

# 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

Ms Caroline Bell, Manager Community Safety,

Mr Rod Bezanovic, Team Leader Local Laws, and

Mr Daniel Dyson, Local Laws Officer, Casey City Council.

**The CHAIR** — I declare open the Standing Committee on the Economy and Infrastructure public hearing and welcome our witnesses and everybody present in the gallery here this afternoon. Today we are hearing evidence for our inquiry into the restricted breed dog legislation, and today's evidence is being recorded. All evidence taken at this hearing 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. I might begin by asking you each to introduce yourselves — name and title. Then if you could make your opening statements, followed by which we may have some questions for you.

**Ms BELL** — Good afternoon. Thank you very much. My name is Caroline Bell, and I am the manager of community safety at the City of Casey.

**Mr BEZANOVIC** — My name is Rod Bezanovic. I am the team leader of local laws at the City of Casey.

**Mr DYSON** — My name is Daniel Dyson. I am a local laws officer at the City of Casey.

**The CHAIR** — Fabulous. Do have a presentation?

**Ms BELL** — We do.

### **Visual presentation.**

**Ms BELL** — I will kick off. Again, thank you very much for the opportunity for us to be able to present to the committee this afternoon. As mentioned earlier, my name is Caroline Bell, and I am the manager of community safety, and our local laws team is part of my department. Before Daniel discusses our submission in more detail, I would just like to set the context for our submission to give a bit of an overview about the City of Casey.

We are located approximately 40 kilometres south-east of Melbourne, and we incorporate the foothills of the Dandenongs, established urban areas, new and rapidly growing communities, farmland areas and also the coastal villages on the edge of Western Port bay. As Victoria's most populous community and with a current population of over 288 000 people, we are expected to grow to about 460 000 in the next 20 years. We also have one of the highest numbers of registered dogs within the state, so the impact of any changes to the Domestic Animals Act under consideration by this committee has a significant impact on the City of Casey and its population.

I would like to introduce Daniel Dyson, who is a local laws officer at the City of Casey. Daniel has specifically held the portfolio responsibilities for both restricted breed and dangerous dogs since the introduction of the restricted breed amendments in 2011. I will pass over to you, Daniel.

**Mr DYSON** — Thank you, Caroline. I thank the committee for the opportunity of involvement with the inquiry. Statistics for Casey council over the three-year period indicate that although the number of animal registrations and animal impounds remained consistent, the number of declared dogs, in particular restricted breed dogs, has fallen. This decline has been due to natural attrition of declared dogs throughout Casey. We are seeing the number of reported attacks and hospital admissions for dog-related injuries remain consistent, although the seriousness of injuries sustained has increased the number of prosecutions we are undertaking. To date there has been no evidence that has identified declared dog breeds being involved in these statistics.

**Ms TIERNEY** — In any of them?

**Mr DYSON** — No. This brings into question the effectiveness of the legislation in improving community safety or reducing the incidence or severity of dog attacks.

Challenges: Casey council has faced significant challenges in implementing and enforcing breed-specific legislation. The main points have been the lack of training available for officers. With 16 officers employed at Casey, only five can currently declare a dog as a restricted breed. Council officers are not breed experts, nor do we need to be to perform our role. However, when officers' decisions are subject to appeals, it is our experience that our evidence lacks weight against breed experts. The laws were implemented to improve the safety of the community against dog-related attacks. We, the officers enforcing the legislation, are hindered or deterred by simply assessing an animal against the standard and then having this decision set aside simply due to not being seen as having the required skills or expertise in comparison to a breed expert or show dog judge.

In relation to the breed standard, the question as to why an owner can keep a dog that meets the standard of a restricted breed dog, and yet if an owner is able to produce a pedigree certificate, a certificate signed by a veterinary practitioner, the dog's eyes are blue or maybe the tail is curled over its back, any one of these points exempts that animal from the restriction. There is no consistency. If questioned individually what identifies a restricted breed, or asked simply, 'Do you believe this dog to be of restricted breed?', officers tend to give answers as to why it does not meet the standard as opposed to why it may. In addition, statistics have proven there to be confusion and lack of understanding within the community of what constitutes a restricted dog breed. The general opinion is that all Staffordshire terrier-type dogs are pit bull terriers. This is reinforced by the media, which tend to focus on incidents of particular breeds. In my experience, a percentage of people want to own dogs that are subject to a lot of media attention.

We investigated a dog attack where another dog was found deceased. Evidence was not offered, and council could not proceed with the initial incident. However, after two officers individually applied the restricted breed standard, the dog was subsequently declared. An appeal was lodged, and council faced a challenge of giving evidence against an all-breeds show judge. Although this evidence was given via telephone, the judge made admissions as to not having any experience in assessing restricted breed-type dogs, rather the time spent teaching show dog breeds. However, this evidence was weighted more significantly against evidence given in person by council officers. Further to this, it was admitted that the sire of the dog in question was a declared restricted breed. This admission was deemed as irrelevant. The declaration was set aside, and the dog was ordered to be released. Council did not appeal the tribunal's decision, and I have enclosed the tribunal's order, *Brown v. Casey*, for your reference.

Council process: on 17 August 2011, four-year-old Ayen Chol was fatally attacked by a pit bull cross-type dog, which brought changes to the Domestic Animals Act. The government at the time announced a four-week amnesty period. It was during this amnesty period that council received an increase of 90 per cent over average dog registrations. From this, we were able to identify 202 animal registrations that required to be tested against the restricted breed standard. We also received a further 56 reports of suspected restricted breed dogs from the state government's newly released dangerous dog hotline. Due to this increase, council developed a restricted breed portfolio and conducted an operation in assessing each dog against the standard, a process that took over six months to complete. From the 202 flagged registrations, and the requests received from the dangerous dog hotline, council identified 13 dogs that fit within the standard of a restricted breed. I have also enclosed a copy of council's operational report for your reference.

**Mr DYSON** — Opportunities: council encourages any opportunity to review the Domestic Animals Act, particularly that of declared dog breeds, to enable officers greater tools to increase the level of safety within the community. It is our recommendation that the housing requirements of a menacing dog are increased at a minimum to that of the current restricted dog standard. We know menacing dogs have rushed, chased or bitten. We need to have greater control measures over the housing requirements of these animals. At present there is no legislated housing requirement for declared menacing dogs.

We need a national-level database for permanent identification devices. This centralises data for councils, as opposed to the current system, where any one of six companies can manage animal records. Along with this is the greater focus on officer training, the possibility to incorporate the minister's approved training for identifying restricted breed dogs into the industry standard — certificate IV in animal control and regulation. This will bring all new officers entering the industry with relevant training. The Department of Environment, Land, Water and Planning to provide legal advice and in turn breed experts for councils to utilise for restricted breed declarations and appeals and ensure consistency of application of the legislation across all municipalities, regardless of where the dog is residing.

In summary, although we have faced challenges with enforcing the dangerous, menacing and restricted breed provisions, we do so to the best of our officers' ability. However, based on our statistical data, we question the effect the restricted breed legislation is having on improving the safety of our community against dog attacks. A national-level database for permanent identification devices will bring together information not only for Victorian agencies to utilise but at a national level. Legislating housing requirements for menacing dogs to that of the current restricted dog standard will give council greater control measures over dogs that are shown to be a risk to the safety of the community.

If restricted breed legislation is to remain in its current form, we recommend the implementation of the minister's approved training for identifying restricted breed dogs into the industry-standard certificate IV in animal control and regulation; also, the Department of Environment, Land, Water and Planning to provide legal advice along with breed experts for councils to utilise for restricted breed declarations and appeals. We thank the committee for the opportunity to present our submission today and invite any questions that you may have. Thank you.

**The CHAIR** — Excellent. Thank you.

**Ms TIERNEY** — You mentioned right at the beginning that there are only five AMOs that have the ability to declare. Why is that?

**Mr BEZANOVIC** — There is a recognised training course that needs to be applied to all animal management officers, supplied by the then DPI. There have been very few, if any, courses since 2011 as far as I am aware. At that time when the training was being supplied councils were limited in the amount of officers they could supply or send to the training courses. The City of Casey had 16 such officers. We were limited to only sending two or three, and I managed to stretch that out to five so that we could get as many people as we can to be authorised or trained to a standard that can declare a dog as a restricted breed dog if the need arises.

**Ms TIERNEY** — When was the last lot of training provided?

**Mr DYSON** — In 2012, 2013.

**Ms BELL** — The challenge then becomes as those trained officers leave the particular councils, if they are not replaced with officers who have already done the training, there are no other options for them. So eventually councils could potentially leave themselves in positions where they do not have any staff that have completed the accreditation.

**Ms TIERNEY** — Leaving aside the legislation for a moment, but given your experiences in the area, where does your council sit in terms of deed versus breed?

**Mr BEZANOVIC** — I will take that one on board as well. We believe strongly in the deed. As Daniel has pointed out in his presentation, we have had no incidents involving a restricted breed-type dog that required our further attention, whereas we have had a number of incidents where other breeds of dogs have been involved — in some cases very serious incidents.

**Ms TIERNEY** — So if we were to continue with something closer to current legislation, what are the three top fixes you would like to see?

**Mr BEZANOVIC** — Daniel, as an officer?

**Mr DYSON** — If we were to continue, I think the minister's approved training course needs to be released to more officers — to give them the ability. I think one of the big concerns from an officer perspective is that, I suppose, coming up against a breed expert at a tribunal is considerably difficult. It is not significantly weighted towards council officers, as opposed to a breed expert. That is one of the big things that I think has been challenging for us.

**Ms BELL** — I think maybe if I could add to that too, from a strategic point of view, if we look at the aim of the legislation ultimately being to decrease the number of dog attacks and improve the safety of the community, I think one of the failings is the reporting mechanisms as well. There is the expectation that councils will report in to the department to provide details about not only the number of registered animals but also in terms of the number of dog attacks and prosecutions that are undertaken. However, there is no reporting either back to the community or back to councils in terms of the effectiveness of that reporting and the work that is being done across the board, so there is no opportunity for the community to even be able to find out where a restricted breed dog is located to make decisions that would inform them to reduce their risk of being attacked by such a dog.

**Ms HARTLAND** — So if someone came to you who had already reported a dog, you would not actually be able to tell them what had happened, because it is then out of your hands?

**Ms BELL** — There is the register that is held, but that register does not disclose details of the animals and their housing arrangements to the general public. There are similar types of registers in place. Consumer affairs at the moment have a public register for registered rooming houses, again aimed at protecting both the general community and also the rights of tenants in terms of making sure that those rooming houses are registered. The Department of Health and Human Services also have similar provisions under the Food Act in terms of registered food premises, so there are other examples within legislation of where that applies.

**Ms HARTLAND** — Can I go back to the issue of the training courses? Why is it that there have been no training courses? That was a state-funded course. So there just were not any places available?

**Ms BELL** — No.

**Mr BEZANOVIC** — There were no courses run, as far as I am aware, for the past couple of years.

**Ms BELL** — The challenge with that is also that the expectation was that the staff who attended those courses would then come back and train the remaining staff. The staff who attended are not qualified as train the trainer; therefore their ability to be able to come back and bring that information back and provide it in such a way that it would stand up to scrutiny in both court and VCAT if someone challenges a declaration then raises the question as to the validity of that type of process.

**Ms TIERNEY** — So given that you are more into deed than breed and, in your perfect world, if we were working towards more of a Calgary-type model where legislation hung off it, what would be the transitional arrangements that you might see from where you sit at the moment with the current legislation and moving more towards a deed model?

**Mr BEZANOVIC** — I think that with the current breed-specific legislation the legal dogs, let us call them — the ones that are actually declared and on our databases — as Daniel has pointed out, we are getting fewer and fewer. There are no new registrations happening, of course, because it is illegal to have one. So we see that this breed legislation will potentially die out in the not-too-distant future. The six that we currently have on our books are quite old dogs, and we monitor those closely with biannual inspections.

Moving into the deed aspect of the legislation, I think that the legislation at this stage is sufficient to undertake enforcement for attacks and so forth with other breeds of dogs. It might need strengthening here and there, particularly in the menacing dog aspect, but I think the legislation in that respect is certainly sufficient to deal with as council sees fit or the legislation is written.

**The CHAIR** — Anecdotally, and I am assuming you are talking about the pit bull-type dogs, there are less of them, they are not being registered and the like. Is there a view that they may be prevalent in the community but they are just not being registered, that they are out there? Obviously it is difficult to know what you do not know, but is there a sense that they are sort of going underground, or is it just fact that they are not there?

**Mr BEZANOVIC** — Anecdotally there has been evidence of that. From our firsthand experience — and Daniel might be able to offer some further insight into this, from an officer on the ground — we see, impound and collect many hundreds, if not thousands, of dogs annually. I can honestly say that we have had zero pit bulls found. You would think that during that process or that time frame you would stumble across one or two, but we certainly have not found that.

**The CHAIR** — Anything to add to that?

**Mr DYSON** — We do see and still do get some reports of crossbred-type dogs. We might receive registration of a pit bull cross. But again, when you are applying the standard, you need to match a certain amount of points out of that standard, and then you have got the exemptions side of that as well, so there may still be dogs out there. I suppose where it may be underground is that if somebody does register one now and it fits the standard — those dogs cannot be registered — so it may or may not be there.

**The CHAIR** — And dog registration overall across the municipality — do you find that when you are picking up dogs that are out and about, unrestrained and the like that the majority of them are registered or unregistered? What are you finding?

**Mr DYSON** — I think it is 50-50. A lot of them are not registered, or they are registered with no tags — no identification. That sort of brought me to my other point about having a national-level database, because the only way we can identify that animal is via a microchip. When you have got up to six agencies that manage those records it is quite difficult.

**Ms BELL** — And people often do not maintain their details on those registers anyway.

**The CHAIR** — Yes.

**Mr BEZANOVIC** — We find that particularly the case within the City of Casey. We have a lot of people moving into the municipality. About 140 people a week move into Casey, and generally one in three or four will have a dog. They move in because of the availability of real estate and affordability, and one of the things they do not do is re-register their dog, or they forget to modify their contact details at the central animal records.

**Ms HARTLAND** — We have had a lot of evidence that the current legislation is just not working, especially for councils, because of the cost if you take it to VCAT or then it gets taken further. If the government wants to choose to either amend or bring in new legislation, what are the kinds of things you would want to see in that legislation? You can take it on notice if you like.

**Ms BELL** — We could probably, all three of us, offer different ideas. For me, some of it comes back to the intent of the legislation. If the intent is to minimise the incidence of dog attacks, I suppose our anecdotal experience, based on the number of presentations at hospital emergency departments and admissions, would seem to indicate that the number of dog attacks that occur in public places is probably quite low compared to the number that occur within a home. Predominantly they are not reported, because usually it is the family pet.

If we come back to the legislation attempting to reduce the incidence of attacks in public places, then from a very simplistic point of view the simplest way of being able to do that would be to muzzle any dogs in public, but that would certainly, I would suspect, create significant community outcry.

So in terms of other ways of being able to try to reduce that incidence, for me one of the challenges is the legislation is predominantly focused around animal welfare — even the legislation having the responsible authority being the Department of Environment, Land, Water and Planning, but the animal welfare branch. It implies that the legislation is predominantly based around animal welfare. It raises the question of whether there is somewhere more appropriate for a legislation piece like this to sit. I understand that the Department of Health and Human Services as part of the state health plan is considering one of its priorities around injury prevention, and ultimately this is an injury regardless of whether it is a minor injury or a serious or fatal injury. The question to me is in some way around how we actually perceive the aim of the legislation versus where it actually sits.

**The CHAIR** — There has been some discussion amongst other witnesses who have come before us about the opportunity for a panel of experts that is either appointed by state government or by another group, such as the MAV or the like. They could be seen as an authority on breeds such as the pit bull, ensuring that if there was a determination made by this panel, that would have more weight if it went before the courts or VCAT and the like. I would be interested to hear your views on how you think that might work if the current legislation was to continue into the future.

**Mr BEZANOVIC** — I do believe there used to be a panel set up many years ago that did what you have just described. A case was presented to that panel and they determined if the animal was classed as a restricted breed dog or not. Then the legislation was changed, giving the authority to councils to do so. It would be revisiting old ground but in a different format. I do believe that having another authority making the decision is a step in the right direction.

**Ms BELL** — It would also certainly improve the consistency across municipalities in how the decisions are made and also provide greater understanding for owners of potentially restricted breed dogs to know that, if they do move between municipalities, the way that the legislation is applied is consistent across all.

**Ms HARTLAND** — Daniel, because you actually have to do this as your job, do you think something like that would help authorised officers?

**Mr DYSON** — I do, greatly.

**The CHAIR** — Any concluding statements, anything you might like to add?

**Ms BELL** — No, nothing from me other than we very much appreciate the opportunity not just to present to the committee today but also to provide the written statement as well. Thank you very much again for inviting us in.

**Ms HARTLAND** — It has been very helpful.

**The CHAIR** — Indeed.

**Mr BEZANOVIC** — Thank you very much.

**Mr DYSON** — Thank you very much.

**The CHAIR** — I would just remind you that you will be provided with a proof of today's hearing, so you will have a transcript of what you said today for your perusal. Once it is returned to the committee it will be placed on the committee's website for the public to view. I once again thank you very much. Mr Dyson, your presentation was exceptional, so thank you very much for that.

**Mr DYSON** — Thank you.

**The CHAIR** — Thank you for your presentation today, and I will close our hearing.

**Committee adjourned.**