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QUT Review - BCCM

C/- Office of Regulatory Policy

Department of Justice and Attorney-General

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Submission to the Queensland Government Property Law Review Options Paper - *Body corporate governance issues: By-laws, debt recovery and scheme termination*

This submission is in regard to the particular issue of the keeping of pets in strata schemes identified in the abovementioned Options Paper. By way of background I am a social economist with a particular interest in employment and housing, including strata housing.

The submission focuses on the economic, financial and public health benefits of allowing individual strata dwelling occupiers to keep a pet/s on their lot. It is my view that strata scheme by-laws should be based on the principle that an owner or occupier of a strata dwelling has the same property rights as an owner or occupier in a non-strata dwelling, except to the extent that common property is involved. They should satisfy two overarching criterion:

1. That activities within a strata dwelling are lawful; and
2. That activities within a strata dwelling do not unreasonably compromise the peaceful enjoyment of neighbouring strata dwellings.

This view takes an “owner’s rights” approach that not only allows individual owners to determine for themselves how they wish to live in their own apartment or townhouse, but there are also significant economic, financial and public health benefits when no prohibitions to pet ownership exist in strata schemes, including:

1. Approximately \$140 - \$280 million of increased economic activity and at least 1000 new jobs in the lucrative pet industry in Queensland;
2. Approximately \$25,000 capital gain and \$1,300/year increased rental income for Queensland lot owners on a standard \$500,000 apartment/townhouse;
3. Health budget savings for Queensland Health resulting from better public health outcomes.

Given the tight deadline for submissions, detailed economic modelling of the above is not able to be undertaken. However a general indication of the impact of law reform in this area to allow owners/occupiers to keep a pet/s on their lot, with reasonable conditions set by the body corporate, is provided.

A recommendation is provided in Section 4. I am available to speak to this submission if required.

1. The economic value of pet ownership to Queensland

The peak body in Australia representing pet ownership and the pet industry, the Australian Companion Animal Council (ACAC)¹, estimates as at 2009 there were just over 33 million pets in Australia. The majority of these pets are fish (55%) and birds (24%), with dogs (10%) and cats (7%) comprising 5.76 million of the total number. Thirty-six per cent of Australian households own a dog (3.41 million) and 23 per cent of households own a cat (2.35 million)².

The total expenditure by consumers on pets, pet care products and services in Australia in 2009 was \$6.02 billion. The breakdown of the total expenditure for all pets is shown in Table 1. Of this total pet care expenditure, by far the largest proportion of consumer pet care dollars is spent on dogs (\$3.6B/59.7%) and cats (\$1.42B/23.5%)³.

In other words, approximately \$5 billion/year is spent on dogs and cats nationwide.

Table 1: Consumer expenditure on pets, 2009 (Australia)⁴

	\$million	% of total
Pet food	1,826	30.3
Pet care products	319	5.3
Pet purchases	616	10.2
Veterinary services	2,219	36.9
Pet care services	1,041	17.3
Total	6,021	100.00

Table 2 shows the breakdown of consumer expenditure by state on dogs and cats which are likely the most common pets in strata schemes (fish excepted) where currently allowed. These companion animals will be the focus of my analysis. Consumer expenditure in Queensland on dogs and cats in 2009 was just over one billion dollars (\$1.017B).

This represents approximately 20.3 per cent of total expenditure Australia-wide.

¹ The ACAC includes as member organisations the Australian Veterinary Association (AVA) and the Australian Small Animal Veterinary Association (ASAVA)

² Australian Companion Animal Council (2010) Contribution of the pet care industry to the Australian economy, 7th Ed. Online http://www.acac.org.au/ACAC_Report_2010.html Accessed 27 January 2015

³ Ibid.

⁴ Ibid.

Table 2: Consumer expenditure on dogs and cats by state, 2009 (\$million)⁵

	NSW/ACT	VIC	QLD	WA	SA/NT	TAS	Total
Dogs	1,177.9	882.7	773.6	312.7	347.8	102.3	3,597
Cats	460.5	366.5	243.5	137.0	158.3	49.2	1,415
Total	1,638.4	1,249.2	1,017.1	449.7	506.1	151.5	5,012

Table 3 shows estimated employment in the pet care industry in four areas, being pet food manufacturing, pet care products, veterinary services and pet care services. While the table does not breakdown the data into state figures, taking the 20.3 per cent expenditure for Queensland figure previously given, a crude estimate for employment in the pet care industry in Queensland for 2009 is 9,668 employed persons.

Table 3: Estimated employment in the pet care industry, 2009 (Australia)⁶

Industry area	Estimated employees
Pet food manufacturing	4,543
Pet care products	16,147
Veterinary services	20,600
Pet care services	6,337
Total	47,627

From this data and with some reasonable assumptions applied one can estimate the increased economic activity in terms of expenditure on pets, pet care products and services and employment in the pet industry in Queensland if dogs and cats were not prohibited in any strata dwellings.

The following assumptions are made:

- Five per cent of strata lots currently have a dog/cat, given historic prohibitions of pets in many strata schemes
- 400,000 lots in 2015 - Queensland has over 42,000 strata schemes with around 393,000 individual lots ⁷
- One dog/cat per lot
- Expenditure on each dog/cat is \$1,000 to \$2,000/year⁸
- One person employed per 136 dogs/cats in Queensland⁹

⁵ Ibid.

⁶ Ibid.

⁷ Department of Justice and Attorney-General (n.d.) Body Corporate: A quick guide to community living in Queensland. Online www.justice.qld.gov.au/_data/assets/pdf_file/0003/18678/body-corporate-community-living.pdf Accessed 27 January 2015

⁸ ASIC (2015) *Getting a Pet*. Online <https://www.moneysmart.gov.au/life-events-and-you/life-events/getting-a-pet> Accessed 28 January 2015.

Note: ASIC states the cost of owning a dog over its lifetime ranges from \$13,000 to \$25,000. Given most dogs do not live past 13 years of age, the expenditure per year is almost certain to be at least \$1,000/year and up to around \$2,000/year. From ACAC data presented, \$1.017B/year on 1,136,700 dogs_cats Qld = \$894.00 per dog_cat (year 2009) = \$1036.00 per dog_cat (year 2015 assuming 2.5% annual inflation rate)

Table 4 shows the increase in expenditure and employment in increments of 5 per cent to a maximum of 40 per cent pet ownership in lots.

Table 4: Increased expenditure & employment in the pet industry with no prohibition on pets¹⁰

	Current	No prohibition						
Proportion/no. of pets in lots	5% 20,000	10% 40,000	15% 60,000	20% 80,000	25% 100,000	30% 120,000	35% 140,000	40% 160,000
Expenditure \$	\$20M - \$40M	\$40M - \$80M	\$60M - \$120M	\$80M - \$160M	\$100M - \$200M	\$120M - \$240M	\$140M - \$280M	\$160M - \$320M
Employment (persons)	147	294	441	588	735	882	1029	1176

*Orange shading = most likely scenario in medium term (2 to 5 years) and longer term (>5 years)

Allowing pets to be kept by strata occupiers is likely to result in a significant boost to the economy in the medium term of around \$80 million to \$160 million per year and an increase of 550 - 600 jobs in the pet care industry (25% dog/cat ownership). In the longer term, as pet ownership in strata schemes becomes more normalised, a further \$60 million to \$120 million per year is likely to be added to the economy and a further 400 - 450 jobs (40% dog/cat ownership), being a total increase of \$140 million to \$280 million in today's dollars and at least 1000 jobs.

2. Financial benefit to the strata lot owner

There is significant anecdotal evidence that suggests strata lot owners that allow pets do better financially compared to those that do not allow pets both in terms of weekly returns on investment (rents) and capital returns (profit on the increase in value of the dwelling when sold).

The peak strata body in Queensland, Strata Communities Australia, lists 13 feedback quotes from real estate agents and industry experts that confirm the financial benefit to strata lot owners in strata schemes with no prohibition on pets¹¹ (see Appendix A).

Successful and respected real estate agent John McGrath (www.mcgrath.com.au) has recently stated that excluding pets from strata properties is likely to cost owners 5 per cent of the apartment value¹² (see Appendix B for entire article).

⁹ *Employment in pet care industry*

= 47,627 total employed in Australia x 20.3%

= 9,668 persons (Qld 2009)

= 10,000 (Qld 2015, estimated total pets)

= 8,320 persons employed Qld for dogs_cats (year 2015) based on 83.2% of pet care dollars

= 1 employee per 136 dogs_cats (1,136,700 dogs_cats/8,320 employed)

¹⁰ Author

¹¹ SCA (2015) *Better financial returns for pet-friendly apartments* Online

<http://www.stratacommunity.org.au/strata-living/better-financial-returns-pet-friendly-apartments>.

Accessed 28 January 2015

Table 5 shows the financial benefit to strata lot owners at four price-points for apartment/townhouses of pet-friendly strata schemes.

Table 5: Financial benefit to strata owners of pet-friendly strata lots¹³

	Apartment value			
	\$300k	\$500k	\$800k	\$1M
Rent benefit p.a \$	780	1,300	2,080	2,600
Capital benefit \$	15k	25k	40k	50k

*rent based on \$300/wk; \$500/wk; \$800/wk; \$1000/wk (not pet-friendly)

3. Public health benefits of pet ownership in strata schemes

The public health benefits of pet ownership in strata schemes are well publicised yet extremely difficult to quantify without detailed modelling. However, there are clear savings to be made for the state government, especially in terms of the Queensland Health budget, if pets were allowed on strata lots as a right of occupancy. The benefits of pets to human health are well documented in the literature. These include¹⁴:

Physical Health

- Cardiovascular health – reduced stress and blood pressure from patting pets, watching fish swim; improved recovery rates from heart surgery
- Physical fitness – exercise walking dogs
- Immune system development - exposure to pets

Psychological Health

- Mental health - Owners are less likely to experience loneliness and depression, as pets provide social support (with similar effects to human-human relationships), and provide a sense of purpose; Older people with pets are less stressed by major adverse life events than non-pet owners;
- Child development - Pets may play a role in the social/emotional development of children, including self esteem, autonomy and empathy for others; Children who own pets show increased trust, community feeling, safety, self confidence. responsibility and self enhancement

Social Health

- Pets as social enablers – pets are enablers for meeting people, neighbours, etc.; other social opportunities (social clubs, etc.); pet attachment is positively correlated with family cohesion; improves social interaction for the elderly.

¹² John McGrath (2014) "The pet factor gains momentum". Domain, Sydney Morning Herald. Online <http://news.domain.com.au/domain/real-estate-news/the-pet-factor-gains-momentum-20140403-360ob.html>. Accessed 28 January 2015

¹³ Author

¹⁴ Bradley Smith (2012) "The 'Pet Effect': health related aspects of companion animal ownership". Australian Family Physician, Vol.41 No.6 June 2012

One of the more cited studies in the area of the cost savings to government associated with pet ownership is a longitudinal study of the health benefits of retaining and/or acquiring a pet. The study showed that the healthiest population, defined as the group that made the least number of doctor visits in Germany and Australia, were medium to long term pet owners.

The study authors - the primary author being Associate Professor Bruce Heady, Melbourne Institute, The University of Melbourne - suggest that the mechanisms through which pets bring health benefits differ for different population groups e.g. in older people the benefits relate more to companionship; stressed people more to reduced blood pressure; sedentary people to increased exercise; and younger people to better immune systems.

The study showed that for the year 2000 savings were estimated to be Euros 5.59 billion for Germany and \$3.86 billion for Australia¹⁵.

4. Recommendation

It is **recommended** that the current model by-law in the BCCM Act be replaced with a section in the Act similar to that adopted by the Australian Capital Territory. The new section should allow for the keeping of one (1) animal without the consent of the body corporate, however consent is to be given by the body corporate for any additional animals (other than fish in a fish tank).

The body corporate should be allowed to set reasonable conditions for the keeping of the animal and should ultimately have the authority to require the animal to be removed from the scheme where reasonable notices of warning were provided to the pet owner and where the pet owner is either unwilling or unable to rectify non-compliances with the conditions.

An example of what might be considered is provided below. It is important to incorporate obligations on pet owners in regard to animal welfare considerations. This is an area that is missed in other strata legislation in Australia.

Subject to contrary laws, the owner/occupier may:

- (a) Keep one animal (other than fish in a fish tank where you may keep more than one fish), of any breed as long as you notify the body corporate and the animal or breed of animal is not a prohibited or declared a dangerous animal by the proper authority. If you cannot notify the body corporate prior to the keeping of an animal you must notify the body corporate as soon as is practicable e.g. if you are minding the animal for a friend at short notice*
- (b) Keep more than one animal if approved by the body corporate. To be clear, permission must be sought and granted prior to the keeping of additional animals.*

If you have an animal then you must:

¹⁵ Heady, B. & Grabka, M. (2003). *Pet Ownership is Good for Your Health and Saves Public Expenditure Too: Australian and German longitudinal evidence*. Conference: the 20th Anniversary of the German Socio-Economic Panel, Berlin, July 2003

- (a) Not allow it onto common property except when entering and exiting the scheme unless authorised by the body corporate*
- (b) Keep the animal under control at all times by using a leash, harness or similar device unless otherwise authorised by the body corporate*
- (c) Clean and remove any mess left on the common property.*
- (d) Ensure the animal does not pose a health hazard to other residents by keeping the animal clean, well groomed and regularly provided with appropriate medications to control fleas, worms and the like.*
- (e) Have regard to the welfare of the animal by ensuring the animal is adequately exercised, stimulated, socialised, watered and fed and provided with adequate shelter from the elements.*
- (f) Comply with any other reasonable condition set by the body corporate e.g. requiring an animal to be microchipped; requiring a dog to be muzzled while on common property; requiring an annual veterinary health check.*

The body corporate may order the removal of an animal from the Scheme land after reasonable notices of warning if the animal is unreasonably disturbing others.

Appendix A

Better financial returns for pet-friendly apartments

The following are collected media quotes from real estate experts on the financial benefits of pet-friendly apartments...

‘The Legal Light’ - Manning River Times – 12.9.12

Justin Stack, Managing Director, Stacks/The Law Firm -

"More than half of Australian households have a pet of some sort. An increasing number of people keep pets in apartments, and an increasing number of Australians – now one in ten – live in strata titles. That's why an apartment up for sale might be advertised as 'pet-friendly'. It adds about 10 percent to the value."

New Claws in the Contract’ - Sydney Morning Herald – 8.8.09

Jennine Leonarder-Collins , Prestige Property Agent -

"I will often say to owners of apartments in smaller blocks they are nuts to have a no pets policy. Apartment buildings that ban animals do a disservice to their owners and limit the money they can fetch."

Billy Bridges, Ballard Real Estate -

"The no-pets policy in Horizon (prestige apartment building in Sydney) can only hurt its values."

‘Rise in pet-friendly digs’ – Sunday Telegraph 13.5.07

John McGrath, CEO McGrath Real Estate -

"Chief Executive of McGrath Estate Agents, John McGrath, has predicted that capital gains in pet-friendly buildings will far outstrip strata buildings that ban pets. "I can see a pet-friendly strata policy adding five per cent to a building's value by increasing the potential number of wealthy buyers who may be interested in it."

Justin Woodcock, Project Director of Jacksons Landing -

"Encouraging residents to keep pets had been a marketing success. If developers disallow pets they're excluding a significant number of potential buyers. We have advertising campaigns and events devoted to attracting residents with pets, setting us apart from most other developments in Sydney."

'Flats with pets offer more bang for their bark' – Weekend Australian – 14.4.2012

Erle Cramer, Cramer Property managing director -

"Apartment buildings that allow pets are doing very nicely, with people keen to move in. Being pet friendly is a big thing. Ten years ago, you would have trouble selling in a building that allowed pets. Now it's the opposite: it's hard to sell an apartment that won't allow pets. I'd be very reluctant to buy any apartment now that wouldn't take pets."

Prue Holcombe, sales agent Ray White Inner West in Sydney –

"A pet-friendly place has stronger buyer appeal than one that is not. Years ago, any ground-floor flat was really hard to sell for security reasons. Now they are easier because people want them for their pets."

David Stanger, building manager, Altair luxury apartment block in Sydney's Rushcutters Bay –

"We have buyers and renters who would buy or rent in this building simply because it's pet-friendly. About 20 per cent of our current occupants have pets." The Altair has been pet-friendly since it was built 12 years ago but is the only one of eight developments he manages that allows pets. His company would have no problem managing other pet-friendly places and he says it works very well.

'Dog day after all' – Sunday Telegraph 17.10.04, John McGrath, McGrath Real Estate –

"There is a big demand for pet-friendly apartments... A number of "smart" developers have realised over the past five years that catering to the needs of pet owners is good business.It's a growing trend. People want apartments where they can have a dog. We're now seeing better quality developments understanding this need.In this day and age allowing pets adds to the market value as a lot of people with good budgets want to have pets in these places."

'Doggy in the Window as Good as a Bird in the Hand' – Sydney Morning Herald 29.11.12, Residential agent Ewan Morton, managing director of Morton & Morton -

"A growing number of apartment buyers want to have their pets with them. I think bodies corporate are going to have to deal with that, and buildings that are able to accommodate pets will do better in terms of sales prices."

'Fetching Sites for Pet Lovers' – Sydney Morning Herald, Domain 10.11.12

David Milton, Managing Director, CBRE Residential Projects –

"The demand for pet-friendly apartments is "very high". You'd find now 10-15 per cent of your buyers will have a pet. They won't buy if they don't have permission for their pet, or they know they won't get permission. The trend for pet-friendly apartments is being pushed by more owner-occupiers taking up high-density living, rather than just investing in it. They tend to be more disposed towards having a pet."

'Larry in the Doghouse' – Telegraph, 13.10.12

David Ferguson, NSW President, Strata Community Australia –

"Pets in strata buildings are on the increase. Couples are deciding not to have children and to have pets instead – it's the new modern Australian lifestyle. Owners' Corporations are going to have to get their heads around this issue."

Jacksons Landing, Pet-friendly Information provided to Strata Paws -

"If developers disallow pets they're excluding a significant number of potential buyers. We feel that being pet-friendly adds to the appeal of Jacksons Landing, and increases the value of the apartments when it comes time for vendors to sell. Whilst we haven't done any definitive research into this, we generally achieve capital gains in excess of the average – partly as a result of our pet friendly policies and features."

Appendix B

The pet factor gains momentum

Real Estate News

Date

April 5, 2014

Sue Williams

Apartments advertised as welcoming animals are already attracting more potential buyers.

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The paw of approval: Marriott Street, Redfern's sunny courtyard is a hit with two of its current residents, Clio and Scout.

With reforms to strata law set to allow pets into more apartments due to go before parliament in the next few months, many real estate experts predict that the value of pet-friendly buildings may grow more quickly than those that ban animals.

Already, they've noticed that apartments advertised as welcoming pets attract more potential buyers and often achieve higher prices as a result, and the coming changes may only further widen the gap.

"There's no doubt being pet-friendly increases the desirability and therefore the value in the marketplace of apartments," says John McGrath, chief executive of McGrath Estate Agents.

"There's been a major shift in the past decade or two to apartments being chosen by owner-occupiers, babyboomers and empty-nesters and many of those keep, or want to keep, pets.

"If pets are excluded, you're also excluding many wealthy, qualified buyers from the competition for your property, and I'd say you could be costing yourself around 5 per cent of the value. It really could be a material figure in many cases."

The proposed strata law reforms will change model bylaws from a default position that says pets aren't allowed unless the owners' corporation (OC) decides otherwise, to ones where they are permitted, subject to whatever conditions the OC might set. These will initially only apply to new strata schemes and an OC can still choose to ban pets.

"There was a strong view in the many submissions the government received on strata reform, that pet ownership was unreasonably restricted in many strata schemes," says a Fair Trading spokesperson. "By changing the model by-laws, more and more schemes will allow pets to be kept over time."

That's certainly in line with most of Sydney's new developments which are designed to be pet-friendly, in line with the more than two-thirds of Australian households which now include pets - the highest incidence of pet ownership, per household, in the world.

Christian Grahame, general manager for apartments at developer Mirvac, says it's proving popular with all their projects, like Harold Park at Glebe and Era in Chatswood, as well as future ones, in Bondi and at Green Square.

At a recent registration day at Harold Park, so many eager buyers turned up with their dogs, Mirvac created a "woof woof parking spot" with water bowls and dog toys, something to be repeated at the next release mid-year.

"We spend a lot of time trying to understand what buyers want, and a lot of them want their homes to be pet-friendly," Grahame says. "We know that certainly broadens the market and appeal but it's hard to put a monetary figure on by how much.

"We know, however, that people desire community and can see themselves walking dogs in the park and meeting their neighbours, with their pets breaking the ice."

Project marketers CBRE also advise developers to make their new apartments pet-friendly. Managing director of residential projects David Milton reports that buyers are continually asking about whether pets are allowed in the new apartments they're considering purchasing off the plan.

"The number of people with pets is increasing all the time," he says. "But some buildings that allow them have out-of-date bylaws that only allow one pet, when a lot of people now have two dogs, or two cats. Things like that do reduce the number of buyers and if you've got two buyers and you rule out one of them, then that will affect the price they're paying."