DOG AMENDMENT BILL 2013

Second Reading

Resumed from an earlier stage of the sitting.

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [5.04 pm] — in reply: For those members who were not in the chamber previously, we are debating the Dog Amendment Bill 2013 and I am just making a response to comments made by various members.

Another area of response I want to follow up on is the issue of identifying restricted breeds, a concern expressed in particular by Hon Lynn MacLaren. On the registration form, owners will be asked whether their dog is a pit bull or a pit bull cross. If so, they will be required to put additional community protection measures in place. I also mention that most people know whether they own a pit bull or a pit bull cross. They would have purchased the dog as a pit bull. There are numerous advertisements on the internet with pit bull pups for sale in Western Australia, and we hope to make a difference to this practice with the legislation. The people who have contacted members of Parliament regarding breed-specific legislation specifically state that they have a friendly pit bull. I am sure that the majority of these people will act honestly and responsibly as dog owners, will register their dogs as pit bull terriers and will take precautions to safeguard innocent members of the community. After all, this legislation is not about trying to put these dogs down. It is difficult to reliably identify a pit bull; there is no DNA test. As I indicated at some stage last week, people sent me some photos of a pit bull and a pit bull cross and some other dogs that look similar. I am therefore aware of how that might be a concern to people. However, I am convinced that people who own a pit bull terrier will be prepared to indicate that that is the breed of their dog at the time they have their dog microchipped. The more purebred the pit bull is, the more it displays the characteristics of the breed that are endorsed by breed judges. There will be times when a ranger makes a call that a dog seems to be a pit bull, and this means that the owner will need to put safeguards in place. The owner of a dog may accept that their dog is a restricted breed; they may know that they have a pit bull. If they do not accept it and they do not wish to abide by the additional security provisions, they can take the matter to court. The decision on whether or not the dog is a restricted breed will be a matter for the court to determine. Judges are experienced in making judgements of that type on the balance of probabilities on the evidence put before them.

There was also, I guess, some discussion again around dog statistics. The figures quoted by Hon Lynn MacLaren refer to the raw number of attacks. An examination of the number of attacks in relation to the proportion of pit bull terriers in the dog population clearly shows that a pit bull terrier is the most aggressive breed of dog and the breed most likely to attack. This is shown in the statistics kept over a six-year period in New South Wales. This legislation focuses on improving protections from individual dogs that have been shown to be aggressive.

I am not quite sure what I mean by this next sentence, but I will read it out as it might make sense to somebody!

Several members interjected.

Hon HELEN MORTON: My note reads, "Why is it deed not breed when we can provide protections for deed and breed?" Members must understand that I wrote these things down very quickly as people talked and that I had to remind myself what the note was about. It means that we do not need to decide whether the issue is the deed or the breed; we can actually put protections in place for both the deed and the breed. That is what we are doing with this legislation. I think most people would welcome Hon Lynn MacLaren's suggestion of a dog training course for pit bulls. There is currently no such training course. I encourage the sector to be proactive in developing and providing such a course. Once such a course is proven to be effective, we will consider amending the Dog Act. I have something additional to say about this issue that I will come to later.

In response to the comments about Hon Lynn MacLaren's proposed amendment, she has indicated that she wants to reconsider where that amendment would be best placed in the bill.

Hon Lynn MacLaren: Yes, I have placed it on a new supplementary notice paper.

Hon HELEN MORTON: I will therefore leave that matter and wait for the amendment to come forward. However, what I am about to say is still relevant. Proposed section 33GC of the bill covers the advertising, sale, transfer and purchase of restricted breeds, and that clause would have no impact if restricted breeds undertake a training course. Exempting restricted-breed dogs from the provisions in proposed section 33GA of the bill would remove the requirements for collars, for dogs to be on a lead and under the control of an adult, for warning signs at premises and enclosures, and for muzzles. It is claimed that this is similar treatment to that for rehabilitated greyhounds, but the only concession given to a greyhound is for it not to wear a muzzle; it must still be on a leash at all times when in a public place. There are no prescribed training programs that train and assess pit bulls, which is what I was mentioning before. The dog training course is not a course that trains dogs; it trains people to train dogs. Graduates of this course are people, not dogs. The restrictions on restricted breeds are by national

agreement. Western Australia should not breach this agreement unilaterally because it would cause considerable problems for the transfer of dogs between states and would increase the potential liability of this state should an attack occur. Any consideration for relaxing restrictions on restricted breeds should occur only after there is a proven training program that has been thoroughly tested. The onus should be on the industry to develop a course and prove its efficacy in the same way as has been done with greyhounds. The greyhound program has been in place for more than 15 years. We now have a review clause in the bill requiring the act to be reviewed as soon as practicable after 1 January 2019. This would seem to be a suitable time to evaluate any training program that had been developed, consider the exemptions that should be appropriately given and consult with other jurisdictions on the impact of such a change.

I wanted to conclude my comments on the issue of nuisance barking, and these comments are really, I suppose, in response to those made by Hon Simon O'Brien. This amendment on nuisance barking clarifies that the authorised officer must be satisfied on the evidence available that the dog is a nuisance. It clarifies that there are a number of ways this can be shown. It will allow for objective measures to be set in regulations. These measures are still in the developmental stage. The Department of Local Government and Communities will develop a best-practice guideline that will set out the suggested process for complaint investigation, the use of bark-count collars and the number of barks that could constitute a nuisance. When this guideline has been tested and is generally accepted within the community and by local government, it will be incorporated into regulations. This does not lower the burden of proof; it changes the way nuisance can be demonstrated.

The authorised officer investigates the complaint and satisfies himself or herself that the dog is causing a nuisance. The first step is to talk to the owner about the issue and informally seek a resolution. The first formal step is the issuance of an abatement notice—the first order referred to in proposed section 38(3). This tells the owner that they need to do something about the nuisance, and gives the owner the opportunity to investigate and take remedial action. The abatement notice stays in place for six months under proposed section 38(4). It is only when the abatement notice is breached that an offence occurs—that is referred to in proposed section 38(5). This gives the owner every chance to address the issue. With those comments, I recommend that the bill be read a second time.

Question put and passed.

Bill read a second time.

Debate adjourned, on motion by **Hon Peter Collier (Leader of the House)**.