

# TRANSCRIPT

## STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

### Subcommittee

### Inquiry into the legislative and regulatory framework relating to restricted breed dogs

Melbourne — 17 November 2015

#### Members

Mr Joshua Morris — Chair

Ms Colleen Hartland

Ms Gayle Tierney

#### Staff

Acting Secretary: Dr Chris Gribbin

#### Witnesses

Mr Dean Robertson, Program Manager Compliance, and

Ms Rachel Lauritz, Animal Management Coordinator, Melbourne City Council.

**The CHAIR** — I declare open the Standing Committee on Economy and Infrastructure public hearing. I welcome everybody who is present here today. The committee today is hearing evidence in relation to the restricted breed dogs inquiry, and the evidence today is being recorded. The evidence taken today is protected by parliamentary privilege. Therefore you are protected against any action for what you say in here today, but if you go outside and repeat the same things, those comments may not be protected by the same privilege.

At this point I would like to welcome our representatives from the Melbourne City Council. If you might like to introduce yourselves for the record and tell us what your roles are at the Melbourne City Council.

**Mr ROBERTSON** — My name is Dean Robertson. I am the program manager compliance. I look after the on-street compliance for parking; local laws; animal management, which is why we are here today; school crossings; and a number of administrative functions within Melbourne City Council.

**Ms LAURITZ** — My name is Rachel Lauritz. I am the animal management coordinator. I am probably responsible for managing the animal services.

**The CHAIR** — Fabulous. At this point I will again hand over to yourselves for some opening statements about issues you would like to raise, and then following that we will have some questions from the committee.

**Mr ROBERTSON** — Firstly, thanks for inviting us here today, and thanks for asking for our views. The City of Melbourne, or Melbourne City Council, is interested in terms of the way that it manages restricted breed dogs, dangerous dogs et cetera. We are not a major player in this field, given that we are in a CBD location. We are up to about maybe 10 reports of a restricted breed dog per annum on average, compared to some of the suburban councils that have a lot more. You do not see a lot of pets themselves within the CBD. We have about 4500 registered domestic dogs and cats within the city, and that has a churn rate of around 1000 animals per annum. So 1000 animals, dogs and cats, are not registered each year, but a new 1000 come in. We keep that amount, and that is just I suppose a transient part of a city, of people coming in and out.

In terms of our submission, some of the things that we are not necessarily struggling with but some of the challenges that we have when we are looking at restricted breed dogs is just our implementation or the officers' implementation of the legislation and the way that we need to go about measuring and making a determination. It places a lot of pressure on the officers themselves to do that. Because we do not deal with it on a regular basis, once a month on average, whilst the officers have been trained — they are cert IV trained — they do not have regular experience in that area. We have no doubt in our officers' abilities, but you just do not see a lot of that.

Then once we have made a determination, and if that is appealed — and a lot of these cases are appealed — then we may finish up in VCAT, which happens. Subject matter experts then come into the fold on the other side of the table, and our officers feel that their evidence is then questioned, the way that they do their job and their training. Ultimately what is the outcome for the dog, a restricted breed dog? These things take a lot of time. We use RSPCA as our pound. The animal may have been in the pound for six months or longer. Is that the right thing for the animal, which is then given back to the owner or something like that? But that comes as an outcome.

So we are a small player in the market. We would like to support everyone else who is here, but also support our officers to make sure that we are doing the right thing by our community. Any animal that is dangerous, that may have rushed, bit, if you like the deed side of things that we are dealing with. We are more up for deed rather than breed legislation. Anything you want to add to that?

**Ms LAURITZ** — No.

**The CHAIR** — Very good. I will open it up then to questions from the committee.

**Ms HARTLAND** — I am particularly interested in the idea of a panel. How do you think that that would work? We have had evidence from Knox council and from other councils, and quite clearly the current legislation is not working. How would you envision a panel working?

**Mr ROBERTSON** — Did you want to address that?

**Ms LAURITZ** — Yes. My understanding is prior to the standard that we now have there was a panel, and it was constructed, from what I understand, of what was considered to be experts at the time. There may have

been a member of the pit bull association, there was a veterinarian, there was a council representative — those types of things. From what I understand, rarely would a declaration get through that process either. I question how you would select appropriate people for the panel. Should they be veterinarians? Should they be dog breed judges? Are those people, in light of how this legislation has unfolded, likely to be willing participants? That would be the way I would think about a panel.

**Ms HARTLAND** — I suppose I am trying to think of the mechanism of how it would work, because considering the evidence we have had from councils it is clearly a major problem. A dangerous dog is held at a pound, then that council can submit to the panel for a decision from the panel rather than each council trying to do it themselves? I am thinking of country shires. Do you think there would be some kind of roving ability as well? You may not be able to answer all of this at the moment, but I would just be interested in your thoughts.

**Mr ROBERTSON** — I think, like some of the things we have thrown around, it is whether it is a panel, I suppose, or the responsibility is back at the state government level with some of the officers that are, if you like, subject matter experts who are regularly trained proactively in this field that local governments could tap into. There is a timeliness issue around that as well. From the City of Melbourne perspective, if we have our one dog per month and the other suburban councils or rural councils are tying up those resources and we have a dog in the pound for a period of time waiting to be assessed, that needs to be balanced out.

Hearing Rachel speak about it, it is difficult to say how a panel would work. I think what we would like to see is a review with the right players in the room to actually say, 'Okay, let us look at what the legislation is now, let us look at how it practically plays out in the field', and then say, 'Okay, who are the most appropriate people to make those determinations and how will that work? What are the statistics?'. I am a bit of a numbers person, but if you look and you say — drawing numbers from nothing, off my head — if we are dealing with 50 dogs a week and it takes an hour to do, and that is 50 hours of work and they are disparate right across the state, what resourcing do we need for this and how long is it acceptable for a dog to be in custody without being assessed properly by whoever the expert panel is at that point? I think that subject needs more work to be done either through MAV, the Australian Veterinary Association, interest groups and the like.

**Ms HARTLAND** — Do you have any sense of what a panel like that would cost in comparison to what councils are spending at the moment to try to enforce the legislation?

**Mr ROBERTSON** — I have not given it thought in terms of what the panel would cost. I think in terms of what we have paid going through VCAT, most cases are challenged. We run cases; we do not back away. If our officers have made a determination and we have reviewed that at an initial review and believe we have followed all the procedures, we will run the case. From talking to different people on the subject or at different conferences and/or management conferences there seems to be a lot of money being paid into it. Off the top of my head, I could not see it being more expensive to councils, and I think cost also needs to be outweighed with the right decision being made. When you take things into a VCAT tribunal, there are some decisions that are not necessarily consistent being made by members across different councils. What I would like to see would be that there is consistent decision-making being made. Once we got over the determination is it a breed or deed-style legislation, we would be looking at deed.

**Ms HARTLAND** — Do you have any idea about roughly how much council has spent on enforcing the legislation since it came into force?

**Mr ROBERTSON** — Roughly, no. Not in this area, I do not.

**Ms LAURITZ** — I could say approximately \$30 000 to \$40 000.

**Mr ROBERTSON** — My estimation was going to be less than \$100 000, but that is in respect to the fact we do not have a lot that have come through. In recent times, if we look over the last 12 months or 2 years, where we have dealt with either restricted breeds or dangerous dogs, and where we have taken some dogs into custody there has been an incident that has happened; there has been an attack. We are part of that and we try to work with the owners of the dogs in terms of the circumstances surrounding that, and we have been able to resolve most of those matters on a mutually agreed basis.

**Ms TIERNEY** — Noting the housing mix in your local government area, do you have any additional or more general restrictions on dog ownership beyond what is legislated?

**Mr ROBERTSON** — No.

**Ms TIERNEY** — I know that the council has raised the issue of dogs being used for begging.

**Mr ROBERTSON** — Okay. So probably outside the scope of the inquiry — —

**Ms HARTLAND** — But interesting.

**Ms TIERNEY** — Yes.

**Mr ROBERTSON** — The reason I put that in, if I could use an example of what we had, it is something we are seeing a lot of in the city. There was a recent example of a person who was homeless who had a nice looking dog. The breed of the dog was — —

**Ms LAURITZ** — A Staffordshire cross.

**Mr ROBERTSON** — A Staffordshire cross. A nice steel blue-type colour. It had some puppies. He had the puppies on the street, and he was using those puppies to beg. We went down to do some observations, because our hands are tied with what we can do about that. The female dog was registered. If the dog was off the leash, we dealt with that. He is homeless, so we have got limited resources to follow up. We witnessed in 20 minutes or so \$700 changing hands in relation to people patting them and providing money to him for immunisation — that was one of his signs — and food and those sorts of things.

We worked with Victoria Police. He posted on his Facebook site — not everything people put on social media is true — that over a month he brought in \$15 000. Even if, say, it was just a third of that — and we saw every time we would go thousands of dollars come in. We have no doubt that when his dog comes back into season he will breed that dog again and have those puppies back out on the street. He voluntarily surrendered those puppies to an adoption agency at around the three-month mark, prior to when they need to be registered, but there is nothing that talks about how we deal with that.

People who are sleeping rough, who are homeless on the street, have companion animals, and then there are animals that are being used to help generate. We have a young lady on the street at the moment who has a cat. We regularly do checks on the cat's welfare. We have witnessed her not accepting food for the cat, cat food, but taking money. She wants to take money all the time. The cat is normally on a lead. The cat has got off the lead and been hit by a tram. It lost a leg. We assisted with some veterinary assistance at that point in time, but she is out on the street doing that. It is drawing people in. Young kids pat the cat, and she puts the hard word on mum and dad for some money while that is happening. It is an area at the moment that we are struggling to know how to deal with before it takes off. I understand that a year or so ago it was quite large in Europe.

**Ms HARTLAND** — It is an interesting dilemma, I think, in that we know homeless people who totally rely on their animal, but this is quite a different thing.

**Mr ROBERTSON** — Yes, we understand the companion animal. This is different. And, again, for officers, how do you work out where the difference is, especially when you have something that really tugs at the heartstrings of people and you have some beautiful little puppies running around? They were really attractive little puppies, and people were just taking 20s and 50s out and giving money to this guy.

**The CHAIR** — This is not something that is just a one-off. There are multiple instances of people doing this with their animals?

**Mr ROBERTSON** — The puppies have been a one-off. We struggle to see what to do. But because there was so much money coming in on the street and he was so public about what sort of money he was getting from it, looking to the future I am surprised it has not happened before.

**Ms HARTLAND** — Have you been able to assess what is happening in other jurisdictions, including overseas in major tourist areas where this may occur?

**Mr ROBERTSON** — Yes. At a recent conference within the RSPCA they had a speaker from America who came out talking about no-kill pound facilities. I actually raised the question at the end on a general topic, and there were a number of experts in the room. Some people spoke to me afterwards to say that in Europe over

the last 12 months to 2 years it became a very popular thing. They looked to make changes to try to legislate around that and help people enforce in that area. Some of the other states have seen it, but it is nothing major. It is not a major issue at the moment, but it becomes an issue in a CBD environment.

**Ms TIERNEY** — Absolutely.

**Mr ROBERTSON** — It got a lot of media at the time, and the media were saying, ‘So what are you doing about it?’. Our councillors were saying, ‘So what are you doing about it?’, and we were saying, ‘Well, there’s not a lot we can do about it at the moment’. The puppies are in good order, and you look at responsible dog ownership. The female dog was registered and the puppies were only a couple of weeks old. They would turn up on the street for a short period of time, there would be a large crowd, he would get his money and move on?

**The CHAIR** — So from what you have said, this is an issue that has been dealt with overseas in terms of legislation or other capacities to deal with it. Do you know how effective that has been?

**Mr ROBERTSON** — No, I could not make any comment on that.

**Ms TIERNEY** — I have a further but different question. Does your council seek a clearer method of assessing restricted dog breeds, and are you likely to accept DNA testing as the principal method of identification?

**Ms LAURITZ** — From what I understand of the DNA testing so far, it is not effective. My understanding of the breed is that it is somewhat manufactured and constructed from other types, so I am not sure I would be confident with that. But if it were supported by legislation, obviously we would support it, I would say.

**Ms TIERNEY** — Thank you. Your evidence is similar to other people.

**The CHAIR** — I just ask about the Calgary model. I am not sure if you are aware of the Calgary model that is used in Canada. It is something we have heard quite a bit of evidence about. I was just wondering whether — —

**Mr ROBERTSON** — I am not aware of it. Are you aware of it?

**Ms LAURITZ** — No, I am not familiar with it.

**The CHAIR** — You are not familiar with it? It was just a model that has been used, obviously, in the city of Calgary about dealing with dogs. Rather than looking at specific breeds of dogs, it is more of a focus on what you have been talking about — deed rather than breed of dogs. I was interested to see if you had any views on it, but obviously not at this point in time.

**Mr ROBERTSON** — No.

**The CHAIR** — I just want to go back to the panel that you raised. I am assuming that the view of the council is that legislation that focuses on deed rather than breed would be ideal, so the restricted breed dog legislation overall is something that you would like to see changed so that it focuses on the specific acts of dogs rather than the breeds of particular animals?

**Mr ROBERTSON** — Yes. Our position would be that we would like to see the legislation reviewed, with the right people in the room to review that, with a view of going down the deed line rather than the breed line.

**The CHAIR** — And with the panel suggestion that has come up, do you see that as something that might be able to work across every council area? Do you see it as a construct of local government through a construct of state government? How would it be best composed, in your view?

**Mr ROBERTSON** — I think it is probably more of a construct of state government than local government. Whilst databases are that and require someone to go in and have a look at a database to see if a dog is on there, at the moment I think there is a reporting tool that could be used more broadly than just in Victoria. It depends on how the legislation may move. People and animals move between states, so if somebody comes in from interstate and you see a dog and you register it, how do you access any information that may be there from another state? There was a dog that we had declared dangerous, and they relocated to Western Australia. How

do you alert Western Australia that the animal is on their way? We put the information on our database, but does anyone else have a look at it? So we probably see it more at a state government level and the panel is under that control that we can access. Again, it is sort of something that we would advocate having the right people in the room to set up those processes.

**The CHAIR** — Is that a significant issue — the moving of dogs across state borders to try to avoid a declaration or certain limitations that are placed upon animals if they are declared a dangerous breed?

**Mr ROBERTSON** — It is just what has happened with us in one of the more recent cases. I am not sure if you have any more longevity on that.

**Ms LAURITZ** — From speaking to colleagues in the industry, I understand it happens a lot. If the owner becomes aware that the legislation is only statewide, obviously they try to use that opportunity to save the dog's life, potentially, or save it from controls.

**The CHAIR** — That is interesting, and is something we have heard from quite a number of witnesses. I am personally surprised that people would be motivated to move beyond state borders as a result of trying to avoid restricted breed dog legislation, but obviously that is a choice some people do appear to make.

**Ms TIERNEY** — I just have a question that is about more clarification in relation to question 5. In response to the question 'Can you provide to the committee statistics related to dog attacks and compliance with regulations relating to dog management for the past five years?', the council answer was:

There were 250 dog attacks or rushes reported for the period 1 July 2010 to 30 June 2015. There were 54 reports of dangerous or restricted breed dogs, 258 reports of dogs at large and 254 reports of dogs off leash in on-leash areas.

The 54 reports of dangerous or restricted breed dogs, is that in relation to attacks? Is that within the 250 dog attacks?

**Ms LAURITZ** — Yes, that can sit within it. It can be constructed of a number of things. Some of the reports may come through as allegations; not all of the community understands the difference between a dangerous dog or a dog they perceive to be aggressive versus a breed they perceive to be aggressive. They ring through to our customer service centre and say, 'There's a dangerous dog at the end of my street', not knowing what that means, or they will see a Staffordshire terrier and think it is pit bull. So while they are reported, it does not necessarily mean that they end up being the result of it. They are also made up of where we have had a dangerous dog or we have been actioning an actual restricted breed dog and we have carried out an inspection of an existing dangerous dog and so on.

**Ms HARTLAND** — Can I ask one last question? We have talked about deed rather than breed. Obviously you would know that the legislation came out of the death of Ayen Chol in Brimbank, so how do we deal with that whole issue when the deed might be the first attack on a child? A lot of the evidence we have received is that little dogs can be nasty but it is the big dogs that can actually cause the damage. How do we deal with that as legislators when we are looking at breeds that could cause real damage to a child or an older person?

**Mr ROBERTSON** — I suppose that is a difficult thing, and that is why we have a hearing. That is why we are all invested in trying to manage it across the board. I think there are a multitude of ways you can deal with it. In the City of Melbourne, if I look at how responsible dog ownership is something that we are trying to promote, we have registration and hold big community events. We held a big community event a couple of years ago, spending quite a bit of money into that, and we had limited people attend, so we now do a lot more community events where we can get amongst the community and promote responsible dog ownership. We proactively patrol all our parks. We have the benefit in the City of Melbourne, even though we do not have a large team — we have four people in the animal management team — where probably 50 per cent to 60 per cent of our time is proactive. So we are in parks and we are out there and we are talking to people. We are not in the van patrolling around, looking at them. We are on pushbikes, and we are dressed up. We are dealing with the white, fluffy dogs as well as everything else that is coming through, and it is really the proactive approach.

It is really an emotive subject. We had a bite in the Kensington area in the last 12 months where a toddler in a grandparent's arms got rushed by a dog. The dog bit the leg. The dog went underground. We could not find who the owner was. It is really emotive. The media picks up on it. We just have to go back to our basic

principles and investigate those things and make sure that we are promoting responsible dog ownership and not trying to create an — —

I was going to say 'underworld', but where we are taking breeds underground and we have people who are concerned about what is going to happen with their dog because if it gets picked up, it may get a life sentence and those sorts of things. It is very complex. I wish I had the answer.

**Ms HARTLAND** — Yes. Because obviously I think we would all agree the legislation is currently not working, which is why the government has brought on this review. When we come to the end of this committee there will be a report. I am making a presumption the government will probably bring out draft legislation. Would you think it would be of benefit for an exposure draft to happen so that the people who have already submitted could actually see that and have input into that?

**Mr ROBERTSON** — We would welcome to have some input into it, albeit the size of our share in the game is small. But we would welcome input into that area. Whilst we do not have the dogs residentially, we are a capital city area. People do come through our parks and our gardens on a regular basis and walking their dogs on the street. We would welcome some input.

**Ms HARTLAND** — Very helpful.

**The CHAIR** — Indeed. At that point I will thank you both for your contribution here this morning. I will just remind you that you will receive a copy of the transcript from this morning for you to proofread, and those transcripts will ultimately then be placed on the committee's website once you have had the opportunity to read through your testimony.

**Mr ROBERTSON** — Thank you.

**Witnesses withdrew.**