

REPORT OF THE LEGISLATION SUBCOMMITTEE

**1. LOCAL GOVERNMENT LAW REFORM BILL (NO.2)
SUBMISSIONS ON BANNING OF BREEDS OF DOGS**

RR 10511

Officer responsible Legal Services Manager	Author Peter Mitchell
Corporate Plan Output: Corporate Advice	

1. INTRODUCTION

The Local Government Law Reform Bill (No.2) was introduced by the Government to Parliament in mid July this year.

The Bill makes a number of amendments to legislation in the local government area and in particular:

- (a) Amends the Dog Control Act 1996 so as to introduce a new system whereby territorial authorities are given the power to identify certain types or breeds of dogs considered to be inherently dangerous as “restricted dogs” and to apply restrictions on the ownership of those dogs in the district;
- (b) A new power to impose bans on alcohol in public places on specified days in the year;

The Bill was referred to the Internal Affairs and Local Government Select Committee on 20 July 1999 and submissions on the Bill closed on Wednesday 11 August 1999. The Select Committee is required to report back to Parliament by Tuesday 31 August 1999 as it is the Government’s intention that this legislation be enacted before the General Election this year.

In accordance with the Council’s usual practice, staff prepared draft submissions on this Bill for consideration by the Council’s Legislation Subcommittee which met and approved those draft submissions, with some changes, at a meeting on Friday 6 August 1999.

Although this Subcommittee invariably works by consensus in approving Council submissions on Bills, on this particular Bill it was apparent that there was a division on the Subcommittee regarding that part of the Bill proposing that territorial authorities identify restricted classes of dogs. The other parts of the Council’s submissions were approved by unanimous resolution.

This division on the Subcommittee is reflected in the notice of motion from Councillor Charles Manning, which is also on the agenda at tonight's meeting.

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The Subcommittee requested that this matter be reported back to the Council with a view that the Council confirm or otherwise the policy of the previous Council to support this type of legislation seeking to control "restricted dogs".

The purpose of this report is to provide the Council with the background information to give consideration to this issue.

2. LEGISLATION SUBCOMMITTEE

The Subcommittee was first appointed a number of years ago because the situation often arises, as here, where a Bill is introduced into Parliament which is relevant to the Council's activities and there is insufficient time provided by Parliament to allow draft submissions to be considered by the full Council. In the present situation the Bill was introduced just before the July Council meeting and submissions closed before the August Council meeting.

The Subcommittee has delegated power from the Council:

"To approve submissions of proposed legislation which in the Subcommittee's view may affect the Council where time does not permit the Council to approve the submissions".

The Subcommittee would meet approximately 3 to 4 times per annum to approve submissions on behalf of the Council.

3. DOG CONTROL CHANGES

The Bill introduces a new system into the Dog Control Act 1996 which is to give territorial authorities the power to identify certain types or breeds of dogs considered to be inherently dangerous as restricted dogs and apply restrictions on the ownership of those restricted dogs. The restrictions are designed to achieve the phased elimination of the restricted dogs from New Zealand.

The Bill provides for only one type of restricted dog, namely, the American Pit Bull Terrier and provides a description of that type of dog. A territorial authority is directed to take all reasonable steps to identify every such dog within its district and must then give notice to the dog owner that it is a restricted dog.

Dog owners have the right to object to the identification to the territorial authority and can be heard in support of their objection. The territorial authority must then confirm or withdraw its identification of the dog as a restricted dog.

Dog owners have the right to appeal to the District Court against the territorial authority's decision that a dog is classified as a restricted dog.

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If a dog is classified as a restricted dog then the consequences are:

- (a) The dog must be kept within a securely fenced portion of the owner's property which it is not necessary to enter to obtain access to at least one door of any dwelling on the property;
- (b) The dog cannot be at large in any public place or private way without being muzzled;
- (c) The dog must be neutered within a specified period of time;
- (d) The owner is liable for dog control fees which are not less than 150% of the fees for other unrestricted dogs;
- (e) The dog cannot be disposed of to any person without the Council's written consent.

The Bill also prohibits the importation into New Zealand of a restricted dog or the importation of the embryo or semen of a restricted dog.

4. POLICY OF CITY COUNCIL

Although the question of the banning of breeds of dogs has not been considered by the current Council it was considered by the former Council in its last term.

During that term the Council sought legal advice regarding its powers to ban breeds of dogs and was advised that the Council did not, as the legislation was then written, have that power.

The Council appointed a Dangerous Dogs Working Party to further consider this issue with a view to seeking the banning or phased elimination of specific breeds of dogs, and American Pit Bull Terriers were mentioned as a class of dog.

The Working Party reported to the Council and as a consequence the Council resolved to seek a declaratory judgment from the High Court as to its powers to prohibit the keeping or possession of dogs of any specified type or breed or cross breed within its district, and to make representations to central government that the Government itself act with urgency on the introduction of regulations regarding dangerous dogs.

In the course of preparatory work relating to an application for a declaratory judgment, Council officers became aware that the Government was intending to promote the provisions which are now in the Local Government Law Reform Bill (No.2) and consequently an application has not yet been made to the Court pending the outcome of the Government's Bill.

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5. CITY COUNCIL'S SUBMISSION

It was in the light of the background of this position that the Council's submissions were prepared on the basis that the Council's position was that it supported this type of ban of breeds.

A copy of the Council's submission on this aspect of the Bill is attached.

While the Subcommittee supported the prohibition on the importation of restricted dogs or embryo or semen at its meeting on 6 August, there was a division on the Subcommittee on the provisions relating to the classification of dogs already in New Zealand. By a majority decision the Subcommittee supported the Council's submission as attached.

The Subcommittee requested that this matter be placed on the Council's agenda at its meeting on the 26th August 1999, together with some detail regarding the estimated costings for administering these provisions of the Bill.

The Council's submission was heard by the Select Committee on Thursday 19 August 1999 and the Council was represented by Councillor David Close and Mr Alastair Kirk, Senior Dog Control Officer.

The Council's Animal Control Team has provided estimated costings to administer these provisions of the Bill if passed in its current form and these are attached.

Also attached for Councillors' information are the results of a recent telephone survey on the dangerous dog issue, commissioned by the Animal Control Team.

If the Council now decided not to support this aspect of the submissions on the Bill approved by the Subcommittee, then at this stage realistically the only step that the Council could take would be to write to the Internal Affairs and Local Government Select Committee on Friday 27 August 1999 advising that the Christchurch City Council now wishes to withdraw that part of its submission relating to support for the restricted dog system contained in the Bill. The Select Committee may be able to embody that change in view in its report back to Parliament by 31 August 1999.

Chairman's

Recommendation: That the Subcommittee's actions in supporting the new system of restricted dogs in the Bill be noted.

CONSIDERED THIS 26TH DAY OF AUGUST 1999

MAYOR