



NSW Legislative Council Hansard

Companion Animals Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 15 November 2006.

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [11.29 p.m.], on behalf of the Hon. Tony Kelly: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is committed to making sure that the NSW community is protected from dangerous and uncontrolled dogs. In this Bill the lemma Government has done what it can to protect the community from dangerous dogs, particularly for our children.

In July this year we were sickened and outraged by the death of little Tyra, the four year old girl who was mauled by pig hunting dogs in the central west town of Warren.

No family should have to deal with such a tragedy. And our society should not have to bear the emotional and financial cost of such a tragic incident.

The community has made it clear that they don't want these types of dogs around and, if people are going to insist on owning them, then we are committed to ensuring they are properly controlled and appropriately housed.

Last year the Parliament passed extensive amendments to the Companion Animals Act. Those changes, which came into effect earlier this year, significantly strengthened the powers of councils to control dangerous and restricted dogs, in particular, pit bull terriers.

It introduced more stringent control requirements for these animals, and significantly increased penalties for breaching those controls.

We have listened to the community voice their expectations regarding the control of all dogs. We have talked to experts in dealing with animals and we have also listened to the councils and their dedicated law enforcement officers who are at the coalface enforcing this legislation.

I would like to place on record my sincere thanks to the stakeholder groups who have provided advice on this issue to the government. Groups such as:

Dogs NSW
RSPCA
Animal Welfare League
Institute of Law Enforcement Officers
Local Government and Shires Associations of NSW; and a range of other behavioural and animal experts.

The Companion Animals Act provides a clear framework for the control of all dogs and sets out the responsibilities for their owners.

It also provides some of the strongest powers for councils in dealing with offences under the Act.

However, often a council officer can only take action after an incident or an attack has occurred. Councils require more powers to deal with those dogs that are accidents waiting to happen.

While no legislation can guarantee there will not be another attack, these amendments aim to provide the necessary powers to allow action to be taken before another tragic incident occurs.

This will significantly increase community safety.

This Bill comes as a result of an extensive review and consultation process that has identified some barriers in the enforcement process.

We will remove those barriers.

The Minister for Local Government met with, and considered the views of, leading organisations including DogsNSW, RSPCA, Animal Welfare League, Institute of Law Enforcement Officers, Local Government and Shires Associations of NSW, as well as animal behaviouralists.

These amendments will not take away anyone right to own a dog for companionship, or to reasonably protect their property and their families.

And it's not about creating undue hardship for responsible dog owners.

The new provisions will get tougher on owners whose dogs endanger public safety and give councils more powers to deal with them effectively.

At present under the Companion Animals Act, a council or a Local Court may declare a dog to be dangerous if it has attacked or killed or repeatedly threatened to attack or chase a person or animal.

Once a dog is declared to be dangerous certain control requirements apply. These include keeping the dog in a special child-proof enclosure and keeping the dog muzzled and leashed whenever it is outside its enclosure.

The Bill I present today will give councils and courts the ability to now also declare a dog to be dangerous if it displays unreasonable aggression or if it is kept or used for the purpose of hunting animals.

Dogs such as Golden Retrievers, Cocker Spaniels and Setters that are used to flush out and retrieve birds are not included in this category. Nor are small terriers such as Jack Russells and Foxies. This is about dogs that are kept for hunting game such as pigs and wild deer.

These dogs will still be able to engage in lawful hunting and while doing so, will be exempt from the muzzling and leashing requirements. At all other times, they must be controlled and confined in the same way as any other declared dangerous dog.

This proposal finds the necessary balance between community safety expectations and the keeping or use of dogs for hunting purposes. These proposals do not affect Police, Customs, security and dogs in the service of the State.

The Bill will enable authorised officers of councils to make dangerous and restricted dog declarations instead of the council itself having to make such a declaration.

This will streamline processes so that decisive and timely action can be taken to regulate dangerous and restricted dogs.

The Bill will introduce provisions to prohibit the transfer of ownership of dangerous dogs in the same way as restricted dogs cannot be sold or acquired now.

If the control and enclosure provisions cannot be complied with, then there is always the option of surrendering the dog to the council.

It will not be an offence if someone takes on the ownership of a dangerous dog if they did not know that it was declared dangerous at the time.

The Bill will introduce a provision to allow councils to take immediate action to seize and destroy any restricted or declared dangerous dog that attacks.

The proposal is two-tiered. Under the first tier, restricted and dangerous dogs that attack may be immediately seized and destroyed.

This reflects the gravity of the offence and the expectations of the community.

Under the second tier, a "two strikes" rule will apply for non-compliance with key control requirements to ensure that restricted and dangerous dogs are not able to wander "at large" and uncontrolled.

If the owner of a dangerous or restricted dog has not complied with the enclosure or muzzling requirements on 2 separate occasions over a 12 month period, then the dog may be seized and immediately destroyed but only after reasonable enquiries have been made into the circumstances.

This is not about taking away a dog owner's rights, or their right to keep this type of dog. This is about sending a clear message to honour the social contract between dangerous and restricted dog owners and the community.

This is about dog owners showing respect for their communities and responsibility.

The Department of Local Government will prepare and distribute guidelines for authorised officers regarding the use of these new powers.

But this does not preclude councils developing and providing their own guidelines and policies that best suit the needs of their communities.

Under this Bill, a person will be prohibited from owning a dangerous or restricted dog unless they have obtained a compliance certificate for the prescribed enclosure in which the dog must be kept.

Owners of existing dangerous and restricted dogs will have 28 days from the commencement of the new provisions to obtain a compliance certificate.

The community should be confident that it is being protected from dangerous dogs. Also, councils will be able to recoup the cost of enforcing this proposal. The Bill enables councils to charge a 'one-off' fee of up to \$100 for the issuing of the certificate.

The Bill will also prohibit the misuse of the prescribed "Dangerous Dog collar" that must be worn by dangerous and restricted dogs. If a person knowingly misrepresents the status of their dog by using a prescribed collar, they will be guilty of an offence.

To use a prescribed collar inappropriately sends a confusing message to children and adults alike, and will undermine the Government's \$1.8 million "SPOT" education program for primary school age children which is due to commence early next year.

These amendments remain focused on dangerous and restricted dogs. They do not impose on all dog owners, only those irresponsible enough to let their dogs cause problems.

Council officers have said that enforcement of offences under the Act is sometimes frustrated when alleged offenders fail to identify themselves truthfully.

The Bill will empower an authorised officer who reasonably suspects a person of having committed an offence under the Act to arrest that person and take them before a Magistrate if the person refuses to provide their name or address or gives a name or address that the officer suspects is false.

This power is not new; it already exists for authorised officers under the Local Government Act and is exercised sparingly and responsibly. This is about removing impediments to enforcing the Companion Animals Act.

This is critical when dealing with dangerous and restricted dogs and essential for authorised officers who work hard to improve community safety.

The Bill will also introduce a requirement for all dog owners to take reasonable precautions to prevent their dog from escaping from the property where it is ordinarily kept. Dog owners must realise that a dog that can escape from its yard is a potential danger.

If a dog is out of its yard without its owner, it may fight with another dog, cause damage to property, cause a motor vehicle accident by running on the road or worse, attack a child, an elderly person or small animal.

In rural communities marauding dogs often cause injury and death to valuable stock—this must be prevented.

The Bill will increase penalties for some offences under the Act particularly in relation to dangerous and restricted dogs. The maximum penalty for dogs not under effective control and for dogs prohibited in some public places will be increased up to \$1,100 dollars and for dangerous and restricted dogs up to \$11,000.

The Bill also proposes that all dogs, with the exception of Greyhounds now have to be microchipped.

Working dogs were previously exempt from the requirement to be permanently identified. With the cost of a microchip significantly reduced, and many councils now offering microchipping for as little as \$10 to \$15, there is no reason to exclude this category of dog anymore.

The Government acknowledges the particular difficulties faced by farmers in the remote far west of NSW, including lack of access to microchipping services and their geographical isolation. In this regard I acknowledge the strong representations made by the Member for Murray Darling on behalf of his constituents.

It is not intended to aggravate the plight of these farmers and graziers by imposing an unnecessary burden on

them. These are dogs that seldom, if ever, would 'come to town'.

To this end, the Government will exempt working dogs that are ordinarily kept in the unincorporated areas of far west NSW from the microchipping and registration requirements proposed under the Bill.

This will be achieved by way of an amending Regulation to be commenced at the same time as the proposed Act amendments.

The Government however does not back away from the general proposal to require microchipping for the vast majority of working dogs.

These dogs and their owners will benefit from this proposal. It will improve the chances of reuniting lost or stolen dogs with their owners and increase councils' ability to monitor and regulate dog ownership in their areas.

These provisions will improve the chances of a dog being returned home, it will assist in locating owners of injured animals that may have got loose. By ensuring all dogs are microchipped, councils ability to track owners will be greatly enhanced.

If council officers are better able to identify the owners of dogs that attack, farmers would be able to take action to obtain compensation for stock losses and recover veterinary costs.

As I have already noted, the Government will exempt by regulation working dogs that are ordinarily kept in the unincorporated area of far west NSW from the microchipping and registration requirements proposed under the Bill, as the Government recognises the particular difficulties faced by farmers in the remote far west of NSW including lack of access to microchipping services.

In addition, following representations from the NSW Farmers Association, the Minister for Local Government indicated to the Parliament that the Government will also exempt by regulation working dogs in council areas that are ordinarily kept on properties subject to "farmland" rating within the meaning of the Local Government Act.

These exemptions will also be commenced at the same time as the proposed Act commencement.

These exemptions will not affect the need to microchip a working dog that may be declared a dangerous dog.

The Act provides for stringent control requirements to apply to a declared dangerous dog. The controls are designed to ensure public safety and to enable efficient council monitoring by including a requirement to have a dog microchipped and registered, if it is not already, within 7 days after it is declared dangerous.

The Bill also makes it plain that the control requirements do not automatically apply to every dog that is used or kept for hunting.

A dangerous dog declaration must be made before the control requirements apply to a hunting dog. The Bill does not remove an authorised council officer's discretion to give, or not give, a notice of intention to declare a dog to be a dangerous dog or to subsequently make, or not make, a dangerous dog declaration.

Council officers should have regard to how the needs of the community are best served, and public safety generally, when exercising their discretion in relation to all potentially dangerous dogs.

Community safety will be significantly increased under this Bill which gives council officers more power to take action before another dog attack tragedy occurs.

Owning a hunting dog, a restricted dog or a dog that is unreasonably aggressive brings with it additional responsibilities, both to the animal and to the community. This Bill will allow councils to deal more effectively with dogs that are a threat to public safety.

This Bill is not about creating a burden on responsible dog owners, or preventing families from enjoying the delights of a family pet.

It's about improving councils' ability to effectively protect the community and take affirmative action when needed.

It's about increasing protection for our children and our neighbourhoods by increasing options for councils to control and manage dangerous and restricted dogs.

And it's about being able to appropriately punish those irresponsible owners who allow their dogs to interfere with and destroy the Australian way of life. Owning a dangerous dog brings responsibility, both to the animal and

to the community.

I commend the Bill to the House.