



## Domestic Animals Amendment (Dangerous Dogs) Bill 2010

### Concerns Relating to Bill

The Bill aims "to address community needs and expectations over serious dog attacks and responsible dog ownership and education"<sup>1</sup>.

The Bill strengthens Councils powers to destroy pet dogs without ensuring the necessary checks and balances are in place to prevent mistakes. It allows the destruction of dogs based on the mere suspicion that they have or may in future commit an offence.

It unfairly punishes responsible owners with unreasonable fines. These include fines of up to \$2395 for late payment of registration renewal and up to \$1195 for a dog escaping its owners property.

It extends the existing restricted breed regime to include any dog deemed similar enough looking to a pit bull, regardless of the actual breed of the dog.

This document outlines shortcomings in the Bill and suggests alternatives.

### Strengthening Council Powers to Destroy Dogs

Victorians have more than 900,000 dogs and the majority consider their pet a part of the family.<sup>2</sup> Families are devastated when Councils kill their pet by mistake.

Mornington Peninsula rangers kill wrong dog. <http://bit.ly/cORoEJ>

Council 'kills' kids' puppy dog. <http://bit.ly/b3XOtR>

Family dog killed after Cranbourne pound bungle. <http://bit.ly/9zBdUz>

Heartbreak after kitten put down. <http://bit.ly/64lZKd>

The decision to kill family pets should not be hurried, made lightly or without solid evidence that it is necessary. The Bill fails to meet any of these criteria.

"Currently a dog seized while at large must be held in the pound for a minimum of eight days even if there is no way of identifying its owner. The Bill will give an authorised council officer power to destroy a dog forty-eight hours after seizure, if the dog was straying, is unidentifiable and is considered a danger to the community."

[Domestic Animals Amendment \(Dangerous Dogs\) Bill 2010 : Second Reading Speech](#)

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1. TABLING OF STATEMENT OF COMPATIBILITY AND SECOND READING SPEECH  
<http://bit.ly/9FFea2>

2. NATIONAL PEOPLE AND PETS SURVEY [http://www.petnet.com.au/sites/default/files/National\\_People\\_and\\_Pets\\_2006.pdf](http://www.petnet.com.au/sites/default/files/National_People_and_Pets_2006.pdf)

Victorian pounds are currently required to hold a lost dog for 8 days to give their owners a chance to reclaim it. During this time, the dog is securely confined and does not present any danger to the community. The Bill would allow the destruction of the dog if it is unregistered and

"an authorised officer of the Council, at or after the time of the seizure, reasonably believes that the behaviour of the dog has resulted, or is likely to result, if the dog were at large, in the commission of an offence under section 29."

84TA(1)(c) Domestic Animals Amendment (Dangerous Dogs) Bill 2010

Section 29 of the Domestic Animals Act includes offences where a dog "rushes at or chases any person" or "bites any person or animal and the injuries caused by the dog to the person or animal are not in the nature of a serious injury". Any dog is capable of offences of these types.

A Council officer's belief that a dog may commit such an offence if it were to wander again is no justification for the destruction of a family pet. **Council officers are not qualified dog behaviourists** and do not have the expertise to make assessments and predictions of this nature. Furthermore, **a pound environment does not provide an accurate reading of a dogs normal behaviour.**

"Dogs arriving in a pound do so with no known history of behaviour or aggression. In addition, many such animals are normally frightened and disorientated and are likely to show different behaviour to that shown in a domestic situation."

[Things You Should Know About Animal Shelters and Pounds – DPI<sup>3</sup>](#)

### **Recommended changes**

Using public resources to kill healthy, loved pets rather than give families time to be reunited with them, when they've strayed, ignores one of the primary reasons we pay to have 'animal services' in our community.

Lost dogs currently remain the property of their owners for eight days after being impounded. After that time they belong to the Council holding them to dispose of how they wish. We believe that regardless of whether the dogs registration is current, it should continue to be given the chance to be reclaimed by their owners during this eight day period.

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3. Things you should know about shelters and pounds. Victorian Department of Primary Industries. <http://bit.ly/doYA1p>

## Unfairly Punishing Responsible Owners

For the majority of owners, losing their dog is a traumatic experience. **Studies have found**<sup>4</sup> that on the whole, **owners do a pretty good job** of keeping their dogs responsibly confined. The incentive is **keeping their dogs**, who most see as a member of the family, **safe from harm**.

It must be acknowledged even the most well meaning owner can have accidents. Tradespeople, babysitters and other visitors let dogs out by mistake. Dogs with no history of escaping break out of yards in terror during thunderstorms. The Bill does not take this into account when prescribing penalties that are beyond many owners ability to pay.

"It is in the nature of dogs to stray if they are not responsibly confined. To provide greater incentive for responsible dog ownership, the penalties for an owner allowing a dog to be at large will be doubled from three to six penalty units for a dog at large during the day and from five to ten penalty units for a dog at large during the evening."

Domestic Animals Amendment (Dangerous Dogs) Bill 2010 : Second Reading Speech

The maximum fines translate to \$717 (daytime) and \$1,195 (nighttime). This is a lot of money for many Victorians and is unfair on owners who try to do the right thing. It will likely lead to an increase in the number of dogs not being reclaimed by their owners at pounds and shelters. This would add to the number of dogs killed at these facilities.

Fines of up to \$2395 for late payment of registration fees are out of proportion to the offence. Paired with fines of the same amount for failing to register a dog, the Bill would spell a death sentence for many unregistered dogs that find themselves in Council pounds. Owners may not even go looking for their dog if they fear paying up to \$3590 in fines for it being unregistered and at large.

40% of Victoria's dogs are currently estimated to be unregistered<sup>5</sup>. With an estimated dog population of 906,000<sup>6</sup> that puts a massive 362,400 dogs at risk.

### Recommended Changes

For the safety of the animals and the public, owners should not permit their dogs to roam the streets. The majority of dog owners are responsible in this regard. Victorian drivers need to commit more than one minor speeding offence before they lose their license. **Irresponsible dog owners** who do not try to confine their dogs to their property should be easy to identify as **repeat offenders**. Increased penalties that target repeat offenders may be a more effective approach with less negative impacts.

Fines for failing to register or renew registration for a dog should be in proportion to the offence. Owners of impounded dogs should be given the opportunity to register their dog as a condition of it's return but should not face steep fines that would result in more dogs remaining unclaimed.

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4. National People and Pets Survey. Pg 12 [http://www.petnet.com.au/sites/default/files/National\\_People\\_and\\_Pets\\_2006.pdf](http://www.petnet.com.au/sites/default/files/National_People_and_Pets_2006.pdf)

5. TABLING OF STATEMENT OF COMPATIBILITY AND SECOND READING SPEECH  
<http://bit.ly/9FFea2>

6. Australian Companion Animal Council [http://www.acac.org.au/pet\\_care.html](http://www.acac.org.au/pet_care.html)

## Extending Restricted Breed Regime

Victoria has strict regulations for the ownership of Restricted Breed Dogs (aka. Pit Bulls). Owners are required to notify their council, build an enclosure, keep their dogs muzzled and on a lead when off their property and display prescribed warning signs at all entrances to the premises where the dog is kept. Restricted breed dogs born after 2005 are not allowed to be registered and it's illegal to purchase a restricted breed dog.

Enforcement of BSL is problematic as there is no way to accurately identify breed from visual examination.

"The determination of whether a dog is of a particular breed can be quite difficult. There is, on the evidence before me, no satisfactory scientific method such as DNA analysis which provides a reliable answer. The word "breed" itself has to be applied carefully. To determine whether a dog is of a particular breed is, of course, a question of fact."

Judge Martin J, Supreme Court of Queensland, March 2010<sup>7</sup>

Dogs are nearly always misidentified by shelters. A study from the [Journal of Veterinary Behaviour](#)<sup>8</sup> reported shelters got breed ID right only 4 of the 16 times, and in 3 of these 4 cases, the breeds specified only made up a tiny fraction of the dog's genetic make up.

The Bill specifies that a 'breed standard' to be used to determine if a dog is a Pit Bull. Aware that this will not produce accurate identifications of breed, the authors specify that for the purposes of the Bill, the actual breed of the dog is irrelevant. A dog of any breed, even a pedigree, could potentially fall within the prescribed standard for Pit Bulls.

"The Bill provides for a standard to be prescribed to assist with the identification of a dog as one of the restricted breed dogs. If a dog fits within the standard it will be included in the definition of a restricted breed dog whether or not the dog is a cross breed."

Domestic Animals Amendment (Dangerous Dogs) Bill 2010 : Second Reading Speech

A Department of Primary Industries spokesperson confirmed that **the prescribed standard for Pit Bulls mentioned in the Bill does not exist**. He stated that **the DPI would create one after the Bill is enacted**.

It has been reported that the DPI have used variations of [Debra Pomeroy's discredited '22 Point Checklist'](#)<sup>9</sup>. Tools such as this are inaccurate and lack any support from experts.

"The South-East Queensland Region of Councils (SEQROC) developed the Pit Bull Identification Template to assist Local government rangers in the identification of Pit Bull Terriers."

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7. Judge Martin J, Supreme Court of Queensland, March 2010 <http://bit.ly/ce6WK0>

8. "The American Shelter Dog: Identification of dogs by personality." *Journal of Veterinary Behavior*. Volume 5, Issue 1, Page 26 (January 2010)

9. <http://www.victimsofbsl.com/22points.htm>

"ACAC is concerned that the Pit Bull Identification Template remains a very subjective means of determining a dog's breed. Breeds that closely resemble Pit Bull Terriers, such as the Staffordshire Bull Terrier, American Staffordshire Bull Terrier, and a range of cross breeds, are difficult to distinguish using this protocol. It is also difficult to apply the template to dogs under 9-12 months of age."

[Australian Companion Animal Council](#)<sup>10</sup>

Redefining the word "breed" to get around the problem not being able to accurately identify breed is unacceptable. It will result in non pit bull dogs being identified as pit bulls. It will also create uncertainty for breeders, shelters, pet stores and dog owners as to whether particular dogs risk being labelled as 'pit bulls' regardless of their parentage or temperament.

### Recommended Changes

Breed Specific Legislation (BSL) has been tried around the world and has not been shown to reduce the incidence of dog bites. Experts here and abroad are calling for a rethink on dangerous dogs with a focus on "**deed not breed**".

We should not be redefining 'restricted breed'. We should be reexamining the rationale for continuing to pursue this approach when the experts no longer support it.

"We know that a dog's tendency to bite is the product of at least five factors: the dog's genetic predisposition to aggression; early socialisation to humans; its training or mistreatment; the quality of its care and supervision; and the behaviour of the victim. Genetics is only one of these factors. In the wrong circumstances, any dog, regardless of size, breed or mixture of breeds can be dangerous. The RSPCA believes that deeming a dog as "dangerous" should therefore be done on the basis of its behaviour, not its breed."

- **Lynne Bradshaw, National President, RSPCA Australia**<sup>11</sup>

The Scottish Parliament **recently passed a Bill**<sup>12</sup> that shifted the emphasis from 'breed' to 'deed'.

"It is clear that a dog's breed is only one factor which may affect its behaviour. Attempting to define the law purely in relation to breed has failed to protect the public. This view is supported by several leading organisations concerned with the welfare of dogs, including the Kennel Club, Advocates for Animals, the Dogs Trust and the Scottish Society for the Prevention of Cruelty Problems with existing legislation to Animals. The widely accepted view is that the way a dog is trained and treated is far more important in determining its behaviour than its breed is."

- **Proposed Control of Dogs (Scotland) Bill**<sup>13</sup>

The British Government is currently preparing a review of its Dangerous Dogs legislation

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10. "Dogs in Society Position Paper" Australian Companion Animal Council Inc.  
<http://bit.ly/90L3px>

11. "The owner, not the dog, is the issue." Lynne, Bradshaw. The Age  
<http://theage.com.au/opinion/society-and-culture-h75n.html>

12. 'Dog ASBO' legislation approved by MSPs. BBC news. [http://news.bbc.co.uk/2/hi/uk\\_news/scotland/8636913.stm](http://news.bbc.co.uk/2/hi/uk_news/scotland/8636913.stm)

13. Proposed Control of Dogs (Scotland) Bill <http://bit.ly/davNQR>

“The BVA believes that the manner in which a dog behaves is largely a result of its inherited characteristics, but more importantly the rearing and training provided by the owner. The BVA has therefore long been opposed in principle to any proposal or legislation that singles out particular breeds of dogs rather than targeting individual aggressive dogs. The problems caused by dangerous dogs will never be solved until dog owners appreciate that they are responsible for the actions of their animals. This is known as the ‘deed not breed’ principle.”

- **British Veterinary Association on Dangerous Dogs Act**<sup>14</sup>

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14. [http://www.bva.co.uk/activity\\_and\\_advice/Dangerous\\_dogs.aspx](http://www.bva.co.uk/activity_and_advice/Dangerous_dogs.aspx)