



Patron
Peter Hitchener *Nine News*

July 9, 2015

Michael Baker,
Secretary, Economy & Infrastructure Committee
Parliament House,
Spring Street,
Melbourne VIC 3002

Dear Mr Baker,

I refer to your tender recently published inviting submissions into Dangerous Dogs Legislation.

I now enclose the submission prepared by the Victorian Canine Association (“DOGS Victoria”) for consideration by The Legislative Council’s Economy and Infrastructure Committee.

Yours sincerely,

Lyndall Black

Chief Executive
DOGS Victoria

SUBMISSION OF THE VICTORIAN CANINE ASSOCIATION
(ABN 97 452 215 878)

Legislative Council Standing Committee Economy and Infrastructure's Committee
Inquiry into the legislative and regulatory framework relating to restricted breed dogs
Parliament of Victoria
eic@parliament.vic.gov.au

DOGS Victoria is pleased to make a submission to the Legislative Council Standing Committee Economy and Infrastructure's Committee *Inquiry into the legislative and regulatory framework relating to restricted breed dogs* in response to the Committee's invitation, dated 15th June 2015.

The Victorian Canine Association Inc (trading as DOGS Victoria) is the peak representative body of pedigree registered dog owners and breeders in Victoria, with a history dating back to 1877. There are approximately 10,000 members and 280 affiliated breed and kennel clubs registered with DOGS Victoria, which is also a member body of the Australian National Kennel Council (ANKC). DOGS Victoria is consistently recognised within the broader community as the primary organisation that promotes responsible dog ownership and acts in the interest of pedigree dogs and their owners. In this capacity, DOGS Victoria represents the viewpoints of members to the Victorian and local governments, and through the Australian National Kennel Council (ANKC), to the federal government.

We note that the objective of this wide ranging Inquiry is to report on the current legislative and administrative arrangements for restricted breed dogs in Victoria, including the benefits and challenges of the regulatory framework. This includes reviewing the current regulatory framework in Victoria concerning restricted breed dogs, and its effectiveness in achieving the purposes of the Domestic Animals Act 1994 (DAA). We also note the series of questions the Committee has invited DOGS Victoria to submit a response to in relation to the Terms of Reference (ToR) for the Inquiry. While we are pleased to respond to the specific questions outlined, our submission will also examine a number of broader issues regarding Breed Specific Legislation (BSL).

However, the Committee's first question, "***What is Dogs Victoria's view on the regulation of dogs by breed, as opposed by behaviour, or deed?***" goes to the heart of DOGS Victoria's position on BSL. The bulk of peer reviewed research has failed to find that any *breed* is more likely to act aggressively, or bite a human, than another; nor has it been proven that examining a *breed, on its own*, is an effective indicator of aggression in dogs (Schalke et al, 2008).

In fact, research has found that historical factors (such as breed purpose) have little impact on behavioural traits, but that temperament is more associated with current use of dogs, their environment and management, external forces (such as the situation at hand) and, in particular, the attitudes of their owners (Svartberg 2006; Gladwell 2006; Kaspersson 2008). DOGS Victoria also notes that the Australian Veterinary Association (AVA), along with the national veterinary associations of Britain, the United States and Canada, has recognised that breed-specific approaches to dog regulation are not effective as they do not protect the public by reducing dog bite incidents. Like the AVA¹, DOGS Victoria's strong position is that the prosecution of dogs and/or owners should be based on actual misdeeds committed by the dog, and not on the particular breed or appearance of the dog.

As such, DOGS Victoria has deep concerns that the current BSL arrangements have seen some councils commit considerable finances and resources in seeking conviction and destruction of dogs. Such decisions are open to challenge as the legislation allows for a dog to be declared to belong to a restricted breed by council officers based only on the judging of the animal's external appearance. For the most part, these officers do not have the expertise to make breed identification, which in itself is an inherently flawed process - the AVA's position on breed identification in relation to BSL states that it "*...is not possible to precisely determine the breed of the types of dogs targeted by breed-specific legislation by appearance or by DNA analysis.* (AVA, 2012: 4)

With these principles in mind, DOGS Victoria provides the following responses to the Committee.

DOGS VICTORIA'S RESPONSE TO THE COMMITTEE'S QUESTIONS

To the Association's knowledge, how many restricted breed dogs (approximately) are in Victoria?

Currently, restricted breeds under Victorian/national legislation are:

- American Pit Bull Terrier (or Pit Bull Terrier)
- Fila Brasileiro.
- Japanese Tosa.
- Dogo Argentino.
- Perro de Presa Canario (or Presa Canario).

DOGS Victoria does not permit the registration of these breeds within the organisation and as such we are not able to record their statistics. Councils however do have records of restricted breeds. In terms of identification of a dog as a restricted breed DOGS Victoria has already outlined our strong concerns with the inherent flaws in the current process, a position also held by the AVA.

¹ See Australian Veterinary Association, *Dangerous dogs – a sensible solution* (2012), pg 1.
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In the Associations' view, are there any particular dog breeds (other than restricted breed dogs) more dangerous than others?

All dogs have the potential to be aggressive in the wrong circumstances. However, it is important to understand that most bites occurred in the dog's own home and involve victims bitten by their own dog (Kizer 1979 cited in Overall and Love 2001), and that in Australia, 73% to 81% of attacks occur in the domestic environment (Thompson 2004).

Conversely, dog bite data shows that stray/unrestrained/roaming dogs are responsible for a minority of dog bites. However, it is these relatively rare cases that tend to attract a disproportionate level of media and political interest and, as a result, the legislation that is supposed to limit the chance of dog bites is usually based on the flawed premise that it is a problem of roaming, unregistered dogs attacking individuals. This is essentially why BSL is a failure in terms of limiting the numbers of dog bites and incidents of aggression – it does not deal with the causes of the majority of dog attacks.

It should be noted that there are many reasons why a dog may bite or act aggressively (see **Attachment A**). In summary, while the animal's genetics have a role, the impact of its environment and learning/treatment is critical in the behaviour of a dog. The AVA notes that the tendency of a dog to bite is dependent on at least five interacting factors:

- heredity (genes, breed)
- early experience
- socialisation and training
- health (physical and psychological) and (most importantly)
- victim behaviour (Beaver 2001, Seksel 2002, Snyder 2005).

Other factors include the sex and age of the animal, along with a range of other social and environmental factors.

Unfortunately, most research supports the evidence that children are more likely to be bitten by dogs than adults. Children are generally shorter, weaker, have poorer judgement than adults, and their natural behaviour – which includes yelling, running, grabbing, hitting and fast movements, as well as the tendency to be at eye level with the dog - puts them at risk. DOGS Victoria maintains that no child should be left unsupervised with any dog (or animal for that matter), no matter what the breed is. It is the responsibility, of parent and a pet owner to ensure that children are supervised at all times whilst around animals.

Does the Association consider the current regulation and legislation covering dog management, both restricted breed and otherwise, to be adequate?

Clearly, as indicated above, DOGS Victoria has concerns over the effectiveness, relevance and costs of the current BSL framework.

If not, where does the Association see the deficiencies in the regulatory framework?

BSL targets specific breeds of dogs, usually in the form of strict controls or bans on these breeds, and has been used by a number of countries and jurisdictions in an effort to curtail dog bites and incidents of aggression in the community. However, evidence raises doubts as to the effectiveness of BSL and internationally BSL is being phased out by many countries (Germany in 2002, Italy in 2009, Netherlands 2008, and a number of states in the USA).

The Committee may also be interested in the BSL introduced in the UK in 1991. A study (Klaassen et al 1996) on dog bites conducted 2 years after the introduction of the legislation found that there had been no reduction in the number of dog bites during this time, but that the estimated cost of identifying whether an individual dog was of a restricted breed had been approximately US\$14million.

Another study conducted in Ireland (Ó Súilleabháin, 2015) actually linked BSL with an increase in dog bites. It found that dog bite injuries greatly increased following the introduction of BSL legislation, and concluded that the legislation was not effective as a dog bite mitigation strategy in Ireland but instead may have the unintended effect of contributing to a rise in hospitalisations due to false perceptions by dog owners.

The UK and Irish research provides strong evidence to support the view that BSL is both ineffectual in terms of its objectives and costly to administer. It places all responsibility and blame upon the breed, and does nothing to educate owners and the public about responsible dog ownership and how to understand canine behaviour (i.e. that dogs act like dogs).

Not only is BSL ineffective, it is costly for councils to administer. The City of Monash has spent almost \$100,000 defending itself in court cases involving dogs targeted by the breed-specific legislation. Cardinia Council spent \$80,000 on a single case involving a dog that the court later determined BSL should not have been taken and was returned to its owner. (The Age, April 21, 2014)

The introduction of BSL in Victoria (which extended existing Federal and State restricted dog legislation) was supported by a Government- approve 20-page "*Standard for Restricted Breed Dogs in Victoria*," setting forth elaborate physical specifications of the dogs that were to be declared dangerous and confiscated due to their breed . This standard was illustrated with photographs and charts. (Walsh, 2011)

In June of 2013, *The Age* reported that the costs to cities and towns of enforcing the Government's BSL was mounting, in connection with legal disputes over whether or not the dog at issue was subject to seizure pursuant to the Standard. According to *The Age* report "...a judge sympathized with an officer as he attempted to explain a breed identification he had made, commenting, "You're thinking, 'I didn't write this rubbish.' God knows who did.""(The Age, June 11, 2013)

The report also noted that Monash Mayor Geoff Lake had complained to *The Age* that imposing the flawed BSL framework was both costly and ineffective:

“The courts continue to scratch their head,” Mayor Lake said, “with how they [the breed identification criteria] are to be applied,” likening the attempts to trying to visually determine a person’s ethnic heritage. The regulations are “clumsy, unscientific and subjective,” Mayor Lake asserts, and “dog owners are being denied fundamental justice and fairness and it leaves the community exposed because it’s not working.”(The Age, April 21, 2014)

The same article also reported that, notwithstanding the costly attempts to comply with the state decree, breed-specific regulations have had no effect on the number of dog bite-related injuries reported. In Hume, with suburbs including Broadmeadows and Craigieburn, 48 restricted breed dogs have been euthanised since 2011. Despite these measures, dog attacks (on people and other animals) in Hume have crept up from 141 in 2011 to 148 in 2013. And ratepayers have funded costs over \$135,000 to defend more than 10 challenges, with new ones pending.

Cardinia shire, which includes Pakenham and Emerald, prosecuted 28 dog attacks in 2012-13, up from 12 in 2010-11. This is despite the fact that none of the more than 640 dog attacks recorded between 2012 and 2015 in the shire were carried out by restricted dog breeds.

While changes to the legislation introduced in July 2014 were designed to place the onus on owners to prove their dog did not belong to a restricted breed and thus avoid the issue of the Council having to show the dog belonged to a restricted breed, it remains that these laws are fundamentally ineffective and flawed. They do not do what they were designed to do, but instead create massive costs for the councils and owners involved. Indeed, in some councils dog attacks have increased since the introduction of the legislation - of the nine councils contacted by *The Age* in its research, seven had similar or higher numbers of dog attacks since 2011, while two had fewer attacks. Brimbank, which includes St Albans, Keilor and Sunshine, had the biggest drop, from 111 attacks in 2011 to 86 in 2013. It has destroyed 19 restricted breed dogs and registered another 36 on restricted breed registers.

The increase in attacks may be due to higher reportage rates, although it’s worth noting that there also has been a very broad definition of actions that results in a dog being considered dangerous – for example, a dog charging at a person or another animal could now see that animal being declared dangerous. However, noting that the majority of dog bites are from known animals, it is also possible that (as with the Irish research) owners may think that as their dog is not a ‘dangerous breed’ it would not bite or act aggressively.

Do you consider that there is a risk of the current framework leading to dogs not being identified as restricted breed dogs, and not being registered?

If, as DOGS Victoria argues, the current framework is flawed in the premise that identifying restricted breeds will lead to less dog bites, then expanding that same flawed framework to additional breeds (and crosses of these breeds) is equally flawed. However, it is the issue of breed identification, and the inherent problems with this, that DOGS Victoria wishes to highlight further.

As noted, breed identification is an inexact process, with even DNA analysis potentially unreliable and providing false readings. The current BSL framework puts council officers in the difficult position of being called on to declare a dog to be of a certain breed based on appearance, yet there is no possible way they can be properly trained in identification of various dog breeds so that a visual assessment is 100 per cent certain. The breed identification "standard" used to make this determination is not definitive and in fact the supposed "breed" that most cases revolve around (i.e. Pit Bull) is not actually a recognised pure breed of dog.

Councils have spent a great deal of ratepayers' money attempting to prove in courts that dogs which may be of another breed or even a cross bred dog are allegedly a member of this non-specific "breed". Dogs that have not shown any indication of aggression have been seized and destroyed and/or their owners subjected to severe financial hardship in trying to defend their pets, despite the dogs being able to pass temperament tests.

Fear of BSL has also led to anecdotal evidence to suggest that a substantial proportion of dogs living in the community are not registered with their local authorities. Expanding the current BSL framework to other breeds would only see more owners failing to register their pet dogs out of fear that in doing so, they would be subject to severe restrictions and/or possibly have their dog seized and destroyed. Conversely, removing BSL and replacing it with a program aimed at educating the public about responsible dog ownership, coupled with appropriate legislation that deals with dogs on an individual basis, would be most likely to see an increase in the numbers of dog registrations.

Does the Association maintain any database relating to dog attacks or dog management generally?

DOGS Victoria maintains a database of our members and their dogs. It is a rule of DOGS Victoria that any dog that has been reported or shows aggression in anyway must be noted on the database, and there are a number of processes which come into play in addressing dog aggression at a DOGS Victoria sanctioned event or activity. These include immediate suspension of the dog from all DOGS Victoria related activities and the prohibition for that dog to be bred from (or to have litters from that dog registered during the period of the saction). The dog MUST pass a temperament assessment test before being reinstated, and a record of the incident is maintained on the database.

Does the Association offer or support responsible dog ownership programs of any kind and, if so, which ones?

DOGS Victoria is based on supporting and encouraging responsible dog ownership. There are Rules, Regulations and Codes in place that all members must abide by. Further, we offer puppy socialization classes and run dog sport events such as Obedience, Agility, Herding, Retrieving, Tracking, Dances with Dogs etc., which all require a level of training. We are also active more broadly in the community – in addition to promoting responsible dog ownership at public events like DOGS Victoria's annual Big Day Out for Dogs and at the Dog Lovers Show Expo, we encourage our membership's active participation in education-based programs run by government and community.

One excellent example is the Government-run Responsible Pet Education Program, which has been in operation since 2000. DOGS Victoria members have had the opportunity to participate in the program as pet educators, which requires both the participating dog to successfully pass a suitability test and the educator to undertake professional development. The program sees both the pet educator and their dog working as a team to deliver presentations on responsible pet ownership to the community, with particular focus on the kindergarten and primary school sector.

In 2000-2004 the program was tendered to DOGS Victoria, and we delivered the program on behalf of the Government for a number of years (which saw the tender renewed twice and extended once), before the decision was made by Government to deliver the program in-house within the relevant department. DOGS Victoria, however, has continued to promote the program actively within our membership, as we strongly support the program's premise of community education. As noted already in this submission, it is children between birth to nine years of age that are statistically most at risk from dog bites. DOGS Victoria sees this program as an excellent opportunity to be proactive in educating children, and through that their parents and the community more broadly, and conveying basic but important information about owning and interacting with dogs. As a result of DOGS Victoria's 15 years of support of the program and its promotion within our membership, there have been 83 different breeds participate within the program, allowing for children and adults to interact with dogs of different sizes and appearance. We also estimate that of the total number of pet educators during this time, approximately 75 per cent would be DOGS Victoria members, with most also involved in affiliated breed or dogs sports clubs.

In the last five years, has the Association been party to any legal action in relation to dog attacks?

No.

DOGS VICTORIA'S RECOMMENDATIONS ON A LEGISLATIVE AND REGULATORY FRAMEWORK RELATING TO RESTRICTED BREED DOGS IN VICTORIA

The RSPCA has a strong position on breed specific legislation and dangerous dog laws, which is informed by the AVA's research and policy:

The RSPCA does not support breed specific legislation, also known as BSL. RSPCA Australia considers that any dog of any size, breed or mix of breeds may be dangerous and thus dogs should not be declared dangerous on the basis of breed or appearance. Each individual dog should be assessed based on their behaviour.

The RSPCA does not believe that BSL is in any way effective in preventing or reducing dog attacks or in protecting the public from dangerous dogs.

The RSPCA believes that a prevention strategy for dog attacks must contain a number of key elements and DOGS Victoria supports the following:

- *Registration and microchipping of all dogs: so that all dogs are traceable to their owners and that owners can be directly informed of their legal responsibilities.*
- *Control of unrestrained and free-roaming animals: through the resourcing of local councils to enforce existing dog control provisions.*
- *Provisions for the control of menacing dogs: measures are put in place to intervene early where a dog has exhibited repeated threatening behaviour but does not meet the definition of a dangerous dog.*
- *Education of the public, and particularly children, in dog behaviour and bite prevention.*
- *Training of owners and dogs: training programs based on positive reinforcement techniques provide an opportunity to educate owners on responsible dog ownership, basic dog behaviour and the use of appropriate training techniques*
- *Socialisation with people and other animals: unsocialised dogs are more likely to show aggressive behaviour; designated off-leash areas provide opportunities for safe socialisation. (RSPCA http://kb.rspca.org.au/What-is-the-RSPCAs-position-on-breed-specific-legislation_497.html)*

DOGS Victoria, as the peak body representing pedigree dog owners and with the responsibility of ensuring the future of our breeds, also supports the stance of both the RSPCA and the AVA. In addition to supporting the general position of the RSPCA, DOGS Victoria also recommends that:

- Whatever control mechanisms are in place, that those responsible for its administration are trained professionals with expert knowledge of canine identification and behaviour;
- Further education of the public targets parents, carers and dog owners in particular;
- Any framework must be self-supporting, with revenue raised by councils via registrations and fines to be allocated to support for animal services, education and associated areas;

- All councils should hold seminars for dog owners on the responsible ownership and training of a dog. These could be held throughout the year (at no cost) – suggestion 1 per quarter, where dog owners must attend at least one of these per year. Owners may receive a discount on the registration for attendance.

There is already a legislative model for dog control that combines many of these recommendations. Known as the “Calgary model” of responsible dog ownership (after its adoption in Calgary, Alberta) it has had remarkable success. The framework of the model and some of its outcomes are outlined below:

A COMMUNITY MODEL FOR RESPONSIBLE PET OWNERSHIP (CALGARY, ALBERTA)

The City of Calgary enacted its Responsible Pet Ownership Bylaw in 2006, based on five principles that enable cats, dogs, their owners, and neighbors to live together in “safety and harmony.”

- 1. License and provide permanent identification for your pets.*
- 2. Spay or neuter your pets.*
- 3. Provide training, socialization, proper diet, and medical care for your pets.*
- 4. Do not allow your pets to become a threat or nuisance in the community.*
- 5. Procure your pet ethically and from a credible source.*

The fifth principle completes the responsible pet ownership community: responsible procurement of pets. When a family adds a new pet, Calgary Animal Services wants them to ask where the animal came from and under what conditions it was produced.

Calgary has achieved an unparalleled level of compliance with its easy-to understand bylaw, through education that clarifies the responsibility of all pet owners, programs that facilitate pet owner compliance, and rigorous enforcement against violators. Even before the enactment of its Responsible Pet Ownership Bylaw, the City of Calgary Animal & Bylaw Services was creating and presenting curriculum-based school programs for students in grades K-8. Animal Services educational programs are available at no cost to schools. Each year, its three certified teachers offer hundreds of presentations to thousands of Calgary students.

To further enable responsible pet ownership and facilitate compliance, the City also provides bylaw education programs for adults and ESL learners.

When education does not produce the intended outcome, the Bylaw is rigorously enforced.

CALGARY ANIMAL SERVICES' RECORD OF SUCCESS

2011 Results

- *Funded entirely by animal-related revenues, primarily licensing. It receives no tax revenue.*
- *Over 111,000 dogs licensed, out of a total estimated canine population of 122,325.*
- *90% (estimated) licensure compliance rate for dogs.*
- *4,576 dogs impounded and a 95% live release rate:*
 - *87% returned to their owners;*
 - *8% adopted to new owners;*
 - *5% euthanized.*
- *Only 123 reported dog bites.*

Calgary's exceptional record shows that when a community

- *adopts responsible pet ownership standards,*
- *educates its citizens on the benefits of those standards,*
- *facilitates compliance with them, and*
- *enforces against the few who will refuse to comply, citizens can then enjoy the companionship of their dogs, regardless of breed or type.*

A responsible pet ownership model enhances community safety and preserves the human-canine bond.

(See

http://nationalcanineresearchcouncil.com/uploaded_files/tiny_mce/Community%20Model%20for%20RPO_Calgary.pdf)

DOGS Victoria is pleased to be involved in this important review of the legislative and regulatory framework relating to restricted breed dogs in Victoria. We are also available to appear before the Committee should the Committee wish to discuss any aspect of our submission or discuss the recommendations we have made. We look forward to working co-operatively with Government and the relevant departments, as well as those professional and representative bodies with interests in responsible dog ownership, in ensuring that we have a regulatory framework that is effective, efficient, transparent and equitable. We strongly believe that public education, and not fear, is what is needed in dealing with matters around pet ownership, and would support efforts that deliver this outcome in matters of both animal management and public policy more broadly.

July 9, 2015

Contact regarding this submission

Lyndall Black

Email – lblack@dogsvictoria.org.au

Phone 03 9788 2500

Attachment A

VARIOUS CAUSES OF DOG AGGRESSION

No dog is born aggressive. The reasons for aggressive behaviour should be investigated before a blanket penalty is applied.

- 1 Possession Aggression (Resource Guarding)
This is normal dog (and Human Behaviour). A very hungry person may smack the hand of a friend when they reach for the last biscuit on the plate. Resource guarding among dogs is often highly ritualized and often looks and sounds quite scary, but causes no damage. Behaviour modification is required if frequency or intensity increases.
- 2 Behaviour Frustration
This can present on leash or behind a fence when the dog is frustrated.
- 3 Inter-dog Aggression
This can happen when dogs choose fighting over play. Inter-dog aggression can result from inadequate socialization, traumatic experience in presence of other dogs, i.e. being attacked or heavy correction from the owner.
- 4 Redirected Aggression
This happens when a dog is held back from the object of his aggression and he “redirects” the aggression on nearby animal or human.
- 5 Territorial Aggression
Two types present here (resource guarding) and (barrier frustration)
The dog wants to get closer to or further away from but cannot due to restriction i.e. fence or chain.
- 6 Maternal Aggression
Most mothers, regardless of species, have an innate and hard-wired tendency to guard their progeny, from perceived or potential threat. This is frequently hormonal. It can quickly develop into “learned” behaviour.
- 7 Pain Induced Aggression
Any dog will bite or attack a person or animal when it is in acute pain.
- 8 Fear Aggression
Fear is the most of many of these types of aggression. A dam is afraid of her pups in danger, an injured dog is afraid his pain will worsen, a resource-guarding dog is afraid that a valuable object will be taken. You need to teach the dog, stress reduction, through a technique called “Desensitization”.

9 Predatory Aggression

This can be directed to small or large prey animals. It can also be triggered by fast moving people or objects, i.e. cars, bikes, joggers, roller blades or remote controlled toys.

10 Medically based Aggression

Pain induced aggression can be also seen as a form of medically based aggression:
eg

- Drugs
- Surgery

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