

Queensland restricted dogs regulatory framework

Tim Dunne

INTRODUCTION

Following a number of serious dog attacks on members of the community in October 2000, the Queensland Premier made a statement in Parliament that the Government would look at what could be done to curb the vicious attacks attributed to pit bull terriers.

On 11 December 2001, Parliament amended the *Local Government Act 1993 (Qld)* to introduce a regulatory framework for those dog breeds that are subject to the Commonwealth's importation ban.

The objects of the Queensland regulatory framework for restricted dogs are to—

- protect the community against the risk of injury or damage from restricted dogs,
- ensure that restricted dogs do not create a hazard to health and safety, and
- ensure that restricted dogs are kept and controlled in a way that is consistent with the rights and expectations of the community.

RESTRICTED DOGS REGULATORY FRAMEWORK

The Queensland regulatory framework places conditions and controls upon the keeping of the four dog breeds subject to the Commonwealth's importation ban and their offspring and crossbreeds. The four breeds subject to the Commonwealth importation ban are—

- dogo Argentino,
- fila Brasileiro,
- Japanese tosa, and
- American pit bull terrier or pit bull terrier.

Local governments in Queensland have traditionally adopted local laws that declare dogs that attack, threaten to attack or exhibit other behaviours that threaten public safety to be dangerous dogs and apply conditions to the keeping of such dogs.

In addition, a number of local governments have banned the keeping of restricted dogs in their areas by local law. In order to not weaken the controls currently in place in these local governments, the regulatory framework gives the following options for controlling restricted dogs—

- restriction using the framework set out in the *Local Government Act 1993 (Qld)*;
- total prohibition by local law; and
- combination of the above 2 options.

Examples of the third option would include—

- a rural local government that bans the keeping of restricted dogs within its townships but allow the dogs to be kept on properties subject to obtaining a permit under the restricted dog regulatory framework, and

- a local government which permits existing restricted dogs to be kept subject to obtaining a permit under the restricted dog regulatory framework but bans the keeping of new restricted dogs by local law.

PROHIBITIONS AND RESTRICTIONS

Owners of restricted dogs are required to comply with all requirements and obligations relating to the keeping and control of dogs generally imposed under State legislation and local government local laws.

In areas where the local government has not banned the keeping of restricted dogs, the following restrictions apply—

- the owner of the restricted dog must obtain a restricted dog permit from the local government,
- the restricted dog must be de-sexed,
- a person must not acquire a restricted dog or supply a restricted dog to someone else,
- a person must not allow a restricted dog to breed,
- a person must not abandon a restricted dog; and
- a person must not allow a restricted dog to attack, act in a way that causes fear to, an animal or person.

To obtain a permit from a local government, the owner of the animal must be at least 18 years old. The applicant cannot have been convicted of an offence against the restricted dog regulatory framework and the conviction is not a spent conviction. Also, the permit application must be for premises where there is a detached house on the place and someone lives in the house.

If a local government issues a restricted dog permit, the permit is issued subject to the following conditions—

- the restricted dog must wear a collar with attached identifying tag as approved by the local government,
- the restricted dog must be muzzled and under effective control when in public,
- a sign must be displayed at each entrance to the premises where the restricted dog is usually kept,
- the restricted dog must usually be kept in a suitable enclosure,
- if the owner applies for a restricted dog permit from another local government then the owner must notify the existing local government, and
- the owner must notify the local government of a change in residential address.

The enclosure required to keep a restricted dog must be—

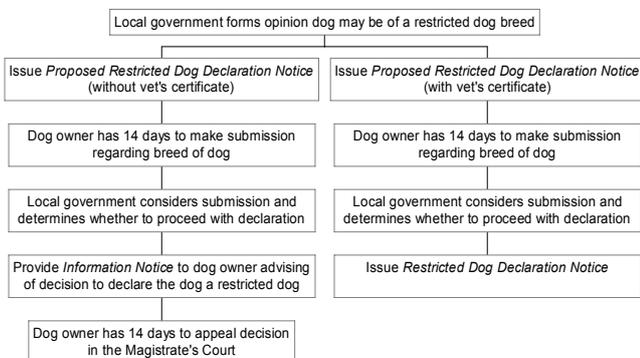
- at least 10m² in area,
- be made of firm and strong materials,

- not be situated in a way that requires a member of the public seeking access to the front entrance to the dwelling house to go into the enclosed area,
- have walls at least 1.8m in height,
- must be childproof,
- must include a self-closing and self-latching gate,,
- must include an appropriate weatherproof sleeping area for the restricted dog, and
- must not include a vehicle entry gate.

In addition, a local government can, by local law, adopt additional criteria to assess whether a restricted dog permit will be issued and additional conditions that can be imposed on a restricted dog permit. However, any such local law must impose a higher standard than the criteria or conditions in the *Local Government Act 1993 (Qld)*.

DECLARATION OF RESTRICTED DOGS

The process for declaring a dog to be of a restricted dog breed is as follows –



While the local government must consider all information supplied to it on the breed of the dog in question, if the local government obtained a certificate from a veterinary surgeon and supplied a copy to the owner of the dog with the proposed restricted dog declaration notice then there is no right of appeal against the decision of the local government in declaring the dog to be of a restricted breed.

ENFORCEMENT AND DESTRUCTION ORDERS

In addition to prosecuting a person who commits an offence against the legislation, local governments can issue compliance notices requiring the owner of a restricted dog to cease contravening the legislation. Failure to heed a compliance notice is in itself an offence and can lead to the restricted dog being seized and impounded.

An authorised person appointed by a local government, can seize a restricted dog—

- after it has attacked or caused fear to an animal or person,
- if it is, or may be, a risk to community health and safety,
- if a permit application to keep the restricted dog has been refused,
- if a permit has not been granted for the restricted dog and there is a risk the dog might be moved or concealed to avoid a requirement of the legislation,
- if a compliance notice has been given and not

complied with, and

- found in a public place not under effective control.

A restricted dog may be summarily destroyed if the owner consents or if an authorised person is of the opinion the dog is dangerous and uncontrollable. If the owner of a seized restricted dog is unknown, then the dog can be destroyed after 5 days. If a seized dog is not returned to its owner, an authorised person may destroy a restricted dog by issuing a destruction order. The owner of the restricted dog issued with a destruction order has 14 days to appeal the order in the Magistrate's Court.

APPEALS

The owner of a restricted dog may appeal the following decisions of a local government to the Magistrate's Court—

- the refusal of application for/renewal of restricted dog permit;
- the declaration of a dog as a restricted dog breed if a certificate from a veterinary surgeon was not attached to the proposed restricted dog declaration notice; and
- the destruction order when the owner of the restricted dog is known to the local government.

In the appeal process, the Magistrate is required to rehear the matter and not be affected by the original decision. The Magistrate has the power to stay a decision of the local government to enable the appeal to be heard.

ABOUT THE AUTHOR

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Tim Dunne has worked with local governments in Queensland for the last 8 years. He spent 3 years with the Local Government Division of the Queensland Ombudsman's Office and the last 5 years with the Queensland Department of Local Government and Planning.

As the Project Leader - Local Laws, he is responsible for assisting local government to develop, administer and enforce local laws for their areas. He coordinates the Queensland Government reviews of proposed local laws to ensure the State's interests are satisfactorily dealt with.

He is responsible for the development and facilitation of training courses for local government animal control officers on the new restricted dog system in Queensland.

He continues to provide advice to local governments and the community on their obligations and responsibilities under the restricted dogs system in Queensland.