for aggressive behaviors. One of the cleaners at the motel said that when no other residents were around Mr McIlhatton would occasionally let the dogs run around the motel area. When that happened, the dogs sometimes stuck their noses into the rooms that the cleaners were cleaning. To her knowledge there had never been any issues with the dogs. She had seen other children staying at the motel before 8 November 2022 pat the dogs without incident. The dogs had also interacted with her grandchildren at the motel without incident.
97. Another cleaner said that she had patted the dogs in the past and considered them to be quite "*placid*". To her knowledge, the dogs were never allowed to roam and if they were out would be following Mr McIlhatton and obeying his directions.
98. According to the painter working at the motel, the dogs had always been inside their fenced areas. He had approached the dogs about 5 or 6 times, and they had never shown aggression towards him.
99. Ms Pollard told police that she and the children had patted the dogs, through a fence, when she previously stayed at the motel.
100. After the attack, the painter told police he had been with Mr McIlhatton that morning and had seen Jyedon trying to enter the dog enclosure next to the office (at which time the dogs had already been moved by Mr McIlhatton to the rear enclosure). He said that he remarked to Mr McIlhatton at the time: "... if ... [Jyedon] gets into the yard where

the dogs are, it's going to be no good."²⁴ This evidently reflected his view that, while he had not witnessed anything of concern with the dogs, it was evident that there would be risk in a small child having unsupervised contact with them.

101. Weighed against the above accounts, a neighbour who lived next door to the motel was spoken to by police on 8 November 2022 during a canvass of neighbours after the attack on Jyedon.
102. The neighbour reported that the Rottweiler that resided at the motel had attacked her own dog, a Bull Arab crossbreed, in about March 2022 through her fence at the front of her property. The Rottweiler had been out with Mr McIlhatton and had bitten her dog's neck and caused injury requiring veterinarian intervention. The matter was not reported.
103. There is no other evidence of *Brutus* or *Belle* being aggressive towards, or attacking, a person or animal before the fatal attack on Jyedon.
104. This is consistent with the overall experience in fatal dog attack inquests and with other material received in this inquest, which indicates that often owners may trust their dog, or discount in their minds the possibility of a serious or fatal attack, owing to their dog having no known history of aggression or attacks towards people and their observations of positive interactions between the dog and children. In some of the fatal dog attacks, the dog has no known history of past attacks.
105. The attack on Jyedon also highlights, tragically, how quickly a fatal attack can unfold.
106. Ms Pollard had been sitting outside her motel room watching Jyedon in the central common area / carpark that was in front of her. Ms Pollard went into her room to get a drink of milk for her daughter. When they both came back outside the room, they could not see Jyedon. Ms Pollard began calling out Jyedon's name (which Mr McIlhatton heard as he was carrying the linen load towards the laundry).
107. At this time, Jyedon was in a common area for use by residents, removed from the front entrance / roadway. He was out of sight from his mother for only a short time (about 8 minutes).

²⁴ Ex 1 Vol 1 Tab 11A

108. In a subsequent interview with police, Ms Pollard described how rapidly things unfolded:²⁵

“It happened so quick. It happened so quick. A matter of me walking in the room grabbing her ... a drink, walking out and he was gone. How did he even get in there, why wasn’t there a lock on the gate?”

109. There is nothing to indicate that Ms Pollard was aware that the dogs had been put out the back in the rear fenced area, or that Jyedon would be at risk if they entered the adjoining rear common area and encountered the dogs, when Jyedon was out of her direct line of sight.

110. Jyedon’s death highlights:

- (i) how quickly a fatal dog attack can unfold especially when the attack is on an infant or young child; and
- (ii) that such an attack may be wholly unexpected and, as such, come as a complete shock to the parents of the child and, depending on the circumstances, also the owner of the dog.

Assessment of suitability of a TA provider by DCJ Housing

111. DCJ Housing officers do not have the expertise, and are not expected, to assess safety risks in TA provider accommodation, and DCJ Housing assumes that the provider will comply with any work health and safety requirements.

112. No physical inspection at the Country Gardens Motor Inn was undertaken by DCJ Housing in its assessment as to its suitability as a TA provider. The assessment was done over the phone. This inquest has been informed that this occurred because it was done during a period of COVID-19 restrictions and in the context where thousands of households were requiring accommodation on any given night.

113. The VMS form utilised by DCJ Housing to assess the suitability of the property as a TA provider did not contain any question as to whether any dogs owned by the motel operator might present a safety risk to DCJ Housing clients, including women with young children. Even if a physical inspection of the Country Gardens Motor Inn had been

²⁵ Ex 1 Vol 1 Tab 12

carried out by DCJ Housing prior to Jyedon's death it is highly unlikely that any concern would have been raised or noted about a risk to DCJ Housing clients with children arising from dogs owned by the motel operator.

114. Ms Falcone, Director Housing Statewide Services, DCJ, gave evidence that, following Jyedon's death, DCJ Housing reviewed the suitability of approved TA providers across the State. By May 2023, there had been a physical inspection carried out for every approved TA provider, amounting to over 300 providers. As to why this review was done, Ms Falcone said: ²⁶

"I think because it was just such a terrible, tragic event, and we knew that we just didn't want anything like that to ever happen again, and we wanted to make sure that if there were instances where we needed to make changes or remove providers, ... that it would happen..."

115. The safety risk presented to DCJ Housing clients with children arising from unsecured dogs at TA provider accommodation is being considered by DCJ Housing (now Homes NSW). This inquest has been informed that the VMS assessment form now includes the following questions relating to animals:

- (i) Are there any animals on the property? If yes, what type of animal?
- (ii) Is the animal(s) in a secured area and not accessible to patrons staying at the premises?

116. This inquest has also been informed that in the next six months a deed of agreement between DCJ and the TA Provider will be rolled out for all providers. The deed will include a clause requiring the provider to acknowledge that there is a safety risk of having unsecured animals on the premises and that the provider is responsible for ensuring animals are appropriately secured at all times and agrees to indemnify DCJ and its clients for any loss damage or injuries sustained by clients which is caused or are associated with any unsecured animals on the premises. The deed also includes an agreement that Homes NSW will undertake an annual inspection of the property.

²⁶ Transcript Ms Falcone T48.27-33

Enclosure and/or control requirements with respect to onsite dogs owned by hotel or motel accommodation providers, akin to requirements that exist for outdoor pool fencing.

117. There is a stark contrast between the steps taken, by the law, to ameliorate the risk to children at motel accommodation arising from an outdoor motel pool and from an onsite dog.
118. On the morning of 8 November 2022, CCTV showed Jyedon standing at the gate to the motel's outdoor pool. As required by law, there was a childproof latch for the pool fencing, and Jyedon was unable to open the latch to enter the pool area. By contrast, however, a short time later (as also seen on CCTV) Jyedon was able to open the gate latch for one of the two dog enclosures, positioned near the motel office, and briefly step inside it. Not long after, Jyedon unlatched the gate for the rear fenced dog enclosure and was fatally attacked by the dogs owned by the motel operator.
119. The *Swimming Pools Act 1992* (NSW) provides specific requirements for outdoor swimming pools for tourist and visitor accommodation (Div 2 of Pt 2), including that the accommodation provider must ensure that the swimming pool is surrounded by a "*child resistant barrier*" (s 12). This is a barrier that complies with the applicable Australian standard, which specifies minimum latch heights and design to safeguard against unsupervised child access (*Swimming Pools Regulation 2018* (NSW)).
120. Consideration should be given to the introduction of comparable requirements in respect of enclosures for onsite dogs owned by an accommodation provider. I propose to recommend that enclosure requirements should be introduced with respect to onsite dogs owned by commercial accommodation providers akin those requirements that exist for outdoor pool fencing.

Incidence of serious injury and death from dog attacks

121. Both this inquest and other inquest matters involving fatal dog attacks, reveal a concerning number of fatal dog attacks in New South Wales between 2009 and 2023, namely:

Date of the fatal attack	Matter	Key facts
Jan 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>²⁷).</p>
Mar 2018	<i>Jones Inquest</i> ²⁸	<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> <i>Rottweiler</i>.</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>
Jan 2019	<i>Amatto Inquest</i>	<p><i>Deceased:</i> adult male (40 years old).</p> <p><i>Location of attack:</i> residential home at which the deceased lived with the dogs' owners (where the dogs ordinarily lived).</p> <p><i>Breed of dogs (2 dogs involved in attack):</i> <i>Staffordshire Bull Terrier</i> (not a restricted breed).</p> <p><i>Registration status:</i> one dog registered (and microchipped). The other dog not registered (was microchipped).</p> <p><i>Known history to council (before fatal attack):</i> one dog was reported to have attacked a person less than 2 years before fatal attack (non-fatal but serious injuries suffered). Attack occurred at the residential property at which the dog ordinarily lived (victim of non-fatal attack was a real estate agent visiting premises).</p>

²⁷ See <https://www.smh.com.au/national/frenzied-dogs-killed-ruby-lea-inquest-20110920-1kjdy.html#>.

²⁸ The holding of an inquest into the death of JK was dispensed with on 19 September 2018

May 2019	<i>O'Reilly</i> Inquest	<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>
Jun 2019	<i>Smith</i> 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</i> cross.</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.²⁹</p>
Mar 2020	<i>Holland</i> 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.</p> <p>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>

²⁹ The holding of an inquest into the death of SG was dispensed with on 25 February 2020

Jul 2021	<i>MJ</i> 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> American Staffordshire Terrier (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>
Feb 2023	<i>RM</i> 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.

122. The breeds involved in the 8 above deaths were Staffordshire cross, Staffordshire bull terrier cross, American Staffordshire terrier, Rottweiler, and Bull mastiff-cross-Rhodesian ridgeback.

123. 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 2018-2021, while *Rottweilers* were also involved in a relatively high number of attacks:

	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

124. When considering these statistics, the OLG state that there is underreporting of dog bite attacks. As most attacks occur in the home where the dog lives it is believed owners may be reluctant to report attacks owing to a concern as to the consequences for the dog, which may be removed from the home.

Incidence of dog attacks on children

125. 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:³⁰

“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

³⁰ Ex 8

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)

126. 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”,³¹ relevantly found that:

- (i) Some 628 patients presented to Sydney Children’s Hospital 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

127. 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):³²

“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

³¹ Ex 8

³² Ex 3

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 by dogs that has previously attacked a person or animal.

128. In a supplementary report dated 9 March 2024,³³ 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 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.”

³³ Ex 2

Importance of Public Education and Awareness Campaigns

129. 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 minimize 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).
130. In Chapter 6 of its final report, the Victorian Parliamentary Inquiry into the legislative and regulatory framework relating to restricted-breed dogs (**Victorian Inquiry**) emphasised the importance of education strategies around dog safety, including as to:
- (i) how to safely interact with dogs.
 - (ii) how to appropriately care for a dog (including training and socialisation); and
 - (iii) how to select an appropriate dog.
131. The 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.

132. 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 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”*.³⁴
133. Typically, individual councils provide their own education campaigns around dog ownership.
134. In an institutional statement dated 16 February 2024, the OLG described its involvement in education programs. Since 2011, the OLG’s has implemented with councils of a State-wide responsible pet ownership and dog safety education program known as the Responsible Pet Ownership Education Program (**RPO**). 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. 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). In 2013, the OLG launched an online learning tool to children’s education (Kindergarten to Year 2) around responsible pet ownership and dog safety. In October 2023, the OLG invited all councils in NSW 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.
135. As of February 2024, the OLG was reviewing the scope of the RPO and is committed to improving the content of its website.
136. 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.
137. Consideration should 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

³⁴ Ex 8

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;³⁵ and
- (iii) more consistent messaging.

138. 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 some dogs that have committed fatal attacks have had no known history of past aggression or attacks on animals or people.

139. The Minister for Local Government and OLG have informed this inquest that they are committed to educating the community about responsible pet ownership and how to interact safely with dogs. The development of a public awareness campaign targeting specific breeds and types of dogs requires further examination and analysis, particularly in relation to the current restricted breed framework and any potential, including unintended, consequences. The OLG is undertaking a review of the companion animal education programme and as part of that review is considering strategies drawn from a range of both Australian and international jurisdictions to ensure that anything that is produced by the OLG reflects up-to-date research in this highly specialised field.

³⁵ See <https://dogandcatboard.com.au/gooddogsbaddays>.

Licensing Regime for Dog Owners

140. The existing regulatory regime under the *CA Act* and the *Regulation* requires that all dogs be identified (microchipped) and registered on the Register. 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.
141. 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* an annual permit is required to own the dog (ss 11D and 56(1)(i)).
142. 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.
143. 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.
144. 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 because 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*.
145. 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.

146. The licensing regime for firearm possession and use reflects the significant dangers that firearms pose (e.g. cause fatal injuries). It also reflects the risks posed when firearms are not secured and used responsibly by fit and competent persons. Requiring applicants to undergo firearms training and safety courses safeguards against such risks.
147. Even if it be accepted that dog ownership does not pose the same level of risk as firearm ownership, the possession of, particularly some breeds 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.
148. Dr Emetia Cull, an experienced veterinarian, gave evidence to the effect that dog owners ought to be licensed 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.
149. 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?”*³⁶

150. 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]).³⁷ Ultimately, the Victorian Inquiry did not make recommendations in favour of such a proposal, stating:

“The Committee considers that these powers, combined with education

³⁶ Ex 8

³⁷ Ex 8

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.”

151. The Victorian Inquiry’s view about this does not prevent the NSW Minister for Local Government and the OLG considering the potential introduction of a licensing regime for dog owners. In this respect, there are powerful considerations in favour of a person being required to be licensed to own a dog. The continuing instances of serious and fatal attacks by dogs in NSW together with the number of dogs justifies examination of such a proposal.
152. The Minister and OLG have informed this inquest that they will consider the issue of imposing a licencing requirement for dog ownership.
153. The licencing regime could:
 - (i) Specify general requirements for all applicants for a licence (including completion of an online or in-person safety awareness program).
 - (ii) Require a person to obtain a specific category of licence to own or have certain breeds such as *American Staffordshire Terriers, Staffordshire Bull Terriers, Rottweilers*, or crossbreeds thereof (or imposing conditions that prohibit a person under a general licence from owning or having dogs suspected of being one of these breeds or crossbreeds thereof).
 - (iii) Potentially impose more or different conditions if a person seeks to own one of these kinds of breeds. This might include assessing whether the applicant is a fit and proper person to own dogs of this kind (given known risks) and requiring an applicant to complete additional education courses about risks and risk management (involving both the dog in the home and away from the home). Additional conditions might also be imposed requiring the applicant to implement particular control measures such as leads or muzzles.
 - (iv) Prohibit registration of a dog to a person if the person’s licence does not authorise ownership or possession of that breed or crossbreed.

154. The need for education and training for dog owners, which could be ensured by conditions of a licence, is underscored by aspects of the expert opinion of Professor McGreevy. For example, Professor McGreevy referred to the risks faced by toddlers or other children who may get on all fours with a dog such as an *American Staffordshire Terrier*. Professor McGreevy relevantly said the *American Staffordshire Terrier* and the *American Pit Bull Terrier* share a similar propensity for:

“initiating aggression, acts of aggression. The umbrella term for behaviour that is either defensive or assertively initiating aggression is ... agonistic behaviour, so that’s a recognition that some of those responses can be defensive. But, yes, they are more likely to show agonistic responses than, let’s say, a breed like a springer spaniel that’s been selected for sniffing rather than biting. And ... the selection of dogs in the pit cannot be ignored, because the genes that survive each combat are the genes that have coded for very quick dispatch of the protagonist. So the dogs go for the neck and, and ... they dispatch the protagonists very quickly. Unfortunately sometimes a human can adopt a quadrupedal stance and that’s when toddlers are particularly at risk if they walk around - if they toddle around a corner on all fours, a dog that is the descendant of dogs that have been selected purely for fighting will not stand around and do the maths. That dog will go in there potentially to dispatch what could be another dog. So ... it’s very important that the Court understands that impulsivity is a trait that, that is going to increase the risk of injuries and deaths.”³⁸

Alternatively, a licensing regime for dog owners of breeds which are disproportionately involved in reported dog attacks and fatal dog attacks.

155. Many of the fatal dog attacks have involved particular breeds, or crossbreeds thereof, aforementioned in these findings. The OLG annual statistics on dog attacks sourced from councils throughout NSW reproduced in paragraph [123] indicate that a certain number of breeds have been involved in the vast majority of total reported dog attacks.

156. Returning to the expert opinion of Professor McGreevy quoted in paragraph [128], the

³⁸ Transcript McGreevy 20.2.2024, T87.39-88.4.

statistical record and the number of recent fatal attacks which have involved particular breeds may be explained by reference to the selection of agonistic behavior, as described in that passage.

157. Dogs of particular breeds may also have more risk associated with them due to their relative capacity for more destructive violence.
158. If implementing a dog licensing regime for dog owners of all breeds is considered unachievable, it may be a more appropriate response to implement a licensing regime for dog breeds which are associated with more risk.
159. The benefits of a licensing scheme may be more efficiently acquired by specifying certain breeds which demand greater responsibility, competency, and education on behalf of their owners.
160. The selection of breeds that require licensing should have regard to the breed's past involvement in fatal dog attacks, their involvement in reported dog bite attacks, whilst also having regard to the proportion of these attacks relative to their population.
161. The effective implementation of a licensing scheme of this kind would need to address difficulties with the compliance of the registration and identification of dogs.

The adequacy of the penalties for non-compliance with registration and identification requirements for dogs in the CA Act and the Regulation.

162. There are no known statistics that reliably report on the number of dogs in the community that are not microchipped and / or registered. However, there is likely to be a significant number of such dogs.
163. In some inquest matters into dog attacks the dogs involved were not microchipped or registered. For example, in the inquests into the deaths of:

- (i) *Ada Zara Holland*³⁹ – of the three dogs involved in the attack, none were registered and only one was microchipped. The dog owners previously received penalty notices and reminder notices from councils about the requirement to register but did not comply with them.
- (ii) *Jyedon Pollard (this inquest)* – of the two dogs involved in the attack, none were registered and only one was microchipped.

164. The dogs in some of the inquests were bred by non-professional breeders being supplied without microchipping. For example, in the Holland Inquest, the dog owners had Staffordshire cross dogs that produced four litters over about a six-year period. Most pups were supplied by the owners, without a microchip or registration, to friends or through posts on Facebook. There is no known means of tracing through the Register where these dogs are now.

165. In some instances, councils recognise that there is likely to exist, within their boundaries, a large population of unregistered dogs, of varying and unknown breeds, but face practical limitations in being able to address this problem.

166. The Register is of central importance to the integrity of the regulatory regime as it is intended to provide a record of the number of dogs in the community, the breed of those dogs, and identifying information as to the owners. However, if dogs are not being microchipped or registered it cannot be reliably known how many dogs – including of the kind involved in the fatal attacks in the matters considered – are in the community.

167. The penalties prescribed for contraventions with the *identifying* and *registration* requirements are not such as to deter non-compliance. In this respect:

- (i) The maximum penalty for not having a dog *identified* under s 8 is 8 penalty units (increases to 50 penalty units in the case of a *dangerous, menacing or restricted dog*): s 8(3).

³⁹ *Inquest into the death of Ada Holland* [2024] NSWCorC 36

- (ii) The maximum penalty for not having a dog registered under s 9 is 50 penalty units (first offence) or 60 penalty units (second or subsequent case) (in the case of a *dangerous, menacing or restricted dog*, the respective maximums increase to 60 and 70 penalty units): s 9(1).

168. The applicable maximum penalties are inadequate and not apt to deter non-compliance with the requirements. There is a case to be made for a significant increase in the maximum penalties and I propose to make a relevant recommendation in that regard. I note that the Minister for Local Government and OLG agree to consider this recommendation and will reconsider the maximum penalties and disqualification periods that presently apply under the Companion Animals regime.

169. The OLG will also analyse the difficulties that council officers have been experiencing when seeking to take enforcement action under the regime.

The adequacy of the maximum penalties for the offences provided by ss 12A, 13, 14, 16 and 17 of the CA Act.

170. The relevant offences the subject of this recommendation are:

- (i) Section 12A – Taking all reasonable precautions to prevent a dog from escaping from the property on which it is being kept (maximum penalty of 8 penalty units or in the case of a *dangerous, menacing or restricted dog*, 50 penalty units).
- (ii) Section 13 – Maintaining effective control of a dog in a public place (maximum penalty of 10 penalty units or in the case of a *dangerous, menacing or restricted dog*, 100 penalty units).
- (iii) Section 14 – Dogs prohibited in some public places (maximum penalty of 10 penalty units or in the case of a *dangerous, menacing or restricted dog*, 100 penalty units).

- (iv) Section 16 – A dog rushing at, attacking, biting, harassing or chasing any person or animal whether or not injury is caused (maximum penalty of 100 penalty units or in the case of a *dangerous, menacing or restricted dog*, 400 penalty units) (increased penalties provided where reckless act or omissions alleged and / or if the dog is *dangerous* or *restricted*).
- (v) Section 17 – Dog must not be encouraged to attack (maximum penalty of 200 penalty units or, in the case of a *dangerous, menacing or restricted dog*, 700 penalty units or imprisonment for 5 years).

171. These provisions operate to require dog owners to enact reasonable measures to secure and control their dog, both at the property at which it ordinarily resides or while in public, and to minimise the risks posed by dogs to members of the public.

172. In all the fatal dog attack cases that have recently been investigated by this court the dogs that committed the fatal attacks were not considered *restricted, dangerous* or *menacing dogs* by virtue of the Companion Animal regulatory regime.

173. It is important to ensure that the applicable penalties adequately deter non-compliance with these provisions. The offence provisions and the applicable maximum penalties are manifestly inadequate and not apt to deter non-compliance. I propose to recommend that they are reviewed.

CONCLUSION

174. There have been a concerning number of dog attacks on people in NSW in the past 15 years which have resulted in death or serious injury. The dangerous dog provisions of the *CA Act* can be described as reactive. They are only engaged once an event has occurred and are therefore unable to reduce the incidences of fatal dog attacks in instances where the dog is not previously known to a council for aggression or attack. The coronial investigations into a series of dog attacks, including Jyedon's death, have highlighted that the absence of a history of attack is not a decisive indicator of whether a dog may go on to attack seriously or fatally attack someone. In fact, in many of the fatal dog attacks the dog had no history of aggression.

175. The *restricted dog* provisions of the CA Act also had no potential application in respect of the dog attack deaths that were subject to coronial investigation. Many of the fatal attacks involved *American Staffordshire Terriers* (or crossbreeds thereof), *Staffordshire Bull Terriers* (or crossbreeds thereof) and in Jyedon's case a Rottweiler. None of these breeds are restricted breeds for the purposes of the Act.
176. 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.
177. 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 Jyedon suffered.
178. I express my sincere condolences to dear Jyedon's family.

SECTION 81 FINDINGS

Jyedon Pollard died on 8 November 2022 at The Children's Hospital at Westmead, New South Wales, from penetrating injuries to his head and neck caused by multiple dog bites which were inflicted that same day when he was attacked by one or two dogs at a motel at which he was temporarily residing in Cowra NSW. The dogs involved in the attack were a Rottweiler and a Red Heeler cross that were owned by the motel operator and ordinarily resided at those premises.

RECOMMENDATIONS PURSUANT TO S 82 CORONERS ACT 2009 (NSW)

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

1. The Minister and the OLG, in conjunction with such other state agencies as considered appropriate, examine whether enclosure and/or control requirements should be introduced with respect to onsite dogs owned by hotel or motel accommodation providers, akin to requirements that exist for outdoor pool fencing.

2. 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.
3. The Minister and the OLG, in consultation with councils and other stakeholders, introduce a licensing requirement for dog ownership, which may involve license conditions calibrated for particular breeds of dogs and with applicants being required to undergo education with respect to safety and risk management. Alternatively, introduce a licensing regime for dog owners of breeds which are disproportionately involved in reported dog attacks and fatal dog attacks.
4. 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.
5. 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.

C Forbes

Deputy State Coroner

26 February 2025