

Who Let the Dogs Out? – Dogs Behaving Wildly on Common Property, What Does the Court Say?

Recently, the District Court handed down a decision in *Bevan v Smith* [2026] NSWDC 260 which will certainly be of interest to many large dog owners living in strata schemes.

The case involved both lot owners of a two (2) lot strata scheme, and their dogs, following an incident occurring in December 2020.

There was no dispute over the basic facts of the incident. *Ms Bevan* was carrying her Cavoodle, *Gracie*, back to her property after *Gracie* had made a mad dash across the road. Upon returning to the driveway, *Mr Smith's* German Shepard, *Evie*, came up and jumped at *Ms Bevan*. *Ms Bevan* shooed *Evie* away. *Evie* walked back about 10 feet, and then ran back towards *Ms Bevan*, this time knocking her to the ground.

The District Court considered the operation of section 25 of the *Companion Animals Act 1998 (NSW)* (“CAA”) and the common law application with respect to the “wounding or attacking that person.” The Court found that there was no liability construed under section 25 CCA or in negligence due to:

1. The absence of evidence indicating *Evie* was acting aggressively towards the *Ms Bevan*, or her dog;
2. The absence of evidence *Evie* had a history of tacking or jumping on people; and
3. The evidence that the parties had lived in close proximity to *Evie* for some three (3) years without any prior incident.

One of the submissions considered by the Court lead to an interesting take away for dog owning strata owners. *Ms Bevan* had submitted that *Evie* had not been adequately restrained, on the basis that she was able to openly run out onto the common property driveway. The District Court considered there was “not a skerrick of evidence to suggest ... imposing such an obligation on the

defendant.” However, more impactfully, the Court also found that the incident had not occurred in a *public place* for the purposes of section 12(A) of the CAA as *Evie* had not escaped the common property. On the Courts ruling we might consider that the obligations imposed under section 12(A) and section 13 of the CAA are not triggered until a lot owner’s dog has left the common property premises.

They say a dog is a man’s best friend, but they can also be a source of strife and conflict for owners across a strata scheme. If you or another owner in a strata plan has a dog which is creating issues for the owners corporation, feel free to raise a query with Bannermans Lawyers to hear about your options and obligations.

Key takeaway

- The court ruled that there was no liability for the dog incident due to lack of evidence of aggression.
- The obligations under the Companion Animals Act are not triggered until a dog leaves the common property.
- The case highlights the importance of understanding legal responsibilities for dog owners in strata schemes.

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