

# 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 Elke Tapley, Community Compliance Coordinator, and

Mr Julian Edwards, Planning and Compliance Manager, Mitchell Shire Council.

**The CHAIR** — I reopen our Standing Committee on Economy and Infrastructure public hearing and extend a warm welcome to our witnesses and members of the public in the gallery. We have a subcommittee present here today. The committee is hearing evidence today in relation to the restricted breed dogs inquiry and the 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 say the same things, those comments may not be protected by this privilege. I welcome you both and ask you to introduce yourselves — your name and position — and then move into your statements.

**Mr EDWARDS** — My name is Julian Edwards. I am the manager of planning and compliance at Mitchell Shire Council.

**Ms TAPLEY** — And my name is Elke Tapley. I am the coordinator of community compliance, Mitchell Shire Council.

**The CHAIR** — Over to you for your presentation.

**Ms TAPLEY** — Thank you. I will be taking the lead on the presentation today. I have been in the industry for 20 years, working in several roles, from on the ground through to now coordinator level, so I have had experience working with the current Domestic Animals Act over many years — let us just say that. I have had the opportunity to enforce the legislation at different councils as well, taking in different sized councils, different demographics and socio-economic communities as well, and to be able to see the way that people in different areas hold cats and dogs in a different light in those different areas. I have also been involved in many committees over my time as well. Currently I am the vice-president of the Australian Institute of Animal Management, the president of the North East Authorised Council Officers Association here in Victoria, as well as having previously been on the Domestic Animal Management Implementation Committee, looking at the legislation as it was progressing through its early years.

The submission that has been put forward to the committee by Mitchell Shire Council highlights the areas which challenge Mitchell animal management officers on a day-to-day basis as they try to educate and enforce the legislation in the community. As mentioned in the submission that was put forward, there are workarounds which we have introduced, and today I would like to take the opportunity to provide some examples of these to discuss our needs and share some of the further opportunities with you.

The Mitchell Shire Council is a rural interface council which may not have the biggest number of issues but certainly enough to keep us busy. We cover an area of 2864 square kilometres, have five officers on the road, a population of approximately 30 000 and currently around 10 000 registered dogs and cats. The challenges that we face in our environment include new developments on the outskirts of towns in the southern part of our shire, where there are often no fences when owners move in, so they will come in, family four-leggeders, as well; the interface of farms and new subdivisions, often occupied by young families, who have moved out from inner Melbourne and have no concept of the value of a farmer's livelihood in the paddock next door; expectations of council services being the same as where they have come from — providing fully fenced off-leash parks, doggy playgrounds and agility courses; and the older towns in the north with more traditional views on pet ownership, where 'dogs don't need to be contained because they don't go far'.

Whilst we have an educate, educate, enforce attitude to the work that we undertake, hoping that investing in voluntary compliance to eliminate recurring offences rather than penalising with infringements will be successful, implementing legislation to ensure the safety of the community with current legislation has needed a helping hand. In reference to question 8 on council's submission, asking if there has been an increase in the number of unregistered animals, I suggest that these statistics here tell a bit of a story around complacency, with 8 per cent having been registered previously to being impounded, possibly upon release of a pound on a previous visit or maybe before moving into our shire. So the owners have been aware that there is a requirement for registration and what is required but have chosen not to continue with that registration.

As can be also seen from the table, 58 per cent of all dogs impounded in Mitchell during the period 2014–15 were not registered, although it is clear that 86.5 per cent were owned, either returning home or surrendered to council. We do have owners for them; we just do not have any identification for a lot of them. In 2013–14, 61 per cent of impounded dogs were not registered. It shows that it is not something that is new or necessarily increasing but it is just a constant that we have to deal with.

Here are the statistics of what we deal with on an annual basis. The number of reports received for dog-related matters has been consistent throughout the last couple of years. Our reporting structures have improved over the last few years, so that is why I am really focusing mainly on the last two in that area. Though the category for attack on a person is not divided into the two groups of non-serious or serious injury, the number of prosecutions in the top table more accurately reflects this number. You will see that the animal infringement prosecutions have come right down this year, and that is as a result of council now undertaking the infringements court process for that part of our role.

**Ms TIERNEY** — Can I just ask on that the difference between wandering at large and pick-ups?

**Ms TAPLEY** — Certainly. Complaints, when they come into council, are put into different categories in our customer request system. We may receive a call for a dog at large as opposed to a contained dog pick-up. A dog pick-up is specifically that we are going there, we know that we are going to collect something, whereas a wandering, we may not.

**The CHAIR** — So a pick-up may be someone has contained a dog that is not theirs in their backyard?

**Ms TAPLEY** — That is right, or they might have found it when they were out for a walk and taken it back home and then given us a call. Wandering at large, 90 per cent of the time when we get there it is not there.

**The CHAIR** — Yes, of course.

**Ms TAPLEY** — Just having a look at some of our dog breed statistics. As you can see, like all councils, we have got a variety of breeds that are popular in the shire. You can also see that out of the top 10 most popular, 8 are also the most impounded. One makes the top list for most seized breed in the shire as well, and the seized dogs are when they have been involved in a dog attack. Eight out of the top 10 are working breeds. Again, it is high-energy breeds which are most often impounded. We wonder if this is because there are more of them. Do they have more of a tendency to escape? Are the owners providing them with the mental and physical stimulation that they need for their breed? Or do their owners even understand the dog's needs, for those breeds? It is interesting also that, looking at our statistics, it is a quite even split between the north and south of our shire, so our more established northern towns still have similar issues as far as the number of animals being impounded from those areas.

**Ms HARTLAND** — When you say impounded, this could be a dog wandering, it could be a whole range of issues. It is not that they have been involved in an incident; they have just been picked up.

**Ms TAPLEY** — No, generally it is just wandering at large.

**The CHAIR** — With the English staffy terrier, you have got 617 registered.

**Ms TAPLEY** — Yes.

**The CHAIR** — And there were 147 impounded.

**Ms TAPLEY** — That is right.

**The CHAIR** — So either a high proportion were being impounded or a lot were unregistered. Would that be a correct summation?

**Ms TAPLEY** — Interestingly, we are looking at over 50 per cent of dogs in our shire that come into our pound system that are not registered. It is quite possible it is a bit of a mix there of both. We also find that very close to 50 per cent of dogs impounded are not desexed either.

**Ms HARTLAND** — Of your impounded dogs, how many of those would be reclaimed by their owners, registered or unregistered?

**Ms TAPLEY** — I was initially working on another document yesterday. It is around 79 per cent in the last 12 months that were returned to their owners or reunited with their owners. I think it was 29 per cent were returned to owner, so bypassing the pound, so they were wearing current registration at the time of being found. We have a process at council where we will return them back to the owner if they are home to receive the dog

or cat. Otherwise, if we cannot get hold of them, they will be taken to the pound for their safety, because we do not know how they got out in the first place.

**The CHAIR** — So that is the difference between returned and released?

**Ms TAPLEY** — Yes, that is correct.

**The CHAIR** — Returned is delivered back home and released is where the owner will come and collect it.

**Ms TAPLEY** — The owner comes and collects it, yes.

**Ms TIERNEY** — Is there a penalty if you return the dog to the owner's home?

**Ms TAPLEY** — If it is a first offence, we will issue a warning for the first-time offence for a wandering at large. If it comes into our care and it is not currently registered, we have pretty much zero tolerance for unregistered dogs, because it has been around so long and it is the way that we can get them back home again. There is always an infringement issued for unregistered. Even if we do return a dog home, if it is not the first time, then they will receive an infringement.

In relation to some concerns on our current framework, from question 9 in the submission, question 9 asks if councils have any key concerns about the current regulatory framework. Specific to restricted breed legislation, the first thing is that it is based on the breed, not the deed. I have expanded on this in the submission as to how this line of thinking does not fit in with the rest of the Domestic Animals Act. But another concern that I have is the confusion felt by the community on persecution of a breed and lack of understanding about whether their dog may be one. The photos that are on the screen there, I have just googled in 'mastiff cross boxer', and these are just some of the pictures which come up, which to me makes it an easy thing for the community to not have a clear understanding of what a pit bull or a restricted breed dog may be. I think that may also impact people coming forward to register dogs. Often if they will not come forward for one, they will not come forward for the rest either.

In relation to the last dot point there, outcomes of appeals that have been before VCAT over the last few years in relation to restricted breed appeals obviously paint a poor picture for officers as far as impacting on the community's perception of their capabilities. It is really difficult to have a decision such as identifying a restricted breed dog at an officer level, when all of their training and all of their knowledge and expertise is in relation to translating and enforcing the legislation specific to a deed, as opposed to being breed specific.

In regards to the dangerous dogs part, I have just got a couple of examples of different issues to explain a bit more out of the comments that I have made in the submission, just to help with a bit of the understanding there in question 9. This is only one occasion, through this example, where we have had a dog which has clearly done something serious enough for council to determine that a dangerous dog declaration is required. Unfortunately, the legislation, number one, does not provide us the opportunity to hold onto the dog until that decision has been made, if that is a decision council wishes to make, and of course working in line with the charter of human rights and natural justice we would want to have a determination in court as to the outcome of the matter before proceeding with any decision on the outcome of the dog. There is a bit of a gap there as far as our powers to be able to hold a dog. But as you can see, it is certainly something that we would not want to happen again. But clearly from this inspection the enclosure was not quite ready, and the dog was just tied up inside a house that was currently being built, with a sign just propped up against the framework.

Of course, going back into the same environment where they have come from before the incident which we have had to deal with could often put them into a tempting situation for recurrence of the same offence, whether it be on another dog, on a person or on livestock, which we deal with a lot.

Another example I have for you is in relation to a situation where council has done what it can under the circumstances but has knowledge that more could be done to prevent something happening again, but the legislation has restricted us in what we can do. We have a dog which has rushed a person. It has been impounded. Unfortunately the victim in this case did not want to provide a statement in relation to the incident. We released the dog back to the owner and issued infringements for the situation. The next day when it was released it rushed again three separate people. so it was declared a menacing dog.

Unfortunately, knowing that the dog is of that temperament, of that behaviour and has that capacity, it being able to escape is certainly a concern. Menacing provisions require that a dog be on a muzzle if it is outside the property. If it is escaping from the property, it is not going to pop it on on the way out. It sort of limits where we can go there. Obviously the dog being under investigation again now for actually biting somebody when it was out on a lead, not muzzled, is something that we are looking at now to progress that to the next stage.

We had a situation recently where we had two dogs that had been taken from the family home and popped into the family business, and deemed to be guarding non-residential property. They are now declared dangerous. The dogs had no history from the property where they originated from in a residential area. They obviously did not like the idea of being plonked out into a factory setting and went out looking for fun. The owners were prosecuted twice, and the decision, which was the best result for this matter, was that the dogs were taken off the non-residential property and put back into the residential property. The legislation does not say that we cannot do that, but the concern then is if the dogs were trained as security dogs, how would that be as far as temperament assessment behaviour is concerned? Is it really something that we want coming back into our communities? It worked for us in this instance, but there are other circumstances where it would not.

**The CHAIR** — So the dogs were declared dangerous or not as a result of — —

**Ms TAPLEY** — They are declared dangerous due to the nature of the work that they were doing — the fact that they were placed in the non-residential area — so in effect deemed.

**The CHAIR** — Being deemed a dangerous dog does not remain with that dog once it leaves — —

**Ms TAPLEY** — There is nothing in the legislation that says that.

**The CHAIR** — Okay.

**Ms TAPLEY** — The section in relation to a dog which has been declared by council is specific in saying that it cannot be revoked, but there is no such wording around, I think it is section 34(2) in relation to this part.

Looking at the questions in relation to responsible pet ownership, we have a suite of things that we do — which we love doing, really enjoy doing — but we find that it is pretty much a traditional type of program, which probably a lot of other councils are doing as well, and it makes us wonder whether it is actually effective and whether it is actually the responsible people who are coming along to it. Is there a new approach that we need to take in relation to responsible pet ownership, or is it just that they have been caught previously and now they are responsible so they are coming along?

**The CHAIR** — Can you expand on what the wandering project is?

**Ms TAPLEY** — It is a project that we are starting to implement at the moment and then breaking it down into different sections. The idea concerns the amount of time and resources that we put into collecting dogs and taking them to the pound and the fact we do not have that many that we can actually take back home because they are not registered, so what we are looking at doing is trying to reduce the number of dog attacks in our areas by reducing the number of dogs that are actually wandering. Our main focus with this project is around wandering and, taking it back to bare basics, is identification, ownership and confinement. What we are looking to do is introduce a registration doorknock to try to get as many on the books as possible so that we can actually avoid taking them to the pound if they do get out. Plus once they get on the books then we have the opportunity to bombard them with educational material, so it works both ways.

**Ms HARTLAND** — Also, because you are a shire you have vast rural areas. Does that make it more difficult as well with dogs that just do not belong to anybody or that may have become wild or feral?

**Ms TAPLEY** — I would not say we have wild or feral dogs. We may have dogs that are lost by travellers coming along the highway. We have dogs that come down from the mountains that had been taken up with hunters. We do have a lot of dogs which are owned. Sometimes we will have travellers who will pick up a dog three shires away and drop it off with us or pick up our dogs and take them into the city. They are a few of the different challenges we have in that regard. What we really want to focus on is the bare basics, and that is around registration and getting people to understand what their responsibilities are, not just their rights.

Having said that, there was a project undertaken in 2006 in the previous council that I worked at, which was implemented as a plan to educate park users of a new dogs-on-leash policy that was being introduced. An on-leash-only park was chosen and two officers attended on different days at different times of the day over a three-month period to speak with dog owners using the area. Approximately 98 per cent of those spoken to had a dog with them that was on lead, registered, microchipped and desexed, and the owner was carrying a poo bag. Again, it is all around targeting, how do you get your target audience, and are we sometimes over-regulating those who are doing the right thing? It is trying to find the balance between those.

I feel that we need to understand the different types of dog owners and why they want a dog, focus on educating around breed selection to find suitable dogs for people who want them, educate the community on what constitutes normal behaviour for a dog, depending upon its breed and that meeting the needs of the dogs' inherent behaviours will reduce nuisance behaviour such as barking, digging and aggression. A lot of people do not understand what their dog actually needs to be mentally and physically stimulated, or they treat them like a person.

This is a brochure which was put together a couple of years ago by the Australian Institute of Animal Management. The institute is a national body which brings together animal management officers from around Australia and overseas as well on occasion to discuss research, experiences on the ground, new projects, new ideas, new ways of thinking and implementing projects around the same issues that we all deal with. We may have different legislation which covers us, but essentially we all have barking dogs, we all have wandering dogs and we all have angry dogs. So this is a brochure that the institute put together in a hope to provide animal management officers around Australia with some information around basic dog care 101.

The other document that I have in the folder for you is a position statement which members of AIAM have put together and adopted in relation to managing dog aggression in the community. There is some great stuff in there. Again, it is around hitting your target audience and how do we do that.

The last thing I wanted to show you is a dog attack campaign which Townsville City Council have been implementing over the last few years. They started in 2012 with a traditional message: nice soft, fluffy, little, cute pictures of dogs and cats and 'Do the right thing, please' — asking nicely. But they found that the program that they had implemented at that stage really was not getting the message across. It was not decreasing the number of attacks or opportunities for corrective behaviour in the community. So they sat down last year and decided to do a more aggressive dog campaign, and these are some of the words which came up as they were discussing what the actual issues were and what they needed to do.

If I can, I just want to share a couple of quick videos just to show you what actually came out of their ad campaign because I really feel that it is beneficial. I am happy to provide the videos, or the links to the videos.

**The CHAIR** — Yes, the links to the videos. That would be fine.

**Ms TAPLEY** — The campaign that they have taken this time is more based around something you would see more along the lines of a TAC ad. It is in your face. It says it how it is. It is confronting. I would not say that it is actually upsetting as such, but I was really impressed when I saw these presented at the AIAM conference in October.

**Mr EDWARDS** — It is probably worth noting too that one of the biggest challenges — we were talking on the way in about this — is that Townsville is a council that effectively has its own TV network, similar to a Shepparton, a Ballarat or a Bendigo, where they can really hit a volume of people; whereas when you have metropolitan councils and your interface councils you just cannot get that same result with an advertising campaign unless it is state-government led.

**The CHAIR** — Indeed.

**Ms TAPLEY** — And the great thing with the two different campaigns that they have there is the flooding of the market that they have done. They have used billboards, they have used the back of buses, they have actually used the animal control vehicles that are used and seen on the roads — they have 15 of them or something — so they certainly do get their value for money out of it.

**Ms TIERNEY** — Has this piggybacked on something similar that has been run elsewhere in the world?

**Ms TAPLEY** — Not that I am aware of. Their next campaign for next year is a barking dog campaign, so I am really looking forward to finding out about that. They are happy to share whatever they have as well.

On that, I just want to say that our issue is that we are dealing with poor decisions in our community. If we take pet ownership and responsibility back to basics and educate pet owners before they purchase or otherwise obtain a pet, there will be less need to re-educate, reprimand and prosecute in the future. It is about getting back to basics and having people understand what the inherent needs are of the dog rather than just treating them like another member of the family.

**The CHAIR** — Is there anything you would like to add?

**Mr EDWARDS** — Nothing further.

**The CHAIR** — Very good. Questions?

**Ms HARTLAND** — In your work, have you actually had to deal with a restricted breed dog?

**Ms TAPLEY** — Yes.

**Ms HARTLAND** — And how did you find that process?

**Ms TAPLEY** — Very stressful.

**Ms HARTLAND** — Can you elaborate?

**Ms TAPLEY** — Yes. I have actually been involved from an officer level as a person making the determination as to whether it met the code or the standard at the time — it was quite a few years ago — but also as a coordinator having officers who go back and forth between other officers. They are just not willing to make a decision on their own. They just do not have the confidence, particularly knowing the success rate, I suppose. We actually call in a vet to confirm before we take anything further because we know the level of expertise that is accepted at VCAT in relation to an officer, regardless of the number of years they have been involved, as opposed to an all-breeds judge or a veterinarian; we are just not held on the same level.

**Ms HARTLAND** — How difficult have you found it to get vets to do that, because other evidence we have received is that vets are generally quite reluctant to do that?

**Ms TAPLEY** — We are lucky; we do have one who has a bit of experience with restricted breed decisions.

**The CHAIR** — But I imagine for another council that did not have a vet who was willing to do that it would be quite difficult?

**Ms TAPLEY** — It would. Again, depending on the size of the council, being involved in the different groups that I have, I have had experiences understanding some of the issues that the smaller councils have. You may have councils that are 7000 square kilometres, have 7000 population and have one staff member dealing with everything. Just dealing with the whole microchip provisions before registration is a challenge enough, rather than having to undergo a process like this.

#### **Videos shown.**

**Ms HARTLAND** — Do you know what kind of impact it has had in Townsville? Have they spoken about it?

**Ms TAPLEY** — They did; they actually did a presentation at the institute conference in October and they won animal management plan of the year. This was part of the content of why they did. They did a presentation on the whole campaign, how they came about it and the costs involved as well as looking at the statistics before and after the implementation. I am sure they would be happy for me to pass that on.

**Ms HARTLAND** — That would be really helpful.

**The CHAIR** — Yes.

**Ms HARTLAND** — Yes, because the ad is very powerful but very straightforward.

**Ms TAPLEY** — Yes. It does not say please. It does not say — —

**Ms HARTLAND** — No, it just says what happens.

**The CHAIR** — I thought I might just ask about the animal management agreements, about how they came about and how you have found them operating. We have heard from other councils that have said they would like to implement something similar to this but they have found it to be in a legal grey area, I suppose, and have difficulty implementing it. I would be interested to hear your views about how you have gone about implementing it.

**Ms TAPLEY** — I agree, it is in a grey area legally, unless we were to take it to court as part of the court decision; then it would, excuse the pun, have teeth. It really is just a gentlemen's agreement. I suppose it comes into play really well for those people where you know the incident is an accident, that they are very remorseful, that it is an easy fix to make sure that it does not happen again and that there is something there we can work together on to get a good result. There are so many different variables in every situation that we deal with. I even mentioned in the submission in relation to a laceration, for example. You can have a laceration where it only just breaks the skin, but because of the term 'laceration' and the definition within the act it needs to be applied as an injury of a serious nature. It is just something, again, where we are able to utilise things which make it a bit easier to get a good outcome for the community as well as for the dog owner.

**The CHAIR** — You were saying it is a gentlemen's agreement, so there is an agreement from both parties that this is a positive way forward. Have you had any legal challenges to the process or anything like that to this point?

**Ms TAPLEY** — No, the dog owners we have utilised these with have been really grateful for the opportunity. All our dog attack declaration proposals that we do we do through a panel process, and I think they are appreciative of the fact that we actually put another midway mark in there to have that area for negotiation rather than strictly down the declared dog range or back home with no restrictions at all.

**Mr EDWARDS** — I think a lot of the time the people who we implement them with, it sort of forms part of our educational approach. We find they have never put their pet through obedience training or something so simple, and by doing that they can then address the issue.

**The CHAIR** — Good.

**Ms TIERNEY** — Can I just ask a question generally about obedience training in the shire in terms of the cost, its accessibility and the times in which the classes are run that might align or not align with dog owners?

**Ms TAPLEY** — We do not have a very big range of domestic animal businesses in our shire full stop, and when it comes to training, that is quite limited as well. There are quite a lot of puppy classes being offered by veterinary practices, which we have five of within the municipality, so that is a good spread across the major towns. As far as obedience classes are concerned, there are some held north and south, predominantly on a weekend or maybe one night during the week. So there is not a lot of opportunity as there would be down closer to Melbourne.

**Ms TIERNEY** — Sure. I notice that you hold quarterly discount microchipping and registration days.

**Ms TAPLEY** — That is right.

**Ms TIERNEY** — When did that start, and when did you see an increase in registrations?

**Ms TAPLEY** — It actually started before I started there. That was 2012. We have actually had a decrease in the number of dogs coming through for microchipping. Often we find that it is people with litters who are making the most of having the discounted microchipping opportunity. They are still certainly viable, but I would not say that it is actually increasing our registrations very much.

**Ms TIERNEY** — Okay.

**Ms TAPLEY** — Yes, we would sort of be looking at around 30 to 40 microchips and registrations each time, and it may even be through the officers as well locating animals that are not currently registered and knowing that people are suffering financial hardship or just having a hard time making ends meet, and they will suggest, ‘Okay, rather than giving you the 7 days or the 14 days that we would normally give, we’ve got our next microchipping day on this day. Be there’.

**Ms HARTLAND** — What is the population of your shire?

**Mr EDWARDS** — It is actually closer to 40 000 currently.

**Ms TAPLEY** — We are growing.

**Mr EDWARDS** — We are. We are growing fast.

**Ms TAPLEY** — Very fast.

**The CHAIR** — Any concluding comments?

**Ms TAPLEY** — No, just thank you very much for the opportunity to come and speak and for the submission we put in.

**The CHAIR** — Thank you for your testimony today. I just remind you that you will be provided with a proof of what you have said today, which you will be able to peruse and then return to the committee, and the transcript of today’s hearing will be placed on our website in due course. Thanks again for appearing before us today.

**Ms TAPLEY** — Thank you very much.

**Witnesses withdrew.**