

BEWARE!

Legal dogfight saves Rusty

Michael Wray October 26, 2006. The Courier-Mail

For 14 months Rusty was a dead dog walking as a Queensland Council poured \$100,000 into a legal battle to defend an order to kill the family pet.

But he escaped the death sentence when a DNA test proved he had been wrongly identified as a prohibited American pit bull terrier.

His owner Dino Da Fre bought Rusty for \$300 as a Staffordshire terrier cross from a pet store five years ago. "This was one of the worst times of my life. I stopped working and I pretty much couldn't sleep at all," he said.

The legal dogfight has called into question the methods used by Australian Councils to identify and destroy thousands of dangerous dogs. A submission is now being prepared for the CMC, in which allegations will be made that Queensland Councils have engaged in official misconduct and misused their power to seize and destroy dogs.

"We believe that they have given misleading evidence to magistrates' courts," said Linda Watson, president of the Endangered Dog Breeds Association of Australia.

Eighteen southeast Queensland Councils use the same 22-point checklist that wrongly identified Rusty. In her decision last week, Beenleigh magistrate Sheryl Cornack deemed the checklist was "subjective" and **"not created for the purpose of identification of dog breeds". The system has not been subjected to independent scientific testing or scrutiny,** she said.

While stopping short of ruling on the legality of the test, Ms Cornack has ordered Logan City Council to pay Mr Da Fre's costs of \$20,833. The Council's legal bill totalled \$74,000. Rusty's 450 days on death row cost it \$8388 in sustenance fees plus \$500 in veterinary care.

Council officers seized Rusty in April 2005 and determined he was a pit bull-type dog, liable for destruction. Mr De Fre immediately appealed the Council ruling and the case was twice deferred. The Council revoked its destruction order after DNA testing traced Rusty to his mother Peggy and concluded he was a Staffordshire terrier cross.



Rusty is collected by Dino from Logan pound after over 14 months' impoundment



EDBA Secretary Val Hodgson with Dino DaFre and Darren Wills, who both had their dogs freed from destruction orders under local laws in Logan and Redcliffe, due to the efforts of barrister Stephen Fynes-Clinton and his great support team

Tough dog laws for NSW

October 25, 2006. Article from: AAP

Councils will have the power to declare dogs dangerous or restricted even if they have never attacked under legislation introduced into NSW parliament today.

Council officials would have the authority to declare a dog dangerous if it was aggressive to people or other animals. **IT WILL MEAN A DOG CAN BE DECLARED DANGEROUS OR RESTRICTED EVEN BEFORE IT HAS ATTACKED.**

The changes come three months after the horrific death of four-year-old Tyra Keuhne, who was mauled by three dogs in the NSW central-west.

The measures will allow the immediate destruction of a dangerous or restricted dog that has attacked or in cases where the dog hasn't been properly controlled.

NSW Local Government Minister Kerry Hickey said the measures would cut red tape, allowing council rangers to better enforce dog rules. The laws would also promote better co-ordination between councils, police and the RSPCA, he said. An education program to begin in NSW schools from next year would help prevent more dog attacks, Mr Hickey said.

26 October, from the Shadow Minister for Local Government John Turner

Hapless Hickey

"Again the hapless Minister for Local Government has missed the boat with his newest set of options to help councils enforce dog laws," said Shadow Minister for Local Government John Turner today.

"The proposals again cast the onus of proof of the propensity of the dog to be dangerous, on councils and I might add, without giving councils extra resources to police the proposed new laws," he said. "We are all saddened by the spate of dog attacks in recent times. However the Minister's new proposals will be difficult to implement. For instance, the Minister is proposing there can be an automatic destruction of a restricted or dangerous dog found at large on public or private property. **First there is a difference between a restricted dog and a dangerous dog.**

A restricted dog is a specific breed nominated in the legislation. Therefore a council officer will have to determine in his or her mind whether the specific dog they are confronted with fits into that category. If it's a cross breed it may not as the Act has various tests that have to be gone through to determine the dominant breed," said Mr Turner.

"If the officer is to act under this proposal on a 'dangerous dog' he or she have to know that the dog has been declared dangerous under the Act. All this has to take place while you probably have a very dangerous situation," said Mr Turner.

Presently to declare a dog dangerous the following procedures have to apply:

The council can, if satisfied, declare a dog a dangerous dog.

The council must give the owner of the dog notice of its intention to declare the dog dangerous.

The owner has 7 days to object to the proposed declaration.

The owner can appeal to the Local Court.

This procedure will be of little comfort to people under attack.

Now the Minister is saying that the definition of a dangerous dog will be extended to include dogs who are menacing. Will all these tests apply in that case? Who will determine the definition of menacing? We don't know because the Minister has not spelt out the detail. The proposals of the Minister are still bureaucratic," said Mr Turner.

Mr Turner also called into question the Minister's delayed education program designed to educate children about dog behaviour. "First, although the Minister crowed about the program during the budget in May, it will not be rolled out until next year - how many more dog attacks will there be before the program starts? However like most things this Minister does, the program will be deficient, as the program, according to the Minister, is for school children. Statistics show that many of the dog attacks are on preschool children. What is the Minister's education program for these children?" asked Mr Turner.

For further information contact John Turner MP: Phone: 02 6555 4099

Queensland Mandatory Desexing Petition

On 10 November an E-Petition

is be tabled in Qld Parliament by Peta Kaye Croft MP (Runaway Bay).

The wording indicates that it seeks a law that would prohibit the sale or giving away of any dog or cat in Qld which has not been microchipped AND DESEXED unless sold to an existing holder of a breeding permit. This could be the beginning of the end of the dog world as we know it.

TO: The Honourable the Speaker and Members of the Legislative Assembly of Queensland

Queensland Citizens draws (!) to the attention of the House that 200,000 + healthy cats and dogs taken as stray or surrendered are killed each year across Australia, and this is mainly a result of the large numbers of fertile companion animals.

Your petitioners, therefore, request the House to end this unjustifiable slaughter in Queensland through:

- prohibiting the sale or adoption of companion animals which have not been desexed and microchipped, unless being sold to, or adopted by, a holder of a breeding permit; - requiring and/or assisting current owners to desex and microchip their animal companions.

BANDING

At Hornsby Local Court, November 3, animal cruelty charges against a Dogs NSW member, were dismissed by the presiding Magistrate and formally withdrawn by solicitors representing the NSW Branch of the RSPCA.

When RSPCA Inspectors came to his premises and questioned him, this member maintained that he did not dock the puppies, "I banded them" he was represented by solicitor Ian Jones & Senior Counsel Craig Lenehan, who acted "pro bono" on this matter on behalf of Dogs NSW. All through the intense questioning and numerous court appearances this member maintained his "I did not dock but banded the puppies" statement.

In dismissing the complaint(s) the Magistrate Mr Flood said that in his view banding was not cruel and he also could not find a reference in the NSW Prevention of Cruelty to Animals Act that could substantiate the charges that had been laid and the magistrate awarded costs against the RSPCA.

DOGS NSW President Keith Irwin said that whilst this was a great win, members should be careful in assuming that the RSPCA will not continue in pressing cruelty charges against anyone who bands their puppies, and possibly not all Local Court Magistrates will be of this view.

Mr Irwin said "We must give thanks in no small part to the dedication and hard work of Bob Hales (who also expended an enormous effort in obtaining the significant amount of advice from expert witnesses from various quarters), Chairman Wes Stacey, and the other members of the Dogs NSW Canine Welfare Committee, who have worked behind the scenes for several months on this matter. In 21 days we will know if the matter will go to appeal or whether the RSPCA have chosen to lobby the Government for changes to the legislation".

If the matter goes to appeal it will end up being heard by a District Court and that determination, will then be binding on local court magistrates. Mr Irwin said "in either case the animal welfare groups will commence a lobby campaign and in my view DOGS NSW and members must meet them head on."

Editor's note: Five weeks ago at a previous hearing at the Hornsby Court, Magistrate Miss Hannan awarded custody of the dogs to the RSPCA. The five dogs were desexed and sold for \$250 each. At the November 3 hearing, the RSPCA was instructed by the magistrate to provide this money to the Dogs NSW member. At the hearing five weeks ago, the RSPCA submitted an account to the member for almost \$9,000 to cover the cost of boarding each dog at \$8.50 per day, plus veterinary expenses.