

Mr Chris Tallentire; Ms Margaret Quirk; Ms Janine Freeman; Mr Peter Abetz; Mr Paul Papalia; Mr Roger Cook;
Mr Tony Simpson; Ms Lisa Baker; Mr David Templeman; Mr John Day

DOG AMENDMENT BILL 2013

Second Reading

Resumed from an earlier stage of the sitting.

MR C.J. TALLENTIRE (Gosnells) [2.44 pm]: I will resume my speech, hard as it is after reeling from the shock of the Treasurer's speech and noting the total absence of any reference to the environment in it. Clearly, this government has no interest in funding environmental initiatives.

I was discussing the Dog Amendment Bill 2013 and pointing out that the bill will give rise to legislation that will guide people towards responsible dog ownership. I was also pointing out the issue of responsible dog ownership and the importance of people choosing the right dog for their circumstances. In my personal circumstances, a young, active border collie would not be the dog of choice, but the animal I do have—a retired greyhound—is an ideal pet, and that is the sort of choice that people have to make. To be a responsible pet owner, one has to weigh up those things. People are often won over by the cuteness of a puppy when they are looking for a pet and perhaps do not give the issue a lot of thought and consideration, and that can lead to problems. It may result in a family choosing a dog that is actually more active than their family circumstances can allow, and the dog may be left out in the backyard all day, unattended, causing a nuisance. I am pleased that this legislation seeks to tackle that problem also, but we keep coming back to the issue of people having to make the right choice, and this is where I think the legislation missed an opportunity. The issue is how we guide people towards making that right choice. It is about making sure that people can go to breeders of dogs who are conscious of the nature of the puppies that are being offered for sale and conscious of the potential new owners' needs and circumstances, so that they can guide people to make sure that those circumstances mesh together nicely.

That is where I think we have missed an opportunity. Really progressive dog legislation would have looked at something called breeder registration. If we had been able to go that bit further and have breeder registration, we would have ensured that we had a register of people who were responsible breeders. We would have been able to enter into conversations with potential dog owners and educate breeders to enable them to ensure that they selected the right homes for their puppies to go to. That was actually the experience I had before choosing my greyhound. The people from Greyhounds as Pets were very careful before allowing me to take my dog. They wanted to be sure that the property was properly fenced and that I was not a fly in, fly out worker who would not be around for extended periods. They wanted to know a whole range of things to ensure that I was suitable, and that is a good thing. But we have missed a chance with this legislation to bring those considerations into place more broadly. In fact, we could have had a system in Western Australia under which, if one wanted to buy a puppy, one would be required to go to a registered breeder and therefore enter into that dialogue with breeders who have the welfare of their puppies at heart, and the future wellbeing of the prospective family involved, so there is not a potential mismatch.

In respect of the more general issue of responsible pet ownership, it would be good to have a legislative framework in place that has some punitive measures, so that there are penalties for people who leave their dog in the backyard and allow it to bark continuously. I have constituents who are frustrated with the current system—hopefully the soon-to-be previous system—under which people's complaints are difficult to register. They were not able to contact the local government authority and get an immediate response; instead, they were told that they would have to keep a log of all the barking incidents, quite often over a period of several months, and their reports would have to be substantiated by other neighbours. I hear the argument, which members on my own side have put, that we do not want a system that is vulnerable to vexatious complaints. However, the previous system was too onerous on people who had legitimate concerns. Often the people complaining to me about a nuisance dog in their neighbourhood were genuine dog lovers themselves. In fact, part of their frustration and concern was for the welfare of the animal that was upset, misbehaving and causing a nuisance in the neighbourhood by barking. We have to work on this issue and clearly there is an intention in this legislation to solve that problem in some way. I am concerned, though, that we may not have gone about setting the framework in the manner really required.

I talked about responsible pet ownership and another part of that is obedience training. For many people it would be a means for them to bond with their pets and to instil a degree of discipline in their pet so the companion animal becomes a disciplined member of the family and a respected animal. Owners can see the capabilities of their pet and can have a real appreciation for its desire to please and for its ability to understand what is required of it. Therefore, obedience training is very important. I have not seen anything yet in this legislation assuring me that obedience training would be presented to all future dog owners as an automatic thing to do. After all, people make an investment. Even if they have been given a puppy they still make an investment of the time required, the food and the organisation of the house, so I do not think it is too much to ask to expect people to go that bit further and invest in what might be an hour's obedience training a week while the dog is young, just to get it

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trained and, perhaps more importantly, to give the new owner skill in and understanding about the behaviours needed to look after a dog. There is nothing like having someone teach dog owners how to rear a puppy and the consistent behaviour required that will enable them to be good dog owners. If a dog owner does something that seems normal to them but that appears inconsistent to a puppy, the dog will not be happy and it could even be unbalanced, so there are concerns there. Socialisation of the dog also comes with obedience training. That can be acquired by the normal walk to the local park and the human socialisation that goes on, which is also good for the dog owner, but vital for the dogs. However, I think the more structured approach of obedience training is useful. There is then the issue of certification of obedience trainers. We do not want just anyone setting themselves up as the latest dog whisperer obedience trainer; we want people properly certified as good obedience trainers, paid correctly for the skills they have and able to benefit that whole bonding process.

There are some important things in this legislation and I have indicated my personal interest in the wellbeing of greyhounds, so I support the intention to remove the requirement that a greyhound be muzzled in public, subject to the dog having gone through an approved training program. That is an excellent initiative. As the minister outlined in his second reading speech, that should go some way to reducing the number of greyhounds put down when they end their racing careers and/or when they are found to be unsuitable for the racetrack. The numbers are really quite horrendous at the moment and it is a shame that the greyhound racing industry is responsible for the unnecessary deaths of so many dogs. If we had measures in place that enabled those dogs to be housed, it would be a positive step forward.

I also note that microchipping of dogs will become compulsory from 1 November 2013 and I fully support that. There is no doubt that it will make a big difference for council rangers to have the ability to quickly microchip a dog and find out who its registered owner is. We would hope that a dog out in the street, if it got out, would be wearing a collar with identification on it, but that is not always the case, so microchipping makes perfect sense. I notice as well that injuries caused by dangerous dogs will become a criminal offence and, given the seriousness of some injuries inflicted by dogs, there is much merit in increasing the severity of penalties. That is another serious issue.

The control of so-called dangerous dogs by breed rather than deed is no doubt the most contentious part of this legislation.

[Member's time extended.]

Mr C.J. TALLENTIRE: The slogan should be “deed not breed”. We should really look at a dog's history rather than what its parentage might or might not be. That is the real problem in this case. A dangerous dog, as I touched on earlier, could well be a dangerous dog simply due to the traumas it has gone through or its reaction to a particular event. It is not necessarily down to its parentage. Trying to identify certain breeds as dangerous from the outset leaves open a whole lot of ambiguities with this legislation because it is so hard to judge what a dangerous dog might be. There is perhaps the possibility of doing DNA testing, but bear in mind that the single species *Canis familiaris* is, after all, such a diverse species in size, ranging from the chihuahua to the great Dane and all sorts of mixes in between. It is the same species with such variation within it. There are also behavioural variations within the species and it can be very hard for somebody like a council ranger to identify a particular breed. What a ranger has thought identifies a dog as a particular breed could actually be the result of a series of crossbreedings that have led to the appearance of a dangerous breed. It is such an ambiguous area and that is why the “deed not breed” approach would be a far more robust way of tackling this important reform.

We have a long way to go in encouraging responsible pet ownership in Western Australia. I cannot help but think that some of the problems we have with responsible pet ownership come from our attitudes towards pets, which are strangely restrictive at times. I recall debates about allowing dogs to drink from water bowls at alfresco areas outside cafes. I contrast that with attitudes in Europe or the United Kingdom. In an English pub there is customarily a dog sitting by the fire. Imagine if a person was to take a dog into a pub in Australia; it just would not be accepted. Perhaps as well we would be concerned about the behavioural standards of a dog coming into a pub here, but that does not seem to be the case in other parts of the world. I have wondered why that is. It does suggest something about our attitudes toward dogs.

Something that I personally do not like the idea of is dogs on the back of utes. A dog is a companion animal. I know people who really love their dogs think it is perfectly normal for them to just sit on the back of the ute. I personally do not. I see dogs on the back of utes on boiling hot days as well as on freezing cold days. Some of them might be chained up in such a way that if the car does a sharp turn there is, hopefully, some sort of restraint attached to the animal's neck to prevent it from being slung out of the ute. Even though I am told it is part of a tradition in our country, it is a thing that we should move on from as we move further towards the idea of a responsible dog ownership scenario. It is an important thing that we have to embrace.

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Responsible pet ownership comes from the affinity we have with the animal; that close degree of contact. If someone feels that they do not want to have their dog in the car alongside them, I think the suggestion that follows is they do not have that same degree of affinity; therefore, because the bond is not there, I would then question a whole lot of things about the relationship of that animal to its owner. I realise that with working dogs and in farming circumstances it is practical to have the dog on the back of the ute; that is another issue. But for general, urban Australia—bearing in mind that the vast majority of the population lives in an urban circumstance—we should be looking at a different kind of relationship from the “dog on the back of the ute” type of relationship.

The role of dogs in our society and the bond that we can have is one that can enrich us all; it is a relationship from which we can all benefit. I am pleased to support the bill, but I do note there are amendments proposed, which are very sound. I look forward to discussing those during consideration in detail.

MS M.M. QUIRK (Girrawheen) [3.02 pm]: I want to briefly comment on the Dog Amendment Bill 2013 if only because I raised the need for new legislation in May 2010 to the then minister for Local Government and, in dog years, that is about 21 years! I am pleased there is finally some action and I congratulate the minister for introducing the legislation.

The legislation is quite wide ranging. It includes improvements in the ability for local governments to deal with nuisance caused by barking dogs, and I will talk a little bit about that in a minute; microchipping of dogs; and expanding the categories of guide dogs to include assistance dogs. Something that we will be debating during consideration in detail is the categorisation of a dog as being dangerous and the implications of that. Those are some of the areas the bill includes. One of my favourites is the courts now being allowed to impose a requirement on a dog owner to complete a dog training course. We had some family friends and their dog passed his dog training course but the parents did not! We used to tease them about that. But in all seriousness, that is an excellent provision. As I said, there are only two provisions I want to briefly talk about. The first was the subject matter of my grievance in 2010. In fact, I think from recollection, the first complaint I had from a constituent when I entered Parliament in 2001 related to a barking dog. That constituent and I had a bit of co-dependent relationship because he came to see me usually when it was about the full moon, and I do not draw any inferences from that, but every month for about eight or nine months he came to see me about a barking dog.

I also had another visit from a constituent in 2003, which I finally raised as a grievance in 2007. My constituent had the misfortune of living next door to a dog called Tyson, which was a golden retriever. Tyson, I am told, had separation anxiety and bad nerves. As a consequence, he barked persistently during the day when the owners were absent. Of course, that created some difficulties for the neighbours. They asserted that the dog barked persistently, but of course when the owners were home he did not do so. That certainly soured the relations between the two neighbouring houses. Over several years exhaustive inquiries were undertaken into the situation. The council consulted lawyers, but advised the complainants in 2006 that a prosecution for a barking and nuisance dog under section 38 of the Dog Act 1976 would not be successful. The rationale for the opinion was that the barking was periodic and hence could not be regarded in terms of section 38(2), which states that it must be persistent —

... to a degree or extent not normally habitual in dogs and has a disturbing effect on the reasonable physical, mental, or social well-being of a person ...

The difficulty in proof is that it is neither specified in the act at the time, nor in the regulation, what duration or frequency of barking is no longer habitual in a dog. As a consequence, the council made submissions to the Department of Local Government as part of the review that was conducted and were advised that barking for 10 minutes continuously or for 30 minutes or more intermittently without provocation should be considered a nuisance. That was the submission made by the City of Wanneroo.

As I have said, this whole area has been—excuse the pun—dogged by delay for some time. I am very pleased that it is finally being enacted. As I said, there are some problematic areas that will need to be discussed during the consideration in detail stage. Further, in the Minister for Local Government’s capacity as Minister for Seniors and Volunteering, I would be interested to hear his reply about whether there will be any concessions or what arrangements will be made to refrain pensioners’ costs of microchipping their dogs.

Finally, I wanted to talk about the categorising of a dog as dangerous. This is a personal story. When I concluded university and did my articles, I moved out of home and so my parents were, at that stage, empty-nesters. To replace me, they purchased a chow chow dog called Genghis. Poor old Genghis was much loved, but was very territorial. One day an Interflora lady was delivering flowers to my mother for Mother’s Day and Genghis bit the florist and consequently had to be put down, which was very, very sad. I note for the minister that it was in South Australia. Although the common law talks about propensity, here we had a situation where we had no prior

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knowledge that the dog would act in such a way and may never have acted in that way again. But I am certainly aware of the personal cost and how upsetting it was that that occurred.

I have speculated ever since whether had we called the dog a more benign name, perhaps Petal or Nigel rather than Genghis, that might have improved his attitude in these matters. But as I said, given the lack of capacity to review any sort of declaration about the dangerousness of a dog, some circumspection needs to be exercised in this area. For that reason, the amendment that suggests a review of how the legislation operates after some years is very sound because taking away a family pet in those circumstances does cause considerable angst and grief.

On the other side of the coin, I have consistently been concerned about the danger placed on young children. We had a recent example in the eastern states in the past week where a child was killed. I personally have been a victim of a dog that bit me. I suppose most doorknocking politicians at one time have come across a less than friendly dog. I was bit by an Alsatian when I was doorknocking. I was most upset about that, but I have not borne any ongoing grudge towards German shepherds since.

I thank the minister for finally having this bill introduced in the house. There are a range of issues that nicely meld the diverse issues that arise in this area. I am concerned that there should be some level of objectivity about declaring a dog dangerous. I am also very pleased that the house might be going some way towards clearing up the neighbourhood disputes about barking dogs that do cause a considerable amount of distress, especially for the elderly or shiftworkers. When a person's sleep is disturbed, in circumstances such as I outlined, it can make tempers fray. I also look forward to some advice in the minister's reply about any possible concessions for seniors who will be obliged to microchip their pets.

MS J.M. FREEMAN (Mirrabooka) [3.11 pm]: I rise to speak on the Dog Amendment Bill 2013. This bill has been many years in the making, with many people calling for it for a long time. I had a similar situation to the member for Girrawheen when I was first elected—probably with a similar constituent.

Ms M.M. Quirk: It might have been the same one!

Ms J.M. FREEMAN: I think it may be! In that situation a person was very frustrated because he could not get action on a nuisance dog. Some years later, I met this nuisance dog's owner and the dog. It was interesting to meet both sides in the situation and realise that behaviours had become entrenched on both sides. The poor ranger had been caught in a dispute between two individuals that needed to be resolved. I was aware of some of the facts, and the gentleman who raised the issue with me did have legitimate concerns. But he could not find anyone with a neighbouring property to back his concerns, although three neighbouring properties were affected by the situation. There is a cause for concern about procedural justice, which I will talk about in my second reading contribution.

One of the interesting aspects of the Dog Amendment Bill 2013 is that it is built on top of an act that needs to be taken back to basics—especially the aims and objectives. The immediacy of introducing a new bill did not allow us to consider perspective in framing such legislation, or look at community issues about owning a dog or a pet. It would also have been useful to look at how different jurisdictions deal with this issue. The concern that I have with this bill is that there are a number of areas where there is a lack of procedural justice for the dog owner and the imposition of a number of controls in regard to the dog.

I am not a dog owner, so I cannot fully appreciate the emotions and issues that dog owners face. I understand, though, that dog owners do not necessarily see themselves as owners, but rather in many instances as parents of their dog. They see their pet as part of the family. One of the reasons I do not own a dog is because my partner grew up on a farm and he believes dogs are working animals and belong on farms and not on suburban blocks. On that basis, we as a family have never owned a dog; but many owners do see them as family, are passionate about their dogs and see them as having similar worth to other members in their family.

This bill sometimes misses that point—it looks at dogs as a thing that people own instead of a fundamental aspect of people's lives. The bill looks at this issue almost in terms of property rights law and managing property, whereas for many people dogs are more like family members. I cannot appreciate that; when people express the view that their dogs are part of the family, people like me who do not have that relationship can be critical and a little bit sceptical. The best way I can gain some awareness of that relationship is through philosophical thinkers and their religious counterparts, such as Buddhists, who use the term “sentient beings”. That means acknowledging the consciousness of life of all animals, including humans, and the compassion that should be afforded to all beings; all sentient beings have the capacity to suffer as well as feel pleasure and enjoyment.

When we look at this bill in terms of simply managing a piece of property instead of sentient beings, we start to fall into some procedural justice issues. Thinking about pets as property does not give people the capacity to

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make proper judgement calls and understand the consequences of their behaviour as dog owners. Owning a dog is beyond the idea of ownership. I know that for different people there are different issues. There was the issue that the member for Gosnells raised about dogs in utes. I heard comments from other members who have farming backgrounds who were quite astounded by the member's comment. I have a relationship with someone from a farming family and a brother-in-law who is a farmer. They have a very different perspective on dogs and consider them working animals, but they still look at them as sentient beings and acknowledge that they have the capacity to suffer and feel pleasure and enjoyment. I think that is what we should do when we consider this bill.

One of the interesting things about this legislation and procedural justice is its reverse onus on owners of dangerous dogs. If a dog is considered a dangerous dog, it is up to the owner to prove that is not the case. The Premier would be aware, having come from an industrial background, that the reversal of the onus of proof is an extraordinarily contentious thing in any court of law. Being able to say to someone, "I can say to you that this is the case, and it is for you to prove that it is not," is a very, very serious issue. In debates I have been involved in around occupational health and safety issues, there has been a view that a worker should be able to say, "This is a dangerous situation," and the onus should then be upon the employer to show that it is not. That has never been the case; a worker still has to prove that a situation is dangerous. In cases of unfair dismissal, the onus is upon the worker to show they have been unfairly dismissed. In the case of unlawful termination—if someone has been terminated for being ill, sick, disabled, pregnant or any other discriminatory reason—there is a reverse onus, but they first have to pass a threshold test of proving that discrimination has happened, and then the onus reverses and the employer has to show the person was not terminated on those grounds. It will be down to rangers to make those decisions, although they may not have the capacity to do so from the perspective of ownership and property law. I understand how difficult the job of a ranger is.

I started my contribution to this debate by talking about a situation that happened in one of the suburbs I represent and the difficulty the ranger had when he was caught between the two parties. I accept and acknowledge that it would be difficult for them to declare a dog as dangerous. Such a declaration would have such huge implications for that dog owner in how they handle their dog in public and in their own home, and I think for them to have the reversal of onus of proof and have to show that their dog is not dangerous seems, frankly, very unfair and is really lacking the procedural justice of other legislation. What is even more astounding is if there is a notification of a declaration, they only have seven days in which to appeal. Proposed section 33F(2) is not a substantial change, but it sets out that a person has only seven days to object to the declaration. They can write to local government to object or go directly to the State Administrative Tribunal. I raised that with the minister's officers, who I thank for briefing me. I was somewhat cheeky really, because I had only just picked up the bill, and I do apologise if I was in any way a bit flippant with his officers—I can be when I am being a bit cheeky. The information they provided was very helpful. I would like clarification of proposed amended section 33F(2). I accept that it already exists in the act, but because the declaration will now become easier to make or more procedural, will the State Administrative Tribunal have the capacity to grant an extension of time? Because if someone has only seven days to object to their dog being declared dangerous, if they have some sort of issue that prevents them from appealing in seven days, they have no recourse. On my reading of the bill—I am happy to be told different—they have no capacity to appeal against that declaration after seven days. How can that be fair? What happens, for example, if someone receives the order that their dog has been declared dangerous but was off on a family trip a day or two later, or something tragic happens in their family? As I said, I was a bit flippant with the minister's advisers, and I said say their mother dies—knock on wood, no-one's mother dies—they would be in the situation of not having time to appeal, the time would lapse, they would not have lodged the appropriate appeals or notice, and they would have no recourse whatsoever. Say their dog was one of the dogs that the member for Maylands referred to, which looks like a dangerous breed but is not. That is an issue.

As to the proposed new section on offences relating to dangerous dogs, I understand its importance and necessity, given the recent occurrence in New South Wales and how upsetting and tragic that was. Proposed new section 33GA(10) states —

Every person liable for the control of a dangerous dog —

That is, anyone over the age of 18 and anyone capable of controlling a dog, which is interesting in itself. The proposed new section continues —

must ensure that the dog —

- (a) does not kill a person; and
- (b) does not endanger the life of a person.

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It does not read “must make every endeavour to ensure”; it reads “must ensure”. They are very, very different in legal terms. In relation to a person who contravenes proposed section 33GA(10), the bill reads —

(11) A person who contravenes subsection (10) is guilty of a crime.

Penalty: imprisonment for 10 years.

Because proposed section 33GA(10) does not read “must endeavour to ensure” or “must do everything possible to ensure”, but reads “must ensure”, does that mean the onus upon the owner is so severe that there is no possible way they can go in and argue whether they have contravened proposed subsection (10). They cannot argue the circumstances of the matter or say they did everything possible to stop it occurring, but that something untoward happened and something tragic occurred. Again, I was being a bit cheeky with the advisers, but I said that a worker can be killed in a workplace, and even if the employer was aware that unsafe practices were happening, they will only be fined.

[Member’s time extended.]

Ms J.M. FREEMAN: An employer can kill a worker in a workplace and may get fined, but they will never, ever be guilty of a crime such that it will result in imprisonment. We do not have an offence of industrial manslaughter in this state, so if a person is killed in a workplace, the employer will not incur penalties as serious as those in this bill. I understand why the government wants serious penalties—I want industrial manslaughter made an offence; I get that. But if we look at proposed subsection (10) and the interplay with proposed subsection (11), that really binds the state—I assume the Director of Public Prosecutions—in terms of considering any mitigating circumstances. I am interested in the minister’s view on that.

Nuisance dogs is a very interesting subject. I started by talking about what is and is not a nuisance, and said that that is altogether subjective and relative to people’s capacity for tolerance. It is also a perspective of certain areas; some areas I represent are downtown dog central. When I go doorknocking in that area I can set every dog off. Usually it is around an accessible park. When a person moves into an area because they want to have the amenity of a park, and that park is a dog park but they do not like dogs, and suddenly they start to arc up about the dog next door, who is the nuisance? Is it the dog or the person who moves into an area with a dog-walking park just down the road without thinking about it? Again, it is about looking at dogs as property and the people who own them, instead of looking at them as being part of a community and part of the urban society. Frankly, for many of the people who own dogs and animals, they are part of the urban society.

What makes this matter interesting is that new proposed section 38(1)(c) is prescribed and contained, but new proposed section 38(1)(a) is so broad. It states —

makes a noise, by barking or otherwise ...

What happens if a dog whimpers all day? I have to tell the house—my next door neighbours might not be impressed by my saying this—that there is a dog next door to my house that has an anxiety issue. He was the companion dog of someone who passed away and the family next door has adopted him. My neighbours went on a big holiday to Europe a couple of months ago and their daughters, who were supposed to look after the dog, did not do it quite as well as they should have, and the dog now needs to see a dog psychologist. That is the reality. I have had that conversation with them and told them that their dog needs counselling. Every time they go out, the dog is clearly emotionally traumatised. I do not know the emotions of a dog. I do not have a dog, but I can hear him. I know that these provisions would give me the capacity to lodge a complaint. However, I can also walk across to my neighbours and have a discussion with them. This nuisance dog provision takes away every responsibility from me being able to walk across to my neighbours and say, “We need to do something about this.” My resolution is that I can cut a hole in our back fence and the dog can come into my garden and it can see me. Then it will be happy because it will see someone. I am happy to do that. I can do that because I live in that sort of neighbourhood. I live in an area close to a dog park and I knew what I got into when I moved to that part of the world.

I am worried about how broad the nuisance dogs’ provision is. I understand that it has to persistently occur and continue to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any place. They are such broad words. All that would need to happen is for a person with a particular disposition to complain about the dog that lives next door. The minister would know because people like this have rung him. Often those types of complaints can border on vexatious. In their enthusiasm to resolve the issue, which probably is not their issue, they are just as likely to take out a writ of mandamus or a writ of certiorari—I am not sure which term I should use—to make the council pursue this, even if the council does not think it is an issue. One person can lodge a complaint on a prescribed form, with an authorised person, alleging that a dog is a nuisance in this broad manner. The proposed new section then states —

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If an authorised person is satisfied that a dog is a nuisance ...

What does “satisfied” mean? Not satisfied beyond a reasonable doubt, or satisfied as prescribed, or satisfied on the merits of the matter—“satisfied”. I am a Labor member of Parliament and he is a Liberal member of parliament but our satisfaction about politics is completely different. I am a woman, he is a man, and our satisfaction about other things is probably completely different too. I am not a lawyer, but I am someone who has a history of reading legislation. Maybe the member for Girrawheen can tell me whether “satisfied” is a broad term, as I would assume. If I were a vexatious litigant, I would be saying, “I want you to issue a nuisance order because you should be satisfied. I have recorded every time they have whimpered next to my window. See, it happened at 10.30, 10.45, and it has happened in the past so many days. You have to do that.” It is a rod for their backs. What happens if a ranger meets someone who is overenthusiastic about pursuing their rights under the act? They are likely to say, “Okay. I am satisfied, all right”, because they have been whittled down to that point, then suddenly someone has an order against them that their dog is a nuisance and they face a fine being issued against them, but that is okay because they can appeal that fine. No! The minister has given them no right of appeal for that order in this bill. Proposed new section 38(4) states —

An order has effect for 6 months after the day on which it is issued.

That is it. A person cannot go anywhere for that. They cannot go back to the council or to the State Administrative Tribunal and say that is unfair. Unless the minister can show me, I cannot see where a person can go to appeal.

I do need to get to my proposed amendment, but I wanted to point out that the nuisance dogs’ provision is difficult. My proposed amendment, which I understand the minister has been given, is primarily about compensating someone whose dog has suffered an injury or death. A person whose dog may have been killed or injured has no way to claim compensation other than by taking civil action. Members know that civil action is costly, difficult and intimidating.

I want to tell the house about Ms Quirk—I am not sure she would be okay with me stating her name, so let us say it is a lady who lives in Westminster. She was walking her dog when it was fatally attacked by another dog that was unrestrained in a front yard across the road. I wrote a letter to the City of Stirling and stated that that had been very distressing for that lady. She is an elderly lady who had owned her dog for a long time; it was like family to her. The court process also distressed her. The case concluded with a \$500 fine being issued against the owner of the attacking dog. Subsequently, penalties and costs of \$1 091.50 were awarded as well as the monetary fine of \$500. I asked in my letter how that woman could gain some of that money to compensate her for her vet fees and obtaining a new pet when, through no fault of her own, while she was walking her dog on a leash, she had her hand bitten while trying to protect her dog. Basically, the City of Stirling said there is no capacity to do that. The letter from the City of Stirling states —

I have discussed this matter with —

The lady —

on several occasions and informed her that the City has no influence on the Magistrates decision and the penalties handed down. In regards to compensation this is a civil matter that can be taken up by —

The lady in question —

In some instances the Magistrates do award compensation in regards to dog attacks.

“In some instances”! I felt like writing back and asking the city to name those cases and quote me the case numbers because I would be interested in them. Instead, I wrote back and said that I get what the City of Stirling is saying but I asked what prevented the council from taking that \$500 fine it got and put into central revenue—I assume—and not giving the lady that money as compensation. The City of Stirling said that it could not do that.

I have an amendment based on a clause in the Western Australian Industrial Magistrates’ Court legislation to allow that to occur. If that court imposes a penalty on an employer for not paying the award wage and has not kept time sheets so there is no way of showing that the employee was not paid correctly, the employer can be prosecuted for not keeping a record of time sheets for that employee. Each time an employer does not keep a time sheet, it attracts a certain fine. The Magistrates Court would fine an employer a certain amount for not following the proper procedure. The court should not give that money to the applicant—that would have been me when I worked as a union official—it should give it to the worker as compensation for being disadvantaged by being underpaid. The magistrate could basically make an order to give it to the applicant or to the Treasurer—so, the central revenue fund—or to another party who is not a party to the application. I think the term is someone who is “aggrieved” by the issue. That is where my proposed amendment has come from. I think it is a worthy amendment. Frankly, it is not possible for this elderly lady and, I am sure, for many other people, to

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pursue civil action. The council said that the lady could pursue civil action but she would have to make a freedom of information request for its documents. I think this lady is about 75 years old. She might tell me off for that! I actually do not know her age. I do not even know how to correctly FOI documents. Every time I have made an FOI request, I have been told that I have not filled out the forms properly or that the office could not give me the information. This lady is distressed about her dog, but she has been told that she can take civil action and FOI the documents. There is no compensation for her even though she is distressed. If the Dog Amendment Bill does nothing else, it should fix that sort of thing. That issue is not about ownership; it is about compensation for this lady for the loss of one of her family members.

MR P. ABETZ (Southern River) [3.40 pm]: I rise to address the Dog Amendment Bill 2013 as the member for Southern River, which has two major kennel zones in the electorate. In Western Australia, apparently there are something like 321 000 dogs. I suspect that the percentage of people in my electorate who own dogs is probably significantly higher because of the kennel zones. There is one in Canning Vale and one in Southern River, so they are in two different local government areas. I also have in my electorate the excellent facility provided by Dogs West; in fact, it is just around the corner from my office. I thank the staff from Dogs West with whom I have had various consultations over the past couple of years while the bill has been under discussion. I give special thanks to Darryl and, more recently, Ann Rushby, the CEO, for their willingness to give input and to discuss matters regarding this bill. Dogs West take a very active twofold approach to dog ownership. First, it offers advice on the care and welfare of dogs and, secondly, it promotes the sound breeding and protection of purebred dogs, with the aim of producing good-quality dogs that are sound in body and mind. If a person has a dog that is sound in body and mind, hopefully it will cause fewer problems in the neighbourhood.

Dog issues are certainly quite important in my electorate. It appears that pet ownership generally is shrinking, as houses are smaller and many houses have no backyards. I am told that the number of pet owners is shrinking fairly rapidly. The pets of the people who live in high-density areas have a greater capacity to impact on the life and amenity of next-door neighbours. The needs of pets and their owners are definitely legitimate, but, by the same token, the needs of non-pet owners and neighbours also are legitimate. It is a case of trying to balance these needs. Generally speaking, most people are very positive about pets and do not mind their neighbours having a pet, as long as that pet does not impact too negatively on their life. I remember when our oldest daughter was doing year 12. The person who lived behind us had a dog. It never caused us any problems, but then the neighbour started doing night shift. From the moment he drove out of his driveway, the dog barked nonstop until he returned home at six o'clock in the morning. Our poor daughter who was doing year 12 exams had to sleep in the lounge room at the front of the house just to get some sleep. As it turned out when I finally caught up with the dog owner, he was quite convinced that his dog did not bark, but he said that he would keep him inside when he was away, which he did, and it solved the problem. Sometimes people do not need to get the council involved; sometimes a friendly chat to their neighbour can do the trick. Although this bill provides a lot of ways to deal with nuisance dogs, we should always encourage people to take the initial step of having a chat with their neighbour before involving the local council.

The bill certainly provides greater protection to the community by improving dog control and promoting responsible dog ownership. Some issues have already been mentioned. It is a positive step for people to have their dogs microchipped. The bill also allows councils to more effectively deal with nuisance barking complaints. I think there is an issue with the "nuisance" factor. The member for Mirrabooka raised the issue about proposed section 38, which refers to an authorised person being satisfied that a dog is a nuisance. What exactly does that mean? That issue has been raised with me. It would be a helpful way forward if the regulations covered the requirements that must be met for a ranger to be satisfied that a dog is a nuisance. That is one matter that needs some attention.

The amendments in the bill also give the local council the power to declare individual dogs as dangerous dogs based on behaviour. I think that is a very positive aspect, and Dogs West was also very positive about that dimension of the legislation. As they say, it is the deed not the breed. A declared dangerous dog is classified as such only if the local government is satisfied that it has caused injury or damage or has shown a tendency to chase, attack or damage. Some people think that is being a bit overzealous, but I have had several cases in Canning Vale in which a big dog that looked ferocious but was quite friendly got out and jumped up at people. The result was that a person fell backwards onto the kerb and had massive bruising. The owner of the dog could have said that the dog never attacked the person, as it was just being friendly, but the person was so afraid that they fell over. A dog like that should not have free access in that way. Although the owner might be upset if their dog is labelled a dangerous dog, in reality it is a dangerous dog. A threat to attack, even when no damage is done, comes under the provisions of the bill. Some people suggested that that is a little overzealous. People should feel safe when walking down the street. If somebody's dog shows menacing behaviour, that is not acceptable. The dog needs to be under the full control of a person if they take it into a public place. If a person

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wants to challenge their dog being declared dangerous, they have a right of appeal to the State Administrative Tribunal, although, as the member for Mirrabooka said, perhaps the time frame is a little limiting.

One of the interesting things that Dogs West made me aware of is that the legislation refers to American pit bulls and pit bull terriers. I have been informed that they are actually one and the same. Pit bulls come from America, so they are American pit bulls. But pit bulls are not pit bull terriers; they are actually different breeds, so perhaps that needs tidying up in the legislation. The fact that the bill bans the sale, purchase, transfer, breeding and advertising of dogs that are restricted breeds is a positive thing. It is also positive that there is no requirement for restricted-breed dogs to be destroyed as in Victoria. That is a positive difference in our legislation. Our legislation is really emphasising responsible dog ownership. Once a dog is declared dangerous, the fact that signs need to be put up, the dog muzzled and all that kind of thing is all very positive. The aspect of keeping a dog in a prescribed childproof and escape-proof enclosure will help to prevent some of those very tragic situations that have happened in various places around Australia. Even though they are very rare events, it is incredibly tragic for the families concerned when it happens. The onus is very much on the owner of all dogs to ensure their dog is controlled at all times and not behaving dangerously. There are many training opportunities. Dogs West has a canine good companion program. Some local councils, as well as the RSPCA, run dog-training programs.

It is interesting that dog-related complaints are a huge burden on local government. For example, the City of Canning received over 2 000 dog complaints last year. I believe the proposed amendments will make it easier for councils to deal with those types of complaints, whether they are about dangerous dogs or nuisance dogs. Most complaints actually relate to barking. This will give council rangers the ability to deal with it more effectively. The ability to issue infringement notices and enforcement notices is a positive direction. I think some of what I was going to talk about has already been dealt with by other members so I will skip over that.

The legislation allows for evidence to be collected over a period, such as a collar worn by a dog that actually records the time and duration of the barking. That can be downloaded onto a computer. It can then be presented as evidence to verify whether it is a vexatious or genuine complaint. There are collars available that record over a 10-day period. That is all very positive and I think it will make a difference in the community.

One other praiseworthy measure is the proposed amendment to return retired racing greyhounds to the community without the requirement to wear a muzzle—that is, after they have completed a prescribed training program. I notice that there is no definition given of what a prescribed training program is, but I presume that will be covered by regulation. If it is not, that would be a real shortcoming. An interesting thing about greyhounds having to wear muzzles is that it was not introduced for the safety of people but to protect the fragile skin of these valuable dogs from tears when they were on the track and to prevent them from injuring themselves or accidentally injuring others; it was not because they were likely to cause damage to their owners or bystanders. The original law for muzzling is somewhat archaic. It apparently was introduced in 1927 even though greyhound racing in this state did not start until December 1974. After a staff member from my electorate office had her dog put down a little while ago, she ended up getting a retired greyhound to replace that pet. She has certainly found her greyhound to be a very affectionate animal. She looks forward to this legislation coming in so that the greyhound does not need to wear a muzzle. She asked me to put on the record here that a rehabilitated racing greyhound makes a good and loving pet, and they do not bark. Any pet adopted successfully into a family is one less dog destined for unnecessary euthanasia.

I want to mention a couple of things drawn to my attention by Ann Rushby, the chief executive officer of Dogs West. I gave her a copy of the marked-up bill before the winter recess and asked her and her committee to look at it to see if there were any issues they wanted me to be aware of. We had many meetings a long time ago, during the previous Parliament. We met one of the advisers, Sheryl Siekierka. That was certainly very much appreciated by Dogs West at the time. A lot of the things they mentioned are incorporated in the bill, but they suggested that a couple of things still need attention. One is that in section 3 of the act the definition of a sterilised male animal makes no mention of the sterilisation of male dogs by chemical castration, a practice which is becoming more common in this day and age. It allows for a male to be castrated for a period of time and it can be renewed. I was not even aware that that could be done, but science keeps moving on. Dogs West is very unhappy about the proposed deletion of section 7(3)(e), which states —

a dog kept in an approved kennel establishment licensed under section 27, where the person by whom that licence is held has paid the prescribed concessional fee applicable to the registration of dogs in that establishment in lieu of a separate registration fee in respect of each such dog.

Dogs West say that deleting that paragraph will mean all dogs over the age of three months kept within a kennel establishment will have to be registered as individual dogs rather than the current scheme operated by the City of Gosnells, for example. The Gosnells council simply charges a bulk registration for all dogs held at premises rather than individual registrations, which ensures that all dogs over the age of three months held on the premises

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at any one time are automatically registered. To institute an individual registration system would be a huge impost on registered breeders with the Canine Association of Western Australia—Dogs West—of purebred dogs who want to run a pup or two from a litter until the age of five or six months and then decide that they will rehome them as pets. They would be required by this amendment to register those pups only to then rehome them two or three months later. It is financially disadvantageous unless a refund is available, which I doubt it would be, but it also creates a lot of extra paperwork. It will also cause a good deal of confusion because as dogs are either rehomed or returned and registered, it may be that the kennel's licensed number of dogs will be exceeded because the dog that has gone to a new home is officially registered there; they have not been re-registered at the new address.

[Member's time extended.]

Mr P. ABETZ: It would create a little problem there. That is certainly worth looking at. It would not affect a lot of dog owners but it would certainly make life easier for the breeders in the two kennel zones in my electorate.

Section 15 of the act relates to the registration periods and fees. Dogs West is very happy about the proposed concessional rate provisions for kennel properties, but it would still very much not like section 7(3)(e) deleted.

Dogs West wanted me to draw another thing to the minister's attention. I think I can understand why it is in the bill but I will mention it anyway: if dogs are microchipped, why do they also need at all times to wear a collar with a tag on it? I suspect the reason is that the ranger can see from a distance whether a dog is registered or not, whereas the ranger cannot see whether the dog has been microchipped. That is probably the reason. It is pointed out that collars can be dangerous to dogs as they can hang themselves on fences, gates and old car door locks—the old pop-up type. That may be something we need to discuss a little further.

The other question asked by Dogs West—I am sure this will be dealt with in the regulations—is: what is the noise level and number of times it occurs that is prescribed in proposed section 38(1)(c)? Dogs West feels it is an arbitrary number and that, as such, it could be seen to be discriminatory because it could be at the discretion of a ranger or an authorised person to decide whether the dog is a nuisance or not. Those are just a couple of the issues that Dogs West asked me to draw to the attention of those responsible for dealing with this legislation, which is this Parliament.

With that I will conclude my remarks. I am very pleased to see that this bill has finally seen the light of day in this place. Many of these provisions will certainly be very, very welcome by dog owners in my electorate.

MR P. PAPALIA (Warnbro) [4.01 pm]: I will make only a very short contribution to the second reading debate on the Dog Amendment Bill 2013.

Mr D.A. Templeman: Yes, sure. We've heard that before!

Mr P. PAPALIA: On this occasion it is true!

Like the member for Southern River, I commend the Minister for Local Government for introducing this bill, although it must be said that it has been a long wait. I can say that very early in the term of the last Parliament, when I took up the role of shadow Minister for Local Government, I was approached by the member for Girrawheen who drew my attention to the challenges that one of her constituents had been facing, even at that time, for many years, in respect of the barking of a nuisance dog. I went to the previous Minister for Local Government and assured him that if he were to introduce a dog bill, its passage through Parliament would be given every assistance by the opposition; that would have been five years ago. All I can say is that it is good to see the bill is finally here, and I congratulate the minister for introducing it to the Parliament.

Clearly, some response to nuisance barking and ensuring that there are powers in place to deal with that challenge is a welcome initiative. The changes to the rules regarding assistance dogs are also most welcome. The member for Kwinana is a patron of Paws for Diabetics Inc, which is a care dogs group in Western Australia that specifically trains dogs to help diabetic children, which is something that both he and I are very interested in and very keen to support. He has on a number of occasions advocated in this place on behalf of that organisation that some changes be made, and I am pretty sure that those dogs will be included in the legislative changes. That is very welcome.

I was also approached during that time by a wide range of people about greyhounds and their treatment under the current law. There were demands that they be muzzled, and that was outrageous; what a ridiculous imposition on what is possibly one of the most placid breeds of dog one could come across. It is welcome to see that change, and hopefully that will encourage people to save those dogs from being euthanased, as so often happens, after they have failed at the track. Their trainers no longer want them, so they are just left by the wayside. That will make it easier for people to adopt them, and it will be far friendlier for them to be able to walk the streets without a muzzle and without looking like something people should be afraid of.

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However, in common with a number of other members, as they have mentioned in their contributions, I have been contacted by people both from my electorate and from further afield who are concerned about the breed-specific nature of some of this legislative change. They are concerned that because the restricted breed is the pit bull terrier, there are many dogs that look like pit bulls but they behave in a manner that is the complete opposite of what might be termed dangerous, and they are loved and loving pets. It would be an abhorrent thing if it were to come to pass that some of those dogs were mistakenly or unwittingly subject to these legislative changes and the penalties were applied to both the dogs and the owners. That would be a bad thing. I ask that consideration be given to what will no doubt be extensive consideration in detail on that particular subject. We look forward to hearing what response the minister might be able to provide to assuage the fears of those people who have raised that issue with us. It is a serious issue; the whole concept of pre-specific legislation seems to be quite silly in light of how difficult it is to isolate a specific breed of dog in the absence of DNA testing, when that is so difficult, challenging and expensive to implement. I suggest that it might be better if that whole approach of applying restrictions to certain breeds is avoided.

Nevertheless, this legislation is necessary, and I endorse the need for legislation to prevent bad owners from treating their dogs poorly, training them inappropriately and causing them to be dangerous. I do not oppose legislation that might restrict that threat to children and other vulnerable members of society who may come into contact with a dog that has been treated poorly and trained inappropriately by a bad owner.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [4.06 pm]: I want to make a couple of remarks on the Dog Amendment Bill 2013 while the member for Mandurah struggles to deal with the weighty tomes that are his budget papers!

I rise because this is an issue of great concern to the people of Kwinana. Like you, Mr Acting Speaker (Mr P. Abetz), a number of people in my electorate have a great deal to do with the dog industry. In fact, in Kwinana we have two purpose-built dog parks for dog enthusiasts to bring their dogs to, to socialise them, to exercise them, to take them through the obstacle courses and to teach them. Those people come from all over Perth, and one person in particular comes from your area, Mr Acting Speaker. These people come to this facility because they are passionate about their dogs and about the way they raise them, and they are very responsible in that process. For that reason, they want to be around other dog enthusiasts to make sure that their pets can participate in that sort of environment. They have put very strongly to me their concerns about breed-specific legislation, so I feel I really must stand in this place and put some of those concerns on the record.

In respect of the Cat Act 2011, there are two parties in this chamber: the cat party and the dog party, and I am a firm member of the cat party. I believe that there is nothing that cannot be remedied in this legislation without the assistance of a fat Burmese! These cats are really the solution to all our problems, particularly aggressive dog owners, and if we could give them a fat Burmese to sit on their laps for an evening, I think we could resolve a whole range of aggression issues in our society!

However, we are dealing with a lot of consequences in relation to aggressive dogs. Some of the issues with the laws around restricted breeds, particularly pit bulls, are concerning. Chief among those concerns is that this feature of the legislation, which is breed-specific, has inbuilt a range of injustices that go to the rights of the animal. I know that there are a range of views about the extent to which animals have intrinsic rights. I respect the view that part of our obligation to humanity is to also extend that compassion to our pets and the animals around us. From that point of view, I acknowledge those arguments, and I think they are very valid. There are also those issues of justice associated with the owners of those animals, who may be very well intentioned and responsible, but find they are the owners of a dog that may from casual appearance have some attributes of a pit bull and, as a result, they find their dog classified as a restricted breed. Of course, that dog may not be a pit bull at all. We rely on the expertise of the council ranger to make that call and I echo the concerns of a number of members on this side of the house who have asked the minister to clarify this part of the legislation, particularly about safeguards, to ensure that opportunities for injustice or the miscarriage of justice are minimised. Such a safeguard might be that the minister has regulations in mind for an extensive training regime so that these rangers have the expertise needed—that we would hope they have—to make that call. We also want some clarification from the minister about why it is up to the dog owner to prove that the animal is not a restricted breed rather than the local government authority. Part of the reason the legislation has been construed in this way is that the whole notion of breed-specific legislation has been pretty much debunked and undermined, and it is very difficult for someone to conclusively prove that there is an element of bull terrier in a dog. The genetic differences between a pit bull and a chihuahua are pretty much negligible.

Another problem with this is that the notion of breed-specific aggression has been disproved over time. In 1929 we outlawed German shepherds because they were considered an aggressive breed of dog and we now know that that is not true. As a child in Perth, I grew up in fear of my life around greyhounds, because they were muzzled when they were on the street. I thought they would tear my throat out when I was a kid because they were clearly

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dangerous looking dogs. I thought that because they had a muzzle on they must have been dangerous and that they were intrinsically dangerous. Now even the member for Gosnells has a greyhound and they are the fashionable pet of the month, particularly through the adoption scheme. Therefore, we cannot say that aggression is part of the intrinsic nature of a breed. I remember that Rottweilers were the aggressive dogs of the 1980s and now they are supposed to be cuddly kids. Perhaps next month it will be labradors—golden retrievers. They are particularly aggressive little buggers!

Mr W.J. Johnston: Labradoodles!

Mr R.H. COOK: Labradoodles look aggressive to me.

Mr D.A. Templeman: Especially the member for Cannington's; it is as vicious as anything!

Mr W.J. Johnston: No, it is my son's dog!

Mr R.H. COOK: It is the member for Cannington's son's dog!

Any dog that has such poor taste in hairdo must be aggressive by the extension of this sort of logic! We are looking for some clarity about these issues. I understand that pit bulls are a restricted breed under the Council of Australian Governments agreement—I do not know when it was struck—and to an extent as a state we are bound by that. However, as we are now legislating, we have a responsibility to clarify that stuff. My concern is that this legislation goes beyond simply banning the breed and takes the COAG agreement further. If we were concerned about the proliferation of these dogs we would surely be making laws about the sale of puppies in high street locations; we would surely make laws that regulate breeders; and we would surely make puppy farms and things of that nature illegal. That seems to be where the problems are in relation to this unfettered breeding and proliferation of what the minister regards as dangerous breeds. There is ample evidence associated with specific-breed legislation both in Australia and overseas that now suggests that specific-breed legislation is the wrong way to go. In 2000, a report in the *Journal of the American Veterinary Medical Association* stated —

Breed-specific legislation does not address the fact that a dog of any breed can become dangerous when bred or trained to be aggressive. From a scientific point of view, we are unaware of any formal evaluation of the effectiveness of breed-specific legislation in preventing fatal or non-fatal dog bites.

An alternative to breed-specific legislation is to regulate individual dogs and owners on the basis of their behavior

Further, according to my notes, the Australian Veterinary Association states the following —

The Australian Veterinary Association does not support breed-specific legislation for dog bite prevention, because experience in other countries has shown that such legislation has failed to reduce the frequency of dog bites.

There seems to be a very clear level of opinion right across the veterinary and scientific community that breed-specific legislation is not the way to proceed, and where it has proceeded, it has proven to be ineffective. In the minister's response to the second reading debate and in his answers to questions in consideration in detail we will look for an indication of how this legislation manages those issues, specifically around pit bulls. People have come to me to ask me whether this legislation means that pit bulls will be put down. To the best of my understanding that is not the case, but there is clearly a concern in the community that that may happen.

It is important that we look at how this legislation will be implemented. What are the safeguards of the rights of dog owners; what are safeguards in relation to the prosecution of dog owners; and what are the safeguards in relation to the management of these issues with the regulation of dogs? Regarding the nuisance clause in this bill, from the point of view of the cat party all dogs are a nuisance, but we understand there has to be greater tolerance than that! I note the concerns of the shadow minister, the member for Mandurah, that one person lodging a complaint would trigger those mechanisms in the act. I also note that one person making their concerns known to a local council might be sufficient, given that many people live an isolated life in their homes and would not have the opportunity to speak with other members of their community about the behaviour of a particular dog. I wanted to put those specific concerns on record. I would also like to say that I am very pleased to see those parts of the legislation that regulate or facilitate the taking of medical assistance dogs on public transport. I had a huge problem with the Minister for Transport in relation to a constituent of mine who is a diabetic and who has a diabetic detector dog to safeguard her care. For those members who are not familiar with this, there is a concept among diabetics called hypo-unaware. For a range of reasons the person with diabetes is unaware they are having a hypoglycaemic episode. This is particularly dangerous among young kids who have this issue. It is particularly dangerous also for people who have a hypoglycaemic episode after they have fallen asleep and have lapsed into a coma. The dogs have sensitive noses and know when their owner is having a hypoglycaemic episode and then agitate by nipping at or licking their hand to let them know when they are

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having what is called a low. I met a young boy, for instance, who was at one of the schools in my electorate. He often sleeps through a hypoglycaemic episode. His dog, which sleeps on his bed, would wake him up to make sure he addressed his low blood sugar levels.

A constituent of mine was required to travel frequently to Sydney because she is part of a trial involving pancreas transplants so that she can address her diabetes problem. This patient was allowed to take her dog on the aeroplane with her. It could travel with her to Sydney so that she could have the series of operations. For the life of me, I cannot work out why she was not allowed to catch a bus to the airport with her dog. She could take her dog on the aircraft, but could not catch a bus to the airport with her medical assistance dog because the Public Transport Authority would not allow it. It did not recognise diabetes assistance dogs as dogs that are part of a medical assistance scheme and, therefore, she was banned from taking her dog on a bus. By the way, her dog fitted into her handbag. It is an extraordinary state of affairs that the Civil Aviation Authority takes one rather informed, appropriate and progressive view, while the Public Transport Authority of Western Australia takes an archaic, flat-earth view that she is not allowed to take her dog on a bus. I should report to the house that that issue has since been resolved. This aspect of the bill in relation to medical assistance dogs will make sure that that situation does not occur in the future, and that is a very important part of the legislation.

I conclude simply by saying that I think the notion that particular breeds are aggressive and, therefore, must be banned seems to be ridiculous. Certainly, many of my constituents believe it is a very wrong way to go. The provisions of the bill that give powers to council rangers are very widespread and we want to hear from the minister about the safeguards associated with them, particularly their training, so that when they decide a dog is dangerous or belongs to a restricted breed, they deal with it with the correct skills and capacities. The nuisance clauses in this bill seem to be struck appropriately, but, obviously, we have some concerns around them. I wholeheartedly endorse those aspects that will deal with medical assistance dogs.

In my final comments I will repeat my initial comments; that is, all this could be resolved if everyone had a fat Burmese and we did not have any of these aggressive buggers on our hands in the first place.

MR A.J. SIMPSON (Darling Range — Minister for Local Government) [4.24 pm] — in reply: I thank members for their input to the second reading debate on the Dog Amendment Bill 2013. Most importantly, a number of members have spoken. This bill has been 10 years in development, with some 1 500 submissions received from the public with widespread recommendations. When we bring in legislation such as this we are trying to regulate an industry that is not regulated, if I can use that expression. Mr Acting Speaker (Mr P. Abetz), you identified a number of dogs in Western Australia or Perth somewhere. The reality is that I do not know what they are, how many there are or where they are. The purpose of microchipping is so that in 10 years we will have some good statistics on where dogs are, how many there are and what type of breeds they are that will help us to better manage the issue of dogs in general, especially, as a number of members indicated, dangerous breeds.

I will go through a couple of points. Basically, as I said, the legislation has been in place since 1976, so it has been a few years since we looked at it, and, of course, the world has changed since then. Members have identified how dangerous Alsations were. At the moment we are looking at the pit bull. We are not sure whether the pit bull has changed, but the reality is that it is well and truly identified around the world as a dangerous dog. We should keep in mind that a dangerous dog can be any breed, so it is a matter of how we deal with a dog when it has been identified in a situation as a dangerous dog. When we identify dangerous breeds, however, there is no intention to compel people to euthanase them. People can keep dogs that are identified as dangerous breeds such as pit bulls. The idea is to microchip and desex them. Unfortunately, we cannot do other things with them, but we are trying to regulate that process. The bill will go a long way towards doing that. I will come to more detail about restricted breeds.

A couple of members touched on the penalty increases; yes, they are quite severe, but we must come out strong and hard. No price can be put on avoiding a dog attack, and I think we have come a long way in acknowledging that and in making sure we stamp out that type of stuff.

The member for Kwinana touched on an inclusion policy for dogs assisting people with disabilities in our community. The bill goes some way towards clarifying that. Members also spoke today about greyhounds that are muzzled in public, but will not have to be once they have been retrained. I think the member for Gosnells was spot on when he said they make very nice pets. A young gentleman in my electorate breeds greyhound dogs. He has been trying to tempt me to take one of his retired dogs as a pet. He owns a dog called Miyata, which is the Black Caviar of greyhound dogs, and it has won a quite considerable amount of money.

Mr W.J. Johnston: It's a wonderful dog. I have seen it around a number of times.

Mr A.J. SIMPSON: Yes. The owner is Paul Stewart, who used to work at my bakery when he was 14 years old. He got involved with greyhounds and went to Sydney for a year, and now he and his mum live in my electorate

Extract from Hansard

[ASSEMBLY — Thursday, 8 August 2013]

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and they are quite successfully breeding greyhounds. They are beautiful dogs, and the member is dead right: they are very placid dogs.

On the issue of dangerous dogs, I think the five restricted breeds have been talked about today. They are part of a national list identified across Australia. I have to make it quite clear that the Victorian provisions for dangerous breeds are very different from ours. We are not going to ask people to euthanase their dogs, but people who own them must get them sterilised, and at six months they must be identified by wearing a red collar when taken out into the community. They must be kept in a secure area behind something very similar to a standard fence, so that children cannot get to them. As the member for Mandurah indicated, people keeping dangerous dogs must have a sign at the front of their property indicating that a dangerous dog is on site. Of course, they must be controlled by an adult and muzzled and on a leash when outside their secure area. As I have indicated, we are more than happy for people who have pit bulls as family pets to keep them. We are in no way suggesting that people have to get rid of them, as is the case in Victoria. People can own a maximum of only two dogs of a restricted breed. They cannot be sold or transferred to any child under the age of 18. The owners must inform the new owner in writing that the dog is a restricted breed and the sale or transfer must be notified to the local government within 28 days. The new regulations will prohibit the breeding, selling, transferring and advertising for sale of restricted dogs. They can be transferred only if the owner has passed away or has ill health. The provisions prevent any other person releasing or removing a dangerous-breed dog from a secure area without authority. So the enclosure has to be quite secure. It cannot just be a gate that the dog can get out of; it has to be enclosed correctly, because the owner is responsible for the dog. There is also a category of restricted commercial security dogs. Security dogs, which are trained to be dangerous, will wear a green collar that will identify them as working dogs. The same conditions apply to them when in public: they must be muzzled, on a lead and with a person aged 18 years or older. Once the dog is in the owner's house though—like with a lot of security companies—the dog would more than likely be the family pet, though it is still a security dog.

We have increased controls over dogs that have attacked and demonstrated danger to others. The idea is, as I said at the start, that a dangerous dog can be any dog that has been seen to be dangerous to the community. It will not be identified by its breed, but by its actions.

I have touched on the Victorian restricted breeds model. I stress that the proposed amendments to the restricted breeds section are not the same as the Victorian legislation. Victoria amended its Domestic Animal Act 1994 to ban the keeping of restricted breed dogs, so it has gone to the next level. In Western Australia we are trying to identify that these dogs are dangerous, and where they are in our community.

The statistics show that there have been a number of dog attacks in New South Wales. In 2008 it was made a requirement that councils report information on dog attacks. This was one of the things that has been an issue for us. A number of members have talked about dog attacks in one form or another, but the interesting part is that we have to work on the situation after someone has reported one. Can members imagine how many small dog attacks there are? I am sure all members have been out doorknocking and have been nipped on the ankle by a dog—I have. I just said, “That’s all right,” gave them the notepad and nipped out the door and kept going. But the reality is that we have to define a dog attack. We also have to keep in mind that, as all members know, the dog is the protector of the property, so if someone is on their property, that is what is going to happen. We are trying to move forward and get some clear legislation around what we are trying to achieve.

In summary, if an individual dog is declared to be dangerous, it must have caused injury or damage through an attack or chasing a person, animal or vehicle—we have identified clearly what is a dangerous dog and how it got into that category; or the dog must have repeatedly threatened or attacked, or attacked or chased a person. So that is if they are showing signs of wanting to attack; no injury or damage may have occurred, but at the same time the dog is looking like it might want to. A dog confined on a property could not be said to have attacked or threatened, or attacked or chased another person outside the property. The dog may be considered a nuisance dog in that case, but not a dangerous dog. So, a dog that seems to be quite vicious on the other side of fence and barking loudly is, again, defending its property. It is not a dangerous dog; it is actually a dog in the bracket of nuisance dogs.

Individual dogs may be declared dangerous dogs by the local government or on behalf of the local government by an authorised person. We spoke about this: the authorised person would likely be the shire ranger. That person would give written notice, in accordance with proposed section 33F, to declare the individual dog to be a dangerous dog if, in the opinion of the local government authorised person, the dog has caused injury or damage or attacked a person or another animal, and the dog has repeatedly shown tendencies.

There has been a bit of discussion on the provisions covering nuisance dogs. One of the clear issues, because it was raised by a number of members, is what happens if one person puts in a complaint to the shire about a nuisance dog. One of the things this legislation goes a long way to doing—we are still working on the

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regulations—is giving the rangers more power. Mr Acting Speaker (Mr P. Abetz) mentioned recording collars, and this bill will provide councils with more methods to obtain more information about nuisance behaviour. The rangers will have to go to court to justify the dog being declared a nuisance, so they need evidence. This bill will enable more methods for the collection of evidence. A few councils have already started using the collars that record a dog barking. The scenario would be a dog being a nuisance to a neighbour, the council writes to the owner and tells him that there have been complaints about the dog and that there has been constant barking when the owner leaves the house, and that he has to address the issue. If the person makes no attempt to address that issue and the neighbour complains that it is still doing the same thing, the ranger will now have other methods he can use to get evidence. The ranger will say, “I now need to come onto your property,” which he can do, and sit down with the owner of the dog and say, “We have reason to believe your dog is barking because we have complaints. We would like to prove this is happening, so we’re going to ask you to put a collar on the dog.” Over a period of 24 hours to 48 hours it will record every time the dog barks, what time it barked and how long for. That will give the ranger more evidence to present, and he can go back to the owner and say, “We have clear evidence now that the dog has been a nuisance and has been barking during the day.” The ranger can then say to the owner, “If you wish to, you can do some retraining of the dog or find a way to resolve this issue.” When the ranger has gotten to the last possible stage and is actually in court, the judge can insist that the person go off and get some training for the dog to fix the nuisance problem before he fines him. The legislation provides the opportunity to do everything possible to solve the problem, keeping in mind that the whole idea of this legislation is the welfare of the animal. A number of members raised issues about what if the dog cries or whimpers because it is lonely when the owners go out. We are trying to define nuisance behaviour. Commonly today, people are asked to keep a diary, and write down the dates and times when the dog barks. All that ranger is trying to do is get some evidence to put to the dog owner and say, “There’s a clear problem here; you need to address this issue.” This legislation will go a long way by providing helpful methods, and ways of getting the person to the table to have the conversation.

All members understand that the worst thing about bringing in legislation of this nature—it is very similar to the Cat Act—is striking the balance between the person who has to put up with the nuisance dog or barking dog or what they think is a dangerous dog next door and taking into account that we all live in a neighbourhood, we all live in a street and we all have to live together. But these animals can be the blight of the street and cause so much grief that it is not possible to get on with the rest of the community. We have to empower rangers to collect the evidence that will enable them to get that person to the table to say, “I’m going to take you to court now because we have tried every method. I have enough evidence in front of me to get you in front of a court to say this dog is a nuisance, and you will have the opportunity to try to work with us as we move forward on this issue.”

I want to clarify a couple of points around dog attacks in general, and this is where there are differences between a dangerous breed and a dog attack. We have tried to clarify what a dangerous dog is. As I said at the start, there are restricted breeds, but a dangerous dog can be any other dog that has attacked. For a dog attack to be classified as serious there must have been an attack or chase of a person or animal and physical injury must have occurred. For a dog attack to be classified as minor there must be an attack or chase, but no physical injury to the person or animal. We have identified what is a dog attack in the act, and this bill clarifies what would classify a dog as a dangerous dog. There must have been a reasonable offence to a person or property. Members can see where we are coming from.

If a dog attacks or chases a person or animal and physical injury is caused to the person or animal attacked, the person liable for the control of the dog has committed the offence, which brings me to the fines. Members have touched on how high they are—\$20 000 for an offence relating to a dangerous dog and \$10 000 for any other dog, the minimum being \$1 000. We have increased those penalties in recognition that a dog attack is a very serious offence. A couple of members touched on the attack in news the other week during which a young person was mauled by a dog, and the one in the eastern states two weeks ago. Was that a hunting dog?

Ms L.L. Baker: It was a dog trained to hunt.

Mr A.J. SIMPSON: That would be classified as a dangerous dog, but would not be included in the restricted breeds. We have tried to specify the difference moving forward. The other area we talked about today was microchipping, which will help us find out how many dogs there are.

I turn to puppy farms. In the community at the moment selected people have a certain type of dog, and they will sell them for quite a few hundred dollars. They are backyard breeders; they can be called puppy farms. But when they pass a puppy over to the buyer, they will need to register that puppy with a microchip to the new owner so we can clearly track where that dog comes from. As I said at the start of my speech, in 10 years I will be able to work out that puppy’s mother and father and where it has come from that information. By tracking the people

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who are breeding puppies and where they are coming from will also help in identifying them. Once a person starts registering six puppies and then sells them all off, and a couple of months later is back selling off another six, we can quickly identify what is called a puppy farm or a backyard breeder. We can then come down on them. We can identify them. The ranger can then go and check to ensure that the facilities used for breeding are well maintained and clean, and we can try to flush them all out. As we know, we can never get to the point where I can raise the level of the bar at which we can make it all aboveboard and all animals are looked after properly because there will always be that situation where the requirements push people away from doing it properly. We will try to do everything we can to get to the point at which we can track dogs to identify where they come from to establish ownership to try to move forward so it all comes together.

There has been a lot of debate today and I look forward to consideration in detail of the bill so we can get into a couple more issues, because a lot more specific stuff has been asked. We can get into that a bit later. I am happy to sit down and go into consideration in detail.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Ms L.L. BAKER: I start by getting on the record in the consideration in detail stage. I will give the minister some context. When we were briefed about nuisance dogs in particular, we were told that the current act allows someone to identify a nuisance dog and to have it declared as a nuisance dog, even though it is not quite the way the minister used the word “declared”. It is not by keeping extensive records or by having three people living in two different houses that we do that, but there is a lower burden of proof for anyone in a local government authority to do that, which achieves exactly the same outcome—that is, to make it easier for rangers to intervene in a nuisance action. I am seeking to clarify from the word go why we thought it necessary to re-draft this bill, apart from the fact that an old bill needs to be re-looked and reviewed. I am interested in the minister putting on the public record exactly why there is a need for this, given that the old act ostensibly allows that nuisance dogs be dealt with in the same fashion that this bill is proposing. I understand that the restricted breeds regulations needed to be moved into the act, and I would like confirmation on the record that that is part of these changes. In addition, why did the minister deem it necessary to review the nuisance dog clauses when he could have achieved the same thing with the nuisance dog clauses in the current act?

The ACTING SPEAKER (Mr P. Abetz): Member, I am not sure that that is relevant to clause 1.

Ms L.L. BAKER: The short title is the “Dog Amendment Act”. I want the minister to put on the record why he wants to amend the act, given that that the current act is already doing the same things on a number of issues.

Mr A.J. SIMPSON: The member is correct. The old legislation basically said that a dog that is a nuisance contravenes section 33D(1); that is, the presence of a dog on premises where the dog was ordinarily kept, ordinarily permitted to live, committed an offence against the subsection, unless proven that all reasonable precautions had been taken and exercised all due diligence to avoid any controversy. This is the part the member referred to—that is, three people lived in at least two occupied different premises.

Ms L.L. Baker: I am sorry, but could the minister just speak up a little bit.

Mr A.J. SIMPSON: Sure.

Ms L.L. Baker: I am having trouble hearing.

Mr A.J. SIMPSON: I apologise. One of the clear problems the member for Maylands identified is the old-fashioned situation of three people with two different addresses who keep diaries. That was the angle with the old legislation. The dog was declared a nuisance dog to the community. We are trying to allow the ranger to get to the next level. We want the ranger to have more opportunities and methods so he can get the information he needs to take this to the next level. We identified and have proposed in this bill that if the authorised persons are satisfied that the dog is a nuisance, as alleged in the complaint, they may issue an order to the person liable for controlling the dog and will require that the person prevent the behaviour that is alleged to be consistent with the nuisance by time specification in the order. The ranger will have more methods available to him to give that order out by using a different method. I spoke in reply to the second reading debate about giving more opportunities to get that evidence. We will comply with an order that is effective for six months after the day on which it is issued on a nuisance dog. It is the first process of trying to identify a nuisance dog, and also trying to guess that next level so we can move forward. The person to whom the order is issued has to comply with the

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order during the period to be effective, and this is where the new penalties kick in. This provision does not apply to dogs while they are kept in an establishment licenced as approval kennels. A member talked about having kennel zones; this provision does not apply to such places. The idea is to move to the next level of trying to work out the nuisance dog and get the ranger to have more evidence to go to the next level.

Mr D.A. TEMPLEMAN: The bill is an amendment bill obviously to the current Dog Act 1976. Because the Dog Act specifically refers to the control of dogs ultimately, did the minister consider that the names should include the word control in the short title?

Mr A.J. SIMPSON: Prior to my becoming minister, this measure was already done. I am guessing that the reason is that it was called the Dog Amendment Bill; it has been continued on to where it is today and become the Dog Amendment Bill 2013. As we are very much aware, this legislation was already read into the house prior to its rising late last year before the election. We have continued that on. But the member for Mandurah has raised a good point. What we are trying to do is control dogs; he is correct—spot on. Also, the regulations will reflect a bit more of the control than was the standard. It is call the Dog Amendment Bill as it relates to the act.

Clause put and passed.

Clause 2: Commencement —

Ms L.L. BAKER: Clause 2 refers to the commencement of the act. I understand that clauses 1 and 2 will come into operation on the day on which the act receives royal assent, and that is fine. Which parts of the legislation does the minister anticipate might be proclaimed on different days? Can the minister explain a little of the logic behind paragraph (b), which states that different days may be fixed for different provisions? It is probably a very good clause, but I want the minister to explain a little of the logic behind it for me.

Mr A.J. SIMPSON: Basically, clauses 1 and 2 will come into operation on the day on which the act receives royal assent, and the rest of the act will come into operation on a day fixed by proclamation or on different days. The microchipping issue will be pretty straightforward. Some provisions will come along a bit more quickly than others. As I said before, the regulations are being formulated at the moment, so the regulations will be proclaimed on a different day as the provision provides.

Mr D.A. TEMPLEMAN: I have just been shocked by the tie that the member for Albany is wearing. He has obviously been for a run. Goodness me; I hope I do not see that again for some time!

With regard to the commencement of this bill, as the minister knows, the Cat Act will commence operation and be delivered by local government in November. Clause 2(a) of this bill provides that clauses 1 and 2 will come into operation on a day to be fixed by proclamation, but section 2(2) of the Dog Act states —

The Governor may, by proclamation made pursuant to subsection (1) or by any subsequent proclamation, fix a date ...

We must bear in mind that there is reference in this bill to a two-year honeymoon period during which certain registration requirements will need to be adhered to. Given the experience we have had with the Cat Act, and we are nearing 1 November when the Cat Act will formally be law, does the minister propose that after proclamation there will be a comprehensive education program for local governments and, through local governments, for local communities, particularly as there are some significant penalties for contravention of some of the regulations, for example, those regarding dangerous dogs? Can the minister give us some idea of the proposed education and information program that will be rolled out by his department and/or local government after the commencement and proclamation of the bill to ensure that dog owners and non-dog owners in Western Australia are well versed in the implications of this amendment bill?

Mr A.J. SIMPSON: Yes, the member is right; the Cat Act will come into effect in November this year.

Mr W.J. Johnston: No-one knows about it.

Mr A.J. SIMPSON: We are about to do that. It is coming up soon.

All new dogs will need to be microchipped by 1 November 2013, but all existing dogs will need to be microchipped by 1 November 2015. This is a little different from the requirements for cat owners. Dog owners are far more likely to take their dog to the vet for an annual check, because, as members have mentioned, dogs are very much a part of the family. We have identified that dog owners are more likely to get their dog microchipped during that check-up, so that is the reason for the difference.

We have already put some advertisements on the webpage, and we are working closely with the Department of Local Government on how we can roll it out to the wider community. It will be a lot easier to deal with the new provisions for registration and microchipping in the Dog Act than it was to deal with those in the Cat Act,

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because dogs are far easier to track down and they can be seen more prominently, whereas people see cats only occasionally at night and they cause grief in the community.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 3 amended —

Ms L.L. BAKER: This clause contains the definitions. I have quite a few questions about the definitions, from the definition of “authorised person” to the definition of “dangerous dog”. I would like to start with the definition of “dangerous dog (restricted breed)”, which states —

dangerous dog (restricted breed) means a dog that —

...

(b) is a mix of 2 or more breeds, one being a breed prescribed by the regulations to be a restricted breed;

How does the minister consider that call will be made by the average local government ranger working in, say, the City of Bayswater if they see a dog running around the back of a block and have to make a judgement call on whether it is a restricted breed dangerous dog with a mix of two or more breeds? There are quite long blocks in my electorate and there is quite a lot of infill going on, so the block could be an eighth of an acre or more.

Mr A.J. SIMPSON: The member is right. What is being said by declaring a restricted breed a dangerous dog is a mix of two or more breeds. The honourable member raised the issue of a person informing a ranger that they think their neighbour’s dog is a restricted breed. The ranger would then knock on the neighbour’s door and ask to look at the dog in question. The owner has to prove to the ranger that that dog is or is not a restricted breed. The onus is on the owner and they should have some proof.

Ms J.M. Freeman: It is the reverse onus.

Mr A.J. SIMPSON: Yes, it is reverse onus.

Mr W.J. Johnston: What a ridiculous provision.

Mr A.J. SIMPSON: If a person owns a dog, and it is their loving pet, they have to find proof that it is not a restricted breed.

Mr W.J. Johnston: How do you prove that?

Mr A.J. SIMPSON: It is up to the owner to prove to me.

Mr W.J. Johnston: How do you prove it? What is conclusive proof?

Mr A.J. SIMPSON: That question relates to the pictures that the member for Maylands has shown, in terms of what a dog may look like. When one looks at the photographs clearly, one can pick up identifying features such as the eyes or looks or markings.

Mr W.J. Johnston: But that is not what you said. Is it not on the balance of probabilities? The question is how do you as the owner prove it is not?

Mr A.J. SIMPSON: No, the onus is on the owner to prove it is not.

Mr W.J. Johnston: How?

Mr A.J. SIMPSON: They have to have papers for their dog.

Several members interjected.

The ACTING SPEAKER: Members have the opportunity to ask questions of the minister. Please, no interjections.

Mr A.J. SIMPSON: At the end of the day, the owner will have to say, “My dog is not a restricted breed.” The ranger will say, “I have reason to believe it is”, by looking at the markings, and that is when it will be taken to court. In the end the matter will be decided by the court.

Ms J.M. Freeman: Only if that person appeals within seven days.

Mr A.J. SIMPSON: Correct.

Ms J.M. Freeman: And if they do not appeal within seven days, they do not have any recourse.

Mr A.J. SIMPSON: Correct.

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Ms L.L. BAKER: I would like to pursue this issue because it goes to the heart of what is fundamentally wrong with this drafting. I know the minister is aware of it. The minister knows the opposition does not oppose the bill but there is a real problem in this definition. Who would members think is the expert on this matter? I would think the Australian Veterinary Association would be pretty well placed to make a recommendation about the ease or otherwise of identifying a mixed-breed dog. The AVA released a report at the end of last year about the impact of breed-specific legislation on our friends and neighbours. The AVA states in that report that the biggest problem in determining whether an animal is actually a pit bull or a pit bull cross, or whether it is a cross involving other breeds, is that there is not a DNA test that can identify an animal as a pit bull or cross and so the determination can be made only on physical appearance. The AVA says this is a grey area that can and will be contested in court.

I highlight the Victorian government's experience in 2008 when it realised there was a problem because it was overturning two out of every three council decisions to seize and, in that case, seek to destroy such dogs. Out of the 34 cases the panel heard from its inception, 23 decisions to classify a dog as a restricted breed were overturned when the owner contested the declaration that their dog was a pit bull. The president of DOGS Victoria, Peter Frost, says it is difficult for council officers to make a decision on the spur of the moment because identifying breeds is a difficult thing. As far as I can see, this definition will not deliver a safer community; it will not deliver the aim of this bill at all. I ask the minister to explain it in more detail, rather than simply saying, "It is up to you to prove it", especially since the AVA says a DNA test cannot be used to prove something.

Mr A.J. SIMPSON: I can clarify a couple of points. A dangerous breed and a restricted breed are two different things. I come back to the member's comments about the neighbour's dog. If someone thinks their neighbour has a dog that is a restricted breed, but it is in their backyard and has done nothing wrong, the ranger will not come and knock on the door until they have identified it.

Ms L.L. Baker: Unless your neighbour is cranky and does not like your dog.

Mr A.J. SIMPSON: Would that person put in a nuisance complaint?

Ms J.M. Freeman: Where in the bill does it say that?

Ms L.L. Baker: There is no escalation clause, is there?

Mr A.J. SIMPSON: No.

Ms J.M. Freeman: You are saying there is stage 1, stage 2 and stage 3. Nothing in the bill says that. You could get someone in to say that it is a dangerous dog—a restricted breed.

Mr A.J. SIMPSON: It could be said it is a dangerous dog, but if it is in a person's property and it has not got out and has not hurt anyone or done anything wrong, why would it be declared a dangerous dog?

Ms L.L. Baker: Good question. That is the question.

Mr A.J. SIMPSON: It stays on the property and in the backyard. The only interesting part is when the dog gets out into the wider community and someone thinks it may be a restricted or part-restricted breed that we will have an issue of following these rules.

Ms L.L. BAKER: Minister, that is simply not correct, because the bill says that an authorised person can suggest that a dog is likely to attack or be dangerous. The implication is that a ranger or authorised person can enter a property without the owner being there and make that call about someone's little schnauzer.

Mr A.J. SIMPSON: The member is getting mixed up between a restrictive breed and a dangerous dog—the two individual dogs versus the restricted breed. The member said that one person can say it is a restricted breed. Under this legislation, a person must put in a complaint that this is a dog or is a mixed-breed dog that is a restricted breed, but the ranger will take into consideration the individual case. The ranger can enter a property, but it is up to the owner to be responsible for that dog and prove to the ranger that it is not a dangerous dog. Before the ranger declares it a dangerous dog, an offence has to occur—the dog has to physically attack or chase someone or become a dangerous dog. The reality is that what someone may think it is and what it does is where matters get caught in the process.

Ms L.L. BAKER: Can the minister explain whether a dangerous dog or restricted breed is a cross-breed? Is that a mix of two or more breeds? The assumption is that a dangerous dog is, as written in this clause —

a mix of 2 or more breeds, one being a breed prescribed by the regulations

Explain the circumstances in which somebody's dog would come to the notice of an authorised person to make this judgment call in the first place.

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Mr A.J. SIMPSON: The first thing to be said is that the dog was out in the public and was not wearing a red collar or muzzle and the dog looks like a restricted breed. That would be one of the first things that would identify it as a dangerous dog.

Ms L.L. BAKER: That then proves the point I am making, because the dog is simply out, maybe, in a brown collar on a leash, instead of a red collar. I understand there are defences against this provision that allow someone to say they did not know it was a restricted breed. I understand that, but what happens when the dog is not doing anything wrong and nothing is going wrong? The little dog that was out in front of Parliament House yesterday is a great example of this. This little dog with almond eyes, little ears and a pink nose is short and stocky with white and black spots and looks just like an American pit bull but is a Staffordshire cross. When this young woman walks her dog in the dog exercise area, people scream at her, “Get that dog out of the way. It’s an American pit bull. It’s a dangerous dog; it shouldn’t be out here!” They scream abuse at her.

Mr A.J. Simpson: Already?

Ms L.L. BAKER: Yes. She has been Facebooking complaints about this for months. She keeps asking why people are accusing her little dog, which is perfectly sensible and reasonable, of being a dangerous dog. It is not. This is not an authorised person. These are just other people walking their dogs. Some people walking their dogs in the park will call the ranger to say, “I’ve just walked past this really scary looking pit bull cross and I want to report it. It’s not wearing a collar.” Nothing is happening yet this young woman suddenly finds herself in court defending the fact that her dog is not a dangerous and restricted breed. Bearing in mind she cannot do that with DNA evidence because technically it is not claimable, how does she prove it is not?

Mr A.J. SIMPSON: If she has already had the dog for a number of years, since it was a pup, I think she could quite clearly prove to the ranger it is a staffy; it is not a pit bull.

Ms L.L. Baker: How? If she has not got the parents there, how does she do that, minister?

Mr A.J. SIMPSON: Is the dog registered?

Ms L.L. Baker: Of course.

Mr A.J. SIMPSON: Then she would have put down on the form that it is a Staffordshire.

Ms L.L. Baker: She might say “parents unknown”.

Mr A.J. SIMPSON: Then we are back to where we started the whole conversation: she has to prove that it is a staffy.

Ms L.L. Baker: How does she do that?

Mr W.J. Johnston: What is the mechanism?

Mr A.J. SIMPSON: Back in court.

Ms J.M. Freeman: What—bring the dog before the magistrate?

Mr A.J. SIMPSON: Yes. She has to prove to us that it is not. If not, it will end up with a red collar on it and be identified as a potential restricted breed dog.

Mr W.J. Johnston: No; not potential.

Mr A.J. SIMPSON: Prove it.

Mr W.J. JOHNSTON: The minister just used the word “potential”. I do not understand why he would say that word because it does not appear in the definition we are discussing. It either is or it is not.

Mr A.J. Simpson: It is.

Mr W.J. JOHNSTON: It either is or it is not. That is one of the problems here. What is it? Will the minister tell us what mechanism is used to decide this matter? If he can tell us how it is done, we can move on to the next clause. The minister is the one delaying the legislation because he will not answer a very simple question: how is that done? That is all we need to know. What is the mechanism that the person would use to prove the thing that the minister says they need to prove? Surely that is a reasonable question.

Mr A.J. SIMPSON: The judge will decide on probability.

Mr W.J. Johnston: They have to go to court?

Mr A.J. SIMPSON: Yes.

Mr W.J. Johnston: That is the only way?

Mr A.J. SIMPSON: Yes; the only way.

Mr Chris Tallentire; Ms Margaret Quirk; Ms Janine Freeman; Mr Peter Abetz; Mr Paul Papalia; Mr Roger Cook;
Mr Tony Simpson; Ms Lisa Baker; Mr David Templeman; Mr John Day

Mr W.J. JOHNSTON: The only way we can make this decision is to take the matter to court? That is the only way; there is no other mechanism?

Mr A.J. Simpson: Yes. That is it.

Mr W.J. JOHNSTON: And the minister thinks that is a good idea?

Mr A.J. Simpson: The interesting part is it is a restricted breed. If it cannot be proven to me that it is not a restricted breed, and not more than two times, the onus is on the owner.

Mr W.J. JOHNSTON: So later on when we get onto the requirement to register, it says that the register will include information prescribed by regulations. Despite the fact that the regulations may specify that the owner has to say what the breed of the dog is, that is of no effect; is that what the minister is saying?

Mr A.J. Simpson: That is what an owner has to prove when registering their dog. When registering a dog, the owner puts down its origin in terms of what its breed is from the mother's and father's sides.

Mr W.J. JOHNSTON: So I would write down it is a kelpie crossed with a blue heeler.

Mr A.J. Simpson: Yes.

Mr W.J. JOHNSTON: But it is actually a Staffordshire crossed with a corgi.

Mr A.J. Simpson: That will come up at the time I confront you and say, "I think your dog is a restricted breed. Can I have a look at your papers?"

Mr W.J. JOHNSTON: But my papers say it is a kelpie–blue heeler cross.

Mr A.J. Simpson: We will say, "No, it is not. It definitely is —

Mr W.J. JOHNSTON: How does the minister know it is not?

Mr A.J. Simpson: By signs and by looking at the —

Mr W.J. JOHNSTON: Does the minister have to prove that?

Mr A.J. Simpson: The owner has to prove it is not.

Mr W.J. JOHNSTON: I have to prove! But I can take the register from the local government authority. I can take the register into court and say —

Mr A.J. Simpson: That can be part of the evidence.

Mr W.J. JOHNSTON: Okay. Even though the register is known to be wrong, the minister is happy for that to be used as evidence?

Mr A.J. Simpson: The owner will have to prove it.

Mr W.J. JOHNSTON: But how do I prove it? If I have the register, is that part of the proof?

Mr A.J. Simpson: I think there will be a situation in which they will say it is not a border collie cross or a kelpie; it is more like a pit bull.

Mr W.J. JOHNSTON: Who says?

Mr A.J. Simpson: The judge.

Mr W.J. JOHNSTON: We do not know what the judge says. The judge will say whatever the judge says. We are talking about how do I prove as the individual with the dog?

Mr A.J. Simpson: It is up to you; otherwise if you can't prove it, it will be deemed a restricted breed and a dangerous dog and you will have to go through that process.

Mr W.J. JOHNSTON: Is the minister saying that the submission of the register from the local government is conclusive proof of anything?

Mr A.J. Simpson: Not conclusive proof, but it is your evidence when you end up in court. You can use that as part of your evidence to say, "No, my dog is not. I have clearly identified on my registration paper what it is."

Mr W.J. JOHNSTON: What is the purpose of having the dog's breed on the registration certificate if it does not prove it?

Mr A.J. Simpson: It goes a long way to get a database of breeds and where they are.

Mr W.J. JOHNSTON: No, it does not because the minister told us that it is not conclusive proof of anything, so how does it help collect statistics?

Mr Chris Tallentire; Ms Margaret Quirk; Ms Janine Freeman; Mr Peter Abetz; Mr Paul Papalia; Mr Roger Cook;
Mr Tony Simpson; Ms Lisa Baker; Mr David Templeman; Mr John Day

Mr A.J. Simpson: It does collect statistics. It gives me the average age of dogs, where they are, how many there are and in which suburbs they are. It will be a database that we can use to work out how we can best —

Mr W.J. JOHNSTON: It will prove everything except whether it is the dog that the minister thinks it is.

Mr A.J. Simpson: That is up to the owner.

Mr W.J. JOHNSTON: But I would have thought that if the council accepted that that is the breed of the dog, then that is the breed of the dog, otherwise the minister is letting the councils have two bites of the cherry. They register the dog and then say, “Even though you’ve done all the things you’re required to do and registered the dog, we don’t agree with our own register.”

Mr A.J. Simpson: It is your onus.

Mr W.J. JOHNSTON: But they are the ones maintaining the register. What is the purpose of maintaining the register if it does not include the question of the breed?

Mr A.J. Simpson: If you have signed the application form and called it a border collie cross when it is quite clearly a pit bull, what have you just done?

Mr W.J. JOHNSTON: What happens if it is not a pit bull but the people who accepted the registration then changed their minds? Why is it that only one side of this bargain has to stick with their word? The minister is saying if a person falsely provides information, they can be prosecuted.

Mr A.J. Simpson: But you are signing a statutory declaration when you do it.

Mr W.J. JOHNSTON: We have been through that with the cat laws. That is one of the most stupid things in the world, but we will get to that later. Let us assume the person has told the truth and the council accepted that as being the truth, then the council gets to change its mind but the owner cannot change his mind.

Mr A.J. Simpson: Only based on the evidence in court if it can be proven that it is not.

Mr W.J. JOHNSTON: No, because there is no obligation on the council because the obligation is on the owner.

Mr A.J. Simpson: Correct; otherwise it will be declared a dangerous dog and will have to come under the —

Mr W.J. JOHNSTON: Even though the council has registered it as being not a dangerous dog?

Mr A.J. Simpson: You registered. You signed the declaration to say what it was.

Mr W.J. JOHNSTON: I do not understand why the register, if it is correct, cannot be used in court. I accept it if false information is provided but that is a different issue.

Mr A.J. Simpson: That is what you are doing.

Mr W.J. JOHNSTON: Surely it has to be here. It cannot be a dangerous dog if it is not registered as a dangerous dog.

Debate adjourned, on motion by **Mr J.H.D. Day (Leader of the House)**.