

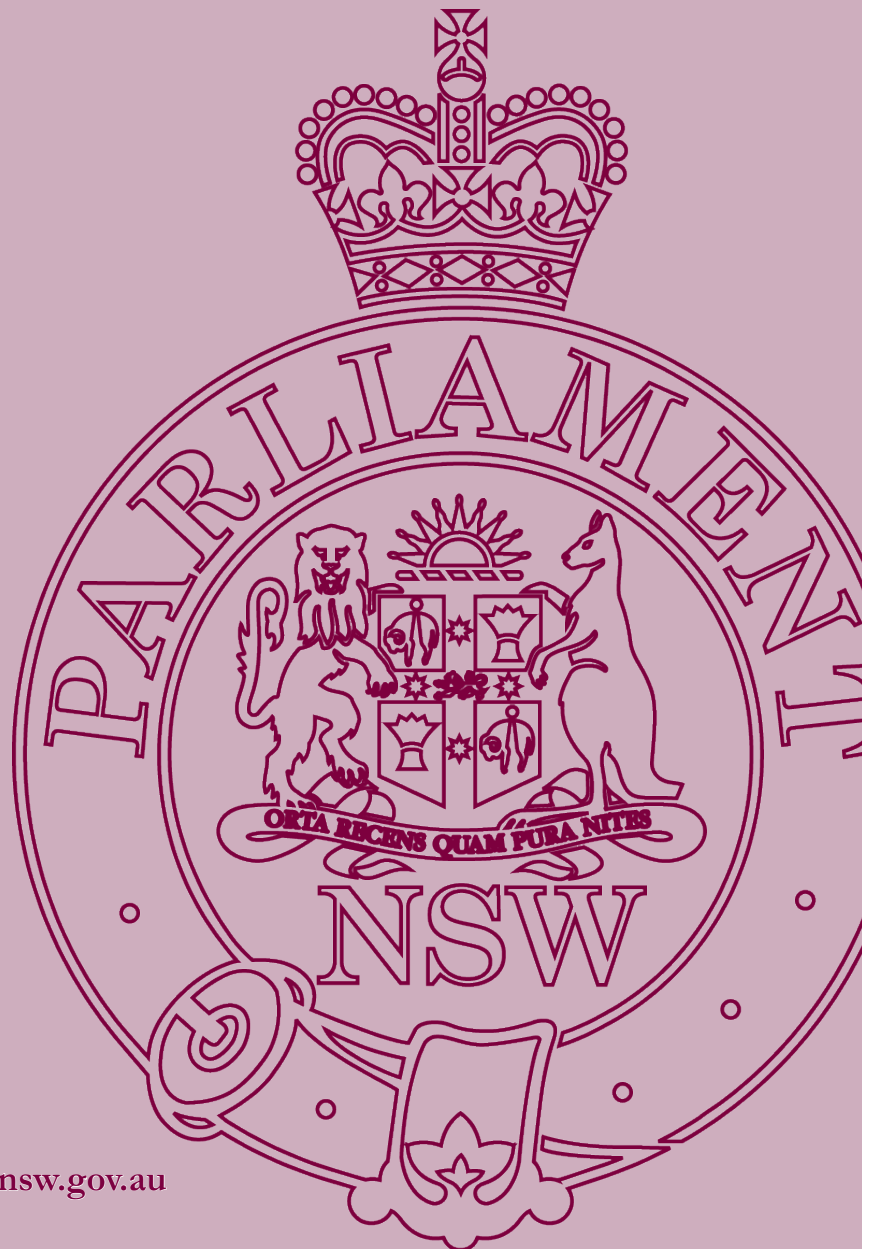


LEGISLATIVE COUNCIL

SELECT COMMITTEE ON PUPPY FARMING IN NEW SOUTH WALES

# Puppy farming in New South Wales

August 2022



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Select Committee on Puppy Farming in New South Wales

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Puppy farming in New South Wales.

Chair: Hon. Mick Veitch, MLC

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## Terms of reference

1. That a select committee be established to inquire into and report on puppy farming in New South Wales, and in particular:
  - (a) the provisions of the Companion Animals Amendment (Puppy Farms) Bill 2021,
  - (b) the animal protection issues associated with puppy farming,
  - (c) the consumer protection issues associated with the sale of dogs from puppy farms online and in pet shops,
  - (d) the adequacy of the current legislative and enforcement framework, including the Animal Welfare Code of Practice - Breeding of Dogs and Cats,
  - (e) the extent to which the recommendations of the 2015 Joint Select Committee on Companion Animal Breeding Practices in NSW have been implemented by the NSW Government,
  - (f) the impact of the NSW Government Consultation Paper 'Licensing and regulation of cat and dog breeders',
  - (g) the impact and effectiveness of the NSW Government 'Puppy Factory Taskforce' announced on 23 October 2020,
  - (h) the impact and effectiveness the Domestic Animals Amendment (Puppy Farm and Pet Shops) Act 2017 (Vic) on puppy farming in Victoria, and the consequences for the puppy farming industry in NSW,
  - (i) the challenges faced by local councils in respect to development applications for puppy farms,
  - (j) legislative and other measures that could be implemented to stop or reduce puppy farming in NSW, and
  - (k) any other related matter.

The terms of reference were referred to the committee by the Legislative Council on 24 November 2021.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 24 November 2021, pp 2846-2847.

## Committee details

### Committee members

<b>The Hon Mick Veitch MLC</b>	Australian Labor Party	<i>Chair</i>
<b>The Hon Emma Hurst MLC</b>	Animal Justice Party	<i>Deputy Chair</i>
<b>The Hon Lou Amato MLC</b>	Liberal Party	
<b>The Hon Mark Banasiak MLC</b>	Shooters, Fishers and Farmers Party	
<b>Ms Abigail Boyd MLC</b>	The Greens	
<b>The Hon Wes Fang MLC*</b>	The Nationals	
<b>The Hon Shayne Mallard MLC**</b>	Liberal Party	
<b>The Hon Adam Searle MLC</b>	Australian Labor Party	

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\* The Hon Wes Fang MLC replaced the Hon Ben Franklin MLC as a substantive member of the committee from 25 January 2022.

\*\* The Hon Shayne Mallard MLC replaced the Hon Catherine Cusack MLC a substantive member of the committee from 11 August 2022. The Hon Catherine Cusack MLC was a substantive member of the committee until 9 August 2022.

### Committee secretariat

Ms Talina Drabsch, Principal Council Officer

Ms Jessie Halligan, Senior Council Officer

Ms Ros O'Brien, Administration Officer

Ms Merrin Thompson, Director

## Chair's foreword

The idea of puppy and kitten farming evokes strong concerns about animal welfare. There is no doubt that puppy and kitten farming at its worst is an abhorrent practice, with offenders largely operating underground. The Hon Emma Hurst MLC introduced the Companion Animals Amendment (Puppy Farms) Bill 2021 into the Legislative Council on 13 October 2021 seeking to tighten the legislative requirements around cat and dog breeding. This inquiry was established at the end of November 2021 to consider the bill and the broader issue of puppy and kitten farming in New South Wales. The committee received evidence on the specific provisions of the bill and related issues such as the effectiveness of the current regulatory framework, as well as animal protection and consumer matters.

It is clear that community sentiment around the breeding of dogs and cats is changing. Community members want assurance that the companion animals they welcome into their families have been ethically bred, well cared for, and will grow up happy and healthy.

In line with this, and spurred on by the boom in demand for pets in the context of COVID-19, the policy landscape is changing. Both Victoria and Western Australia have acted to reform legislation and there are indications that change will soon be forthcoming in South Australia. The impact is being felt in New South Wales, particularly in border communities, as larger breeders are relocating from states with stricter controls. The majority of inquiry participants support the introduction of some form of cap that limits the number of breeding dogs that may be housed in a facility, as well as a range of other measures to improve the current regulatory framework. The committee made 18 recommendations addressing breeding practices, the state's breeding code, licensing, the NSW Pet Registry and consumer protections.

Two issues were of particular note. The committee was greatly concerned that individuals with animal cruelty convictions have been able to continue operating as breeders or proprietors of breeding facilities in New South Wales. To address this, the disconnect between planning laws and animal welfare considerations must be removed. In addition, the growing use of 'breeding arrangements' or 'guardianship' became apparent – in which a breeding business and the person with whom the dog or cat lives enter into an agreement requiring the pet to return to the business to breed or deliver a litter. The committee holds concerns around the legality and potential complications of these arrangements and believes greater guidance from the NSW Government is necessary.

The inquiry attracted significant public interest with more than 900 submissions and over 6000 responses to an online questionnaire, and the committee conducted two days of hearings. The committee is grateful to all inquiry participants for their contributions and insights, many of which were heartfelt and based on deeply held ethical principles.

I thank my fellow committee members for their respectful and collaborative engagement with the issues throughout the inquiry. Their thoughtful insights and contributions to a complex and often polarised policy area are appreciated. I also thank the committee secretariat for their capable assistance.

It is our hope that the evidence documented in this report will not only inform the Legislative Council's consideration of these matters, but also prompt and guide the action that is urgently required to address puppy and kitten farming in New South Wales.



Hon Mick Veitch  
**Committee Chair**

## Findings

### Finding 1

20

That all other factors being equal, there is an inverse relationship between numbers of animals at intensive breeding facilities and the ability to guarantee positive welfare outcomes for animals. Accordingly, limits must be placed on the number of dogs that can be housed at a breeding facility.

### Finding 2

20

That without imposing staffing ratios and socialisation requirements, it is impossible to meet positive welfare outcomes for all animals housed in industrial-scale breeding facilities.

## Recommendations

- Recommendation 1** **44**  
 That the evidence documented in this report, and the conclusions of the committee, inform the Legislative Council's consideration of the Companion Animals Amendment (Puppy Farms) Bill 2021.
- Recommendation 2** **45**  
 That, if the Companion Animals Amendment (Puppy Farms) Bill 2021 does not pass, the NSW Government urgently introduce legislation on puppy and kitten farming in New South Wales.
- Recommendation 3** **45**  
 That the NSW Government investigate the legality of breeding arrangements, including guardianship, and provide guidance to dog and cat breeders and potential consumers as to appropriate terms of agreement as well as acceptable grounds for termination of arrangements, with a view to ensuring that the best interests of the animal are paramount in any arrangement.
- Recommendation 4** **46**  
 That the NSW Government closely consider evidence before this inquiry and introduce:
- a cap on the number of female breeding animals that a proprietor of a companion animal breeding business may have
  - lifetime litter limits for cats and dogs used for breeding
  - staff to animal ratios for companion animal breeding businesses.
- Recommendation 5** **62**  
 The NSW Government urgently conduct a review of the *Animal Welfare Code of Practice – Breeding dogs and cats*, and in doing so:
- realign the division between standards and guidelines, to strengthen mandatory standards, improve enforceability and facilitate enforcement of the Breeding Code
  - provide for the varying requirements of the differing breeds
  - better address the physical and mental wellbeing, space requirements, exercise and enrichment requirements, and socialisation of dogs and cats
  - ensure competency standards for people caring for breeding animals
  - ensure routine veterinary checks and health care plans are mandatory
  - address the breeding of heritable defects.
- Recommendation 6** **63**  
 That the NSW Government substantially increase funding allocated to organisations such as the RSPCA NSW and Animal Welfare League and ensure this funding covers the costs of the compliance and enforcement operations of these organisations, without reliance on charitable donations.
- Recommendation 7** **63**  
 That the NSW Government consider providing funding to animal rescue organisations.

**Recommendation 8**

64

That the NSW Government act to address the disconnect between planning laws and animal welfare considerations in local government decisions regarding companion animal breeding facilities by:

- enabling due weight to be given to animal welfare in assessment of development applications
- providing for consideration of whether an applicant is a fit and proper person
- inserting 'companion animal breeding facility' as a land use category in the planning laws
- amending the Standard Instrument Local Environmental Plan to include compliance with the *Animal Welfare Code of Practice – Breeding dogs and cats* as an assessment consideration
- ensure that animal cruelty convictions in other jurisdictions are able to be recognised in New South Wales.

**Recommendation 9**

64

That the NSW Government introduce legislation to ban anyone convicted of animal cruelty offences from being involved in breeding a dog or cat, create a presumption in favour of a court making a disqualification order following conviction of any animal cruelty offence, and require a court to impose a disqualification order where a person has been convicted of an aggravated animal cruelty offence, or multiple cruelty offences, or convicted of previous animal cruelty offences.

**Recommendation 10**

75

That in fulfilling its commitment to rebuild the NSW Pet Registry, the Office of Local Government act promptly to ensure that the Registry is well resourced and fit for purpose in collecting and retaining accurate and up-to-date information over the lifetime of all cats and dogs, and ensure proper traceability of animals and breeders to assist both the public and enforcement agencies to identify unethical breeders.

**Recommendation 11**

75

The NSW Government work to ensure interoperability between the NSW Pet Registry and online sites such as Gumtree and the Trading Post, to reduce the ability of unethical breeders to sell online.

**Recommendation 12**

77

That the Department of Primary Industries implement a well-resourced breeder licensing scheme in New South Wales that contains robust licensing conditions for breeders, taking into account the evidence received by this committee.

**Recommendation 13**

77

That the Department of Primary Industries undertake an in-depth consultation process with key stakeholders including but not limited to rescue organisations, animal protection organisations, enforcement agencies and breeders, as part of its development of a licensing scheme.

**Recommendation 14**

99

That the NSW Government move towards restricting the sale of dogs and cats in pet shops to those sourced from pounds, shelters or rescue groups.

**Recommendation 15** **100**

That the NSW Government implement a thorough and ongoing public education campaign on:

- responsible animal care
- choosing a suitable dog or cat
- how to ensure any purchase is from an ethical breeder.

**Recommendation 16** **101**

That the NSW Government introduce an 'extended liability' scheme whereby breeders are responsible for congenital, genetic and/or other health issues that arise in the first year of an animal's life.

**Recommendation 17** **101**

That the NSW Government consider funding an 'anti-puppy farm legal clinic' to assist members of the public affected by puppy farms and other unethical breeding practices.

**Recommendation 18** **101**

That the Minister for Fair Trading advocate to federal counterparts for greater oversight and regulation of the online sale of animals and call for a review of the Australian Consumer Law to provide better protections in relation to the purchase of animals.

## Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 24 November 2021.

The committee received 925 submissions and four supplementary submissions.

The committee received 6,088 responses from individual participants to an online questionnaire.

The committee held two public hearings at Parliament House in Sydney.

The committee also conducted a site visit to Rockley Valley Park breeding facility in Bathurst on 27 April 2022.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.



## Chapter 1 Background

The Select Committee on Puppy Farming in New South Wales was established on 24 November 2021 to inquire into and report on puppy farming in New South Wales. It followed the introduction of the Companion Animals Amendment (Puppy Farms) Bill 2021 (hereafter the Puppy Farms Bill) by the Hon Emma Hurst MLC to the Legislative Council on 13 October 2021.

This chapter provides background information on how the breeding of dogs and cats in New South Wales is presently regulated. It highlights reforms from the last decade and proposed changes under consideration by the NSW Government.

Other Australian jurisdictions have passed relevant legislation in recent years, including the Victorian Government which made significant changes in 2017 to the regulation of the breeding of companion animals, followed by Western Australia in 2021. A number of inquiry participants spoke of the desirability of uniformity in the regulation of dog and cat breeding throughout Australia.<sup>2</sup> To provide context, this chapter includes a brief overview of the reforms in Victoria and Western Australia. It also discusses the breeder licensing scheme that operates in the Australian Capital Territory.

### Terminology

#### Definition of 'puppy farm'

- 1.1 In 2012, the NSW Companion Animals Taskforce defined a 'puppy farm' as 'the situation where a number of dogs are kept in sub-standard conditions and bred repeatedly to their detriment with inappropriate or inadequate provision of food, water, shelter and veterinary treatment'.<sup>3</sup>
- 1.2 The Royal Society for the Prevention of Cruelty to Animals (RSPCA NSW) has defined a puppy farm as 'an intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs' behavioural, social and/or physiological needs'.<sup>4</sup>
- 1.3 The Puppy Farms Bill does not seek to define a puppy farm. However, Ms Hurst described puppy farming in her second reading speech as 'the intensive factory farming of dogs to supply the pet trade industry'.<sup>5</sup>
- 1.4 Stakeholder views on the inclusion of a definition in the Puppy Farms Bill are explored in chapter 3.

#### Puppy Factory Taskforce

- 1.5 The NSW Government announced in October 2020 that the RSPCA NSW would establish a Puppy Factory Taskforce to target large, illegal breeding operations. However, it should be

<sup>2</sup> Submission 21, Local Government NSW, p 9; Submission 75, Humane Society International, p 75; Submission 6, Animal Defenders Office, p 1.

<sup>3</sup> NSW Companion Animals Taskforce, *Discussion Paper*, May 2012, p 6.

<sup>4</sup> Submission 3, RSPCA NSW, p 2.

<sup>5</sup> *Hansard*, Legislative Council, 13 October 2021, p 7 (Emma Hurst).

noted that the RSPCA NSW now refer to this group as the Intensive Breeding Taskforce. For the purposes of consistency, this report refers to the taskforce as the 'Puppy Factory Taskforce' as that is the title used in the terms of reference for this inquiry.

## Current arrangements in New South Wales

- 1.6** The NSW Government is responsible for animal welfare and the care and control of companion animals. The major components of the current arrangements are legislation, codes of practice for breeders and pet stores, and the NSW Pet Registry. Each is outlined briefly below.

### Legislation

- 1.7** The key legislative instruments in New South Wales in relation to the breeding of dogs and cats and their sale are the *Companion Animals Act 1998* and the *Prevention of Cruelty to Animals Act 1979* (hereafter POCTAA), and their associated regulations. Whilst the *Companion Animals Act 1998* is concerned with the management and control of animals, the focus of POCTAA is animal welfare.
- 1.8** The *Companion Animals Act 1998* and the Companion Animals Regulation 2018 provide for the identification and registration of cats and dogs, their management, and owner duties and responsibilities. The NSW Office of Local Government administers this legislation, with local councils responsible for enforcement.
- 1.9** POCTAA is administered by the NSW Department of Primary Industries (hereafter DPI) and enforced by the RSPCA NSW, the Animal Welfare League NSW and the NSW Police Force. Enforceable standards apply to various aspects of companion animals, notably their housing, hygiene, health, food and drink, breeding and rearing, and conditions of sale.
- 1.10** Since July 2019, section 23A of POCTAA has required an advertisement for a dog or cat (whether for sale or to be given away) to include the animal's microchip identification number, the breeder identification number, and/or the rehoming organisation number. This requirement was introduced in response to the 2015 report of the Joint Select Committee on Companion Animal Breeding Practices in New South Wales.<sup>6</sup> According to DPI, the inclusion of at least one of these numbers helps inform prospective buyers of what the current owner has recorded as the breed, sex and age of the dog, as well as whether or not it is desexed and registered.<sup>7</sup> Animal welfare enforcement agencies may use this information to identify any 'problem' breeders and to enforce animal welfare laws.

### Codes of practice

- 1.11** The *Animal Welfare Code of Practice – Breeding Dogs and Cats* (hereafter referred to as 'the Breeding Code') and *Animal Welfare Code of Practice – Animals in Pet Shops* are prescribed as codes of practice

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<sup>6</sup> Joint Select Committee on Companion Animal Breeding Practices in New South Wales, NSW Parliament, *Companion animal breeding practices in New South Wales* (2015).

<sup>7</sup> Department of Primary Industries, *Selling or giving away a dog or cat*, <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/animal-care-and-welfare/other/dogs-and-cats/selling>.

and standards under the Prevention of Cruelty to Animals Regulation 2012.<sup>8</sup> These codes include mandated standards and best practice guidelines, with penalties to apply if a standard is breached.

- 1.12** Standards are 'the mandatory specific actions needed to achieve acceptable animal welfare levels ... the minimum standards that must be met under law'.<sup>9</sup> Guidelines are defined as 'the best practice agreed at a particular time following consideration of scientific information and accumulated experience'.<sup>10</sup> They may reflect a society's values and expectations and often imply a higher standard of care than the minimum standards.
- 1.13** The Breeding Code has been in place since 2009 but received some minor updates in 2021. The main updates occurred in relation to requirements for enclosure fence heights, vaccinations and mating ages.<sup>11</sup> The Breeding Code was prepared in consultation with Animal Care Australia, Australian Federation of Livestock Working Dogs, Dogs NSW, Master Dog Breeders Association, Australian Association of Pet Dog Breeders, the Pet Industry Association of Australia, NSW Farmers, the Australian Veterinary Association, RSPCA NSW, the Animal Welfare League NSW, and NSW Police. It is endorsed by the NSW Animal Welfare Advisory Council. It sets out specific requirements particular to the welfare risks associated with the breeding of dogs and cats and is prescribed under clauses 25 and 26 of the Prevention of Cruelty to Animals Regulation 2012.<sup>12</sup>
- 1.14** The Breeding Code sets out the standards and guidelines relating to the care and management of breeding dogs and cats for fee or reward (not one-off accidental litters) in relation to:
- the responsibilities and competency of the person in charge of premises and assistants
  - record keeping
  - animal housing
  - animal management
  - animal health
  - transfer of ownership
  - breeding and rearing.
- 1.15** Female cats must not be intentionally mated during their first oestrous cycle and may not have more than three litters in a two year period (unless written approval has been obtained from a veterinary practitioner).<sup>13</sup> Female dogs may not be intentionally mated until they are at least 12 months old, and they may not have more than two litters in a two year period (unless written approval has been obtained from a veterinary practitioner).<sup>14</sup> Prior to the revisions made to the

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<sup>8</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, August 2021; Department of Primary Industries, *Animal Welfare Code of Practice Animals in Pet Shops*, August 2008.

<sup>9</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, p 3.

<sup>10</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, p 3.

<sup>11</sup> Submission 2, NSW Government, p 4.

<sup>12</sup> Submission 2, NSW Government, p 3.

<sup>13</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, p 30.

<sup>14</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, p 30.

code in August 2021, the requirement was that a female dog not be intentionally mated during her first oestrous cycle.

**1.16** The *Animal Welfare Code of Practice – Animals in Pet Shops* sets out principles that apply to those involved in the keeping and selling of animals through pet shops. The code includes provisions in relation to:

- staff responsibilities
- animal housing
- hygiene
- management
- health care
- food and water
- sale of animals
- transport
- special requirements for specific animals.

**1.17** In the event of a complaint regarding animal welfare, an animal welfare inspector will investigate and determine the appropriate action, which may include the following options:

- the provision of advice on appropriate care
- an official warning
- directions to the owner to address welfare issues
- an infringement notice being issued
- the collection of evidence to begin a prosecution
- the animal/s being seized.

**1.18** An inspector may revisit an individual or premises to ensure that any directions or advice previously given has been followed. Further action may be taken if necessary.

**1.19** Failing to meet a standard may result in a penalty infringement notice being issued or prosecution under clause 26 (conduct of animal trades) of the Prevention of Cruelty to Animals Regulation 2012. More serious cases may be prosecuted under POCTAA.

### **Breeder groups' codes of practice**

**1.20** In addition to the above, many cat and dog breeder organisations require members to also adhere to their specific codes of practice. These codes of practice may enforce stricter standards than those that apply as part of the general regulatory framework. However, membership of a breeder organisation is not compulsory to be a dog or cat breeder in New South Wales, and these organisations do not have any enforcement powers under the law.

### NSW Pet Registry

- 1.21 The NSW Pet Registry, administered by the NSW Office of Local Government, is a portal that enables pet owners to register or transfer a pet online, as well as pay fees, report a pet missing or change details.<sup>15</sup> It records the details of the owners of animals, with information about the location of pets and where they live, and also enables a person to register as a breeder and obtain a breeder identification number.<sup>16</sup>

### Reforms in New South Wales

- 1.22 In the last decade or so, the breeding of companion animals has been the subject of detailed consideration by the NSW Companion Animals Taskforce as well as the Joint Select Committee on Companion Animal Breeding Practices in New South Wales.

#### Companion Animals Taskforce

- 1.23 The Companion Animals Taskforce was established in 2011 by the Minister for Local Government and the Minister for Primary Industries to provide advice on key companion animal issues, including strategies to reduce the rate of companion animal euthanasia. The Taskforce also inquired into the breeding of companion animals, including the practices of puppy farms.
- 1.24 The Taskforce published its report to the Minister for Local Government and the Minister for Primary Industries in October 2012.<sup>17</sup> It recommended that a breeder licensing system be established with a requirement for all people who breed dogs and cats for sale to be licensed.<sup>18</sup>

#### Joint Select Committee on Companion Animal Breeding Practices in New South Wales

- 1.25 The NSW Parliament's Joint Select Committee on Companion Animal Breeding Practices in New South Wales was established on 13 May 2015 following media reports of exploitative for-profit 'puppy factory' operations, a number of prosecutions for poor breeding practices, and growing community concern about the welfare of companion animals. Its objectives were to:

... review the current situation in New South Wales compared to other jurisdictions; investigate the correlation between the number of animals kept by breeders and animal welfare; examine the necessity of implementing a breeders' licencing system; examine

<sup>15</sup> Answers to supplementary questions, Department of Primary Industries, 27 June 2022, p 3.

<sup>16</sup> Evidence, Ms Karin Bishop, Director, Sector Performance and Intervention, Office of Local Government, 23 May 2022, p 41.

<sup>17</sup> NSW Companion Animals Taskforce, *Report to the Minister for Local Government and the Minister for Primary Industries*, October 2012.

<sup>18</sup> NSW Companion Animals Taskforce, *Report to the Minister for Local Government and the Minister for Primary Industries*, p 6.

the implications of banning sales of dogs and cats in pet stores; address any required legislative changes; and address any other related matters.<sup>19</sup>

**1.26** Its report was published in August 2015. The committee made four findings:

Finding 1: The Committee finds that the NSW Companion Animal Taskforce Report continues to be a sound basis for reforming companion animal management in New South Wales, but that progress in implementing some recommendations has been slow or has not met expectations.

Finding 2: The Committee finds no evidence that the number of animals kept by breeders is in itself a factor which determines welfare outcomes of breeding animals.

Finding 3: The Committee finds that the timeframe for implementing the recommendations of the Companion Animals Taskforce has been much too long. The Committee further finds that progress towards digitising the Register of Companion Animals and ensuring all breeder information is captured in order for the register to function as a breeder registration system, has not met community expectations nor achieved the outcomes anticipated by the Companion Animals Taskforce report.

Finding 4: The Committee finds that banning pet shop sales would result in less scrutiny of the pet industry without any reasonable expectation of improved animal welfare outcomes.<sup>20</sup>

**1.27** The committee also made 34 recommendations, including that the NSW Government prioritise the implementation of the recommendations of the NSW Companion Animals Taskforce Report.<sup>21</sup> It further recommended that the NSW Government introduce a breeder licensing scheme<sup>22</sup> and legislate to introduce a requirement that all animals advertised for sale include an identifying number.<sup>23</sup>

### **Government response to the 2015 report of the Joint Select Committee on Companion Animal Breeding Practices in New South Wales**

**1.28** The Government responded to the Committee's report on 26 February 2016, indicating its support for 27 of the 34 recommendations, either fully or in part.<sup>24</sup> As of 2022, twenty of the

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<sup>19</sup> Joint Select Committee on Companion Animal Breeding Practices in New South Wales, *Inquiry into companion animal breeding practices in New South Wales*, Report 1/56, August 2015, p vii.

<sup>20</sup> Joint Select Committee on Companion Animal Breeding Practices in New South Wales, *Inquiry into companion animal breeding practices in New South Wales*.

<sup>21</sup> Joint Select Committee on Companion Animal Breeding Practices in New South Wales, *Inquiry into companion animal breeding practices in New South Wales*, recommendation 1.

<sup>22</sup> Joint Select Committee on Companion Animal Breeding Practices in New South Wales, *Inquiry into companion animal breeding practices in New South Wales*, recommendation 10.

<sup>23</sup> Joint Select Committee on Companion Animal Breeding Practices in New South Wales, *Inquiry into companion animal breeding practices in New South Wales*, recommendation 21.

<sup>24</sup> Submission 2, NSW Government, p 4.

recommendations have been completed and seven recommendations partially completed, underway or pending.<sup>25</sup>

**1.29** The Companion Animals and Other Legislation Amendment Bill 2018 was passed in June 2018, giving effect to some of the recommendations of Joint Select Committee. It amended POCTAA to require advertisements about dogs or cats to include either a microchip identification number, breeder identification number or rehoming organisation number.<sup>26</sup> This was to improve traceability and help prospective pet purchasers make informed decisions.

**1.30** In its submission to the current inquiry, the NSW Government identified the following additional steps it has taken to address concerns in relation to the breeding of companion animals since the Joint Select Committee reported in 2015:

- providing \$200,000 in 2016 to support a joint education campaign with RSPCA NSW and Animal Welfare League NSW to raise awareness about responsible pet purchasing and reporting of disreputable breeders
- releasing the NSW Animal Welfare Action Plan in 2018, to streamline and modernise the animal welfare legislative framework in NSW
- launching an improved NSW Pet Registry in 2018 to enhance digital pet registration, including the ability for the public to search for owner and breeder details of animals advertised for sale
- \$400,000 in 2020 to support the establishment of a dedicated Puppy Factory Taskforce within RSPCA NSW to focus on identifying and responding to puppy factory activity
- amending POCTAA in July 2021 to increase penalties for the most common animal welfare offences to some of the highest in the country, responding to concerns that maximum penalties were out of step with community expectations
- updating the Breeding Code in August 2021 to address key areas of concern raised by stakeholders and to make it more easily understood and followed
- publishing the Department of Primary Industries Consultation Paper, *Licensing and regulation of cat and dog breeders*, to seek community feedback on issues raised in relation to the current regulatory framework, including a proposal to introduce a dog breeder licensing scheme
- publishing the Draft Animal Welfare Bill 2022 for public consideration through the Standing Committee on State Development's inquiry into animal welfare policy in New South Wales, based on two rounds of public consultation on the *NSW Animal Welfare Reform – Issues Paper* and *NSW Animal Welfare Reform – Discussion Paper*.<sup>27</sup>

<sup>25</sup> Submission 2, NSW Government, p 4; Answers to supplementary questions, Department of Primary Industries, 20 June 2022.

<sup>26</sup> Section 23A, *Prevention of Cruelty to Animals Act 1979*.

<sup>27</sup> Submission 2, NSW Government, p 1.

## Current developments in New South Wales

- 1.31** The Department of Primary Industries published the *NSW Animal Welfare Reform – Discussion Paper* in July 2021. This paper was based on community and stakeholder feedback on an Issues Paper it had published in February 2020. It proposed that POCTAA, the *Exhibited Animals Act 1986* and the *Animal Research Act 1985* be repealed and replaced with a single, modern animal welfare law that is consistent with the 'Five Freedoms' and 'Five Domains' models of animal welfare and reflects best practice.
- 1.32** DPI subsequently published *NSW Animal Welfare Reform: Consultation Outcomes* in December 2021 to provide insight into feedback received and to highlight key issues raised. It acknowledged that some respondents had questioned why the discussion paper did not specifically address companion animals breeding, with some respondents calling for either a ban or the stronger regulation of puppy factories and companion animals breeding.<sup>28</sup> DPI noted:
- The Discussion Paper was focused on the high-level legal approach to new laws and was not designed to address issues raised with specific industries or forms of animal use. This reform process establishes the high-level legal principles for new laws first, before working into industry- or species-specific issues, as part of the development of Regulations and Standards.<sup>29</sup>
- 1.33** The *NSW DPI Consultation Paper: Licensing and regulation of cat and dog breeding* was published in November 2021. The paper outlined proposed principles for the design of a licensing scheme and sought community feedback on specific issues relating to which breeders should be required to obtain a licence and what exemptions should apply. The consultation outcomes report was published in March 2022 and is discussed in detail in chapter 5.<sup>30</sup>

## Other Australian jurisdictions

- 1.34** A number of jurisdictions in Australia have introduced various regulatory changes to the breeding of dogs and cats in recent years, with major reforms passing the Victorian Parliament in 2017. The Western Australian Parliament passed legislation in 2021 that will regulate the breeding and sale of dogs for the first time in that state.
- 1.35** Dog and cat breeders must be registered in the Australian Capital Territory, Victoria, South Australia, Queensland (dogs only) and Western Australia (cats only). Puppies may not be sold in pet shops in Victoria or Western Australia, unless they are from a registered shelter, pound or rescue group.<sup>31</sup>
- 1.36** The Victorian, West Australian and ACT systems are detailed below.

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<sup>28</sup> Department of Primary Industries, *NSW Animal Welfare Reform: Consultation Outcomes*, December 2021, p 63.

<sup>29</sup> Department of Primary Industries, *NSW Animal Welfare Reform: Consultation Outcomes*, p 63.

<sup>30</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022.

<sup>31</sup> Submission 200, Sentient Australia, p 2.



## Victoria

**1.37** The *Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017* (Vic) (hereafter the Victorian Bill) passed the Victorian Parliament on 15 December 2017 and came into effect on 1 July 2018. It made significant changes to the way in which the breeding of dogs and cats is regulated, and is the model for the Puppy Farms Bill in NSW. The Victorian Bill amended the *Domestic Animals Act 1994* (Vic) by:

- limiting the number of fertile female dogs that may be kept by breeders
- restricting pet shops to selling dogs and cats that have been sourced from shelters, pounds or enrolled foster carers
- clarifying the role of foster carers
- defining the categories of 'recreational breeders' and 'microbreeders'
- confirming the definition of 'farm working dogs'
- introducing an animal sale permit system
- improving the traceability of cats and dogs through the establishment of a Pet Exchange Register
- strengthening offences in relation to pet advertisements.<sup>32</sup>

**1.38** Breeders are classified into various groups:

- Microbreeders: these breeders have one or two fertile female cats or dogs and do not need to register with their local council or comply with the *Code of practice for the operation of breeding and rearing businesses 2014* (June 2018 version).
- Recreational breeders: have three to 10 fertile female cats or dogs and are members of an applicable organisation. They do not need to register with their local council as they are subject to their organisation's rules and code of ethics.
- Breeding domestic animal business: have between three and 10 fertile female cats or dogs that they breed to sell but are not a member of an applicable organisation. They must register with their local council and comply with the *Code of practice for the operation of breeding and rearing businesses 2014* (June 2018 version).
- Commercial breeders: breeders in Victoria can have a maximum of 50 fertile female dogs. Breeders with 11 to 50 fertile female dogs are classified as commercial breeders and must seek approval from the Minister as well as meet additional requirements.<sup>33</sup>

**1.39** The *Code of practice for the operation of breeding and rearing businesses 2014* (June 2018 version) requires female dogs to be at least one year old before being mated.<sup>34</sup> They may have a maximum of five

<sup>32</sup> Animal Welfare Victoria, *Puppy farm legislation* (7 June 2021), <https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animals-act/puppy-farm-legislation>

<sup>33</sup> Animal Welfare Victoria, *Regulations for cat and dog breeders* (updated 20 January 2022), <https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animal-businesses/breeding-and-rearing-businesses/regulations-for-cat-and-dog-breeders>.

<sup>34</sup> Animal Welfare Victoria, *Code of Practice for the Operation of Breeding and Rearing Businesses 2014* (June 2018 version), p 29.

litters. The Code also contains requirements around staffing ratios, exercise, enrichment, socialisation, handling, veterinary checks, and retirement of animals.

- 1.40** Anyone advertising to sell or give away a dog or cat in Victoria must be enrolled on the Pet Exchange Register.<sup>35</sup> This enables them to obtain a source number which must be displayed in any advertisement along with the microchip number for the animal, allowing people to trace the origin of their pets. Any dog or cat born after 1 July 2020 must have the source number of their breeder, or the relevant council pound, animal shelter, pet shop or foster carer, when microchipped. Source numbers are valid for one year.
- 1.41** In addition, Part 5B of the *Domestic Animals Act 1994* (Vic) establishes a voluntary registration scheme for foster carers, which is operated by local councils. This grants foster carers access to reduced registration rates and the ability to provide cats (aged eight weeks and older) or dogs (aged six months or older) to pet shops.<sup>36</sup>
- 1.42** Animal sale permits allow for the sale of animals other than in a pet shop or residential property, including via adoption days, pet shows, and animal charity events.<sup>37</sup>

### **Western Australia**

- 1.43** Western Australia is the most recent jurisdiction to have legislated with regards to cat and dog breeding. The *Dog Amendment (Stop Puppy Farming) Act 2021* (WA) was passed on 15 December 2021, regulating the breeding and sale of dogs for the first time in Western Australia.
- 1.44** The majority of the legislation is to commence on proclamation. Once it comes into force:
- dogs aged two years or older must be sterilised (exceptions apply to livestock working dogs and those the subject of a local government approval for breeding)
  - dogs, pet shops, pet shop dog suppliers, and dog breeders must be registered
  - information from registers is to be centrally located
  - dogs supplied to pet shop businesses must be either strays, abandoned, seized or surrendered dogs and the supplier must hold a dog supply approval.
- 1.45** Owners will need to seek approval from their local council to breed a dog, including if the dog breeds unintentionally. An approval to breed is essentially a one-off application to own unsterilised dogs and applies to all dogs, both current and future, that are owned by that person whilst they reside in that area.<sup>38</sup>

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<sup>35</sup> Animal Welfare Victoria, *Pet Exchange Register* (1 June 2022), <https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/animal-welfare/pet-exchange-register>.

<sup>36</sup> Animal Welfare Victoria, *Foster Carer Registration Scheme*, [https://agriculture.vic.gov.au/\\_\\_data/assets/pdf\\_file/0019/661510/FCRS-factsheet.pdf](https://agriculture.vic.gov.au/__data/assets/pdf_file/0019/661510/FCRS-factsheet.pdf).

<sup>37</sup> Sections 58L to 58S, *Domestic Animals Act 1994* (Vic).

<sup>38</sup> Section 26J as to be inserted by the *Dog Amendment (Stop Puppy Farming) Act 2021* (WA) into the *Dog Act 1976* (WA); Western Australia, Department of Local Government, Sport and Cultural Industries, *Stop puppy farming*, <https://www.dlgsc.wa.gov.au/local-government/community/cats-and-dogs/stop-puppy-farming>.

### Australian Capital Territory

- 1.46** A breeding licensing system operates in the Australian Capital Territory (ACT). It is an offence to breed a litter from a dog or cat without a breeding licence.<sup>39</sup> The licence may limit the number of litters a dog or cat may breed (s72E(2)).<sup>40</sup>
- 1.47** The licence requirement was introduced in 2015, and originally applied to a person wishing to breed a litter from a dog or cat for profit or commercial gain. The reference to ‘for profit or commercial gain’ was removed in December 2017.<sup>41</sup>
- 1.48** A registrar must refuse to grant a licence if the applicant has been disqualified from keeping a dog or any other animal.<sup>42</sup> The registrar must also consider, prior to granting a licence:
- the number and kind of animals kept by the applicant at the premises
  - the size and nature of the relevant premises
  - the suitability of facilities on the premises for keeping and breeding dogs or cats
  - the potential impact on the occupiers of neighbouring premises
  - whether the applicant is a member of a recognised breeding organisation
  - any conviction or finding of guilt of the applicant within the last 10 years against a law of a state or territory for an offence relating to the welfare, keeping or control of an animal
  - the safety of the public and other animals.<sup>43</sup>

### International experience

- 1.49** Other countries have legislated in recent years in relation to the breeding and sale of companion animals, notably in Europe, as well as the United States of America (US).
- 1.50** Some international jurisdictions have moved to ban the sale of puppies and kittens in pet shops. A ban on the sale of puppies and kittens by third parties, including pet shops, has applied in the United Kingdom since 2020.<sup>44</sup> Three states in the US (California, Maine and Maryland) had banned the sale of puppies in pet stores as at July 2020.<sup>45</sup>
- 1.51** The European Union (EU) Platform on Animal Welfare was established in 2017 as an initiative of the European Commission. It consists of EU countries, EU bodies, international

<sup>39</sup> Section 72, *Domestic Animals Act 2000* (ACT).

<sup>40</sup> Section 72E(2), *Domestic Animals Act 2000* (ACT).

<sup>41</sup> Answers to questions on notice, Animal Defenders Office, 23 May 2022, p 3.

<sup>42</sup> Section 72B(2), *Domestic Animals Act 2000* (ACT).

<sup>43</sup> Section 72B(3), *Domestic Animals Act 2000* (ACT).

<sup>44</sup> Schedule 3, The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018; Evidence, Ms Joanne Randall, International Head of Companion Animal Campaigns, Four Paws, 7 April 2022, p 43.

<sup>45</sup> Submission 75, Humane Society International, p 4.

organisations and private stakeholders in the animal welfare sector.<sup>46</sup> Its voluntary initiative on the health and welfare of pets (dogs) in trade produced the *Responsible Dog Breeding Guidelines* in 2020. These guidelines state that there should ideally be one adult carer to every five dogs.<sup>47</sup>

**1.52** The Animal Health Law came into effect in the European Union in April 2021.<sup>48</sup> Anyone in the business of breeding or selling animals must register with their national competent authority. According to Four Paws, since the end of 2021 national animal welfare legislation in France has required online advertising platforms in France to verify the ownership of anyone selling a puppy or kitten.<sup>49</sup> A similar system has been voluntarily implemented in Ireland and will soon operate in Switzerland.<sup>50</sup> There are signs of other countries in Europe adopting similar practices in order to counter poor practices associated with puppy farming and the illegal trade of pets.<sup>51</sup>

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<sup>46</sup> European Commission, *EU Platform on Animal Welfare*, [https://ec.europa.eu/food/animals/animal-welfare/eu-platform-animal-welfare\\_en](https://ec.europa.eu/food/animals/animal-welfare/eu-platform-animal-welfare_en).

<sup>47</sup> Submission 34, Animals Australia, p 2; European Commission, *Responsible Dog Breeding Guidelines*, Endorsed by the EU Platform on Animal Welfare 3 November 2020, p 12, [https://ec.europa.eu/food/system/files/2020-11/aw\\_platform\\_plat-conc\\_guide\\_dogbreeding.pdf](https://ec.europa.eu/food/system/files/2020-11/aw_platform_plat-conc_guide_dogbreeding.pdf).

<sup>48</sup> Evidence, Ms Randall, 7 April 2022, p 50.

<sup>49</sup> Evidence, Ms Randall, 7 April 2022, p 51.

<sup>50</sup> Submission 18, Four Paws Australia, p 4.

<sup>51</sup> Submission 18, Four Paws Australia, p 4.

## Chapter 2 Animal welfare and cat and dog breeding

Concerns about animal welfare are often rooted in deeply held principles. The evidence received during the inquiry expressed a wide range of views, representing the multifaceted and often polarised debate surrounding dog and cat breeding in New South Wales.

This section sets out a brief overview of views on the animal welfare issues raised in evidence, including with regard to cat and dog breeding facilities, breeding and rearing practices, and the physical, behavioural, and socialisation impacts of breeding on dogs and cats. The views documented here set the foundation for the more specific debates explored in each of the subsequent chapters of this report.

### Size of cat and dog breeding facilities

- 2.1** There was significant discussion among stakeholders regarding the animal welfare implications of larger and smaller cat and dog breeding facilities. For example, Animals Australia contended that a number of kittens and puppies are bred in 'intensive breeding conditions that fail to meet the animals' behavioural, social and psychological needs'.<sup>52</sup>
- 2.2** Stakeholders such as Australian Veterinary Association highlighted that animal welfare issues can arise in both small and large breeding facilities:
- Good and bad animal welfare practices are possible in all sizes of breeding operations. Just because the business is large, doesn't necessarily mean that welfare isn't managed properly, and small-scale backyard or "mum and dad" breeders can be equally guilty of not looking after their animals properly.<sup>53</sup>
- 2.3** In this regard, Animal Care Australia warned the committee that a small-scale breeder can continuously breed, and over breed, their animals, leading to risks for the welfare of the fertile female dogs, as well as concerns for the genetic diversity of the litters.<sup>54</sup>
- 2.4** On the other hand, the committee heard evidence that the 'capacity for care', that is, the management of animals in a way that allows for optimal health and welfare, was greater among small-scale breeders compared to large-scale breeders. In this vein, the Cat Protection Society of NSW noted that 'bigger animal populations present bigger levels of risk that need more resources to manage', and underscoring that 'restricting the number of animals is a valid regulatory strategy to promote animal welfare'.<sup>55</sup>
- 2.5** Some inquiry participants warned that facilities that breed large numbers of cats or dogs in one location are often associated with overcrowding and unhygienic living conditions, the spreading of contagious disease, untreated medical conditions, accumulation of faeces, poor ventilation, extreme temperatures, contaminated food and water, as well as psychological damage caused by being confined to kennels or cages for long periods of time.<sup>56</sup>

<sup>52</sup> Submission 34, Animals Australia Federation, p 2.

<sup>53</sup> Submission 219, Australian Veterinary Association, p 7.

<sup>54</sup> Submission 5, Animal Care Australia, p 19.

<sup>55</sup> Submission 8, Cat Protection Society of NSW, p 2.

<sup>56</sup> Submission 17, People for the Ethical Treatment of Animals, p 2; Submission 3, RSPCA NSW, pp 5-6 citing Franklin D McMillan, 'Behavioral and psychological outcomes for dogs sold as puppies

**2.6** Local Government NSW voiced concerns regarding the scale and extent of mass dog breeding facilities, which it observed has been growing with each year.<sup>57</sup> This concern was echoed by other inquiry participants including the Animal Defenders Office, which noted that puppy and kitten farms often operate under the radar. According to the Animal Defenders Office, these facilities are unlikely to be publicly listed or professionally audited, which makes it difficult to know how many such farms operate in New South Wales. The RSPCA NSW has, however, identified almost 900 establishments that could count as an intensive cat or dog breeding facility in this state.<sup>58</sup>

**2.7** In addition, some stakeholders expressed strong concern that intensive breeding facilities can cause dogs and cats to live in a state of sensory deprivation and solitary confinement that prevents exercise, play and socialisation.<sup>59</sup> They noted that these environments can lead to dangerous behaviours, compulsive behaviours, and anxiety that can impact on the animals' chances of settling well into life, once purchased.<sup>60</sup> The Cat Protection Society expanded on the seriousness of these welfare concerns:

[T]he puppies and kittens who have been born in intensive breeding facilities will come with conditions that might last a lifetime; that might require thousands of dollars of corrective surgery; that might lead to relinquishment or euthanasia because the new owner cannot deal with the temperament and/or health issues of their new pet.<sup>61</sup>

**2.8** It should be noted that the *Animal Welfare Code of Practice – Breeding Dogs and Cats* (hereafter the Breeding Code) does outline accommodation, environment and security standards for cat and dog breeding facilities to ensure the safety and wellbeing of the animals. These include requirements that:

- premises must have a continuous water supply, adequate to meet the daily requirement of the dogs and cats held
- premises must prevent the transmission of infectious disease agents, prevent the escape of animals and not cause injury to either animals or humans
- animals must be provided with shelter from rain and wind, direct sunlight or other adverse weather conditions and must be provided with a clean and dry dedicated sleeping area
- all sleeping areas for cats and dogs must have clean, hygienic, dry and soft bedding, appropriate to the species and breed, sufficient for the number of animals held
- animals known or suspected to be suffering from a significant infectious disease or severe injury must be taken directly to an isolation facility unless written advice from a registered veterinary practitioner indicates that this is unnecessary.<sup>62</sup>

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through pet stores and/or born in commercial breeding establishments: Current knowledge and putative causes' (2017), *Journal of Veterinary Behaviour: Clinical Applications and Research*.

<sup>57</sup> Submission 21, Local Government NSW, p 4.

<sup>58</sup> Submission 6, Animal Defenders Office, p 11; RSPCA, *Annual Report 2021*, p 8.

<sup>59</sup> Evidence, Ms Amy Johnson, 23 May 2022, p 8; Submission 200, Sentient, p 3.

<sup>60</sup> Submission 10, Tree of Compassion Incorporated, p 2; Submission 34, Animals Australia, p 3.

<sup>61</sup> Submission 8, Cat Protection Society NSW, p 2.

<sup>62</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, August 2021, pp 10-11.

- 2.9 During evidence, dog and cat breeders provided their views on the Companion Animals Amendment (Puppy Farms) Bill 2021 (hereafter the Puppy Farms Bill), and the proposed restrictions on the size and scale of cat and dog breeding facilities. Breeders contended that the proposed limitations on the number of fertile females were uninformed and will adversely affect hundreds of legitimate medium to large scale breeding facilities. By contrast, many animal protection groups argued that the cap on numbers was critical, because there is no way to provide an animal a 'life worth living' in a large-scale facility.<sup>63</sup> This will be examined in detail in chapter 3.
- 2.10 The committee visited Rockley Valley Park, a dog breeding facility operated by Kellyville Pets near Bathurst, and spoke with its owner and staff. The facility is approved to house up to 60 breeding dogs, but as noted in their submission, Rockley Valley Park operates a 'dog guardian program' where the majority of breeding dogs live in family homes under 'transparent' breeding arrangements.<sup>64</sup>

## Breeding and rearing practices

- 2.11 Another focus of participants' discussion of animal welfare concerned breeding and rearing practices.
- 2.12 The Breeding Code guidelines state that dog and cat breeders have a responsibility to ensure that their breeding animals and the offspring are physically and behaviourally healthy. The Breeding Code requires that 'breeding animals maintain the best quality of life possible', and states that 'litters should only be produced with a reasonable expectation of finding homes where they are both wanted and appreciated'.<sup>65</sup>
- 2.13 The RSPCA NSW noted that successful, responsible breeding involves 'prioritising breeding from animals that have proven ability to produce offspring that are healthy, of sound temperament and, in some cases, have particular performance traits (for example, assistance dogs, agility or livestock herding dogs)'.<sup>66</sup> It further observed that 'breeding frequency and intensity, if excessive, will compromise an animal's welfare'.<sup>67</sup>
- 2.14 Inquiry participants expressed a range of perspectives on the impacts of breeding and rearing practices in terms of animals' physical health, behaviour, emotions, and socialisation. Each is explored in detail below.

### Physical health impacts

- 2.15 Numerous participants expressed concerns about the physical health impact of breeding practices on companion animals, especially on fertile females and their offspring.

<sup>63</sup> Evidence, Dr Rosemary Elliott, President, Sentient, 7 April 2022, p 34.

<sup>64</sup> Submission 223, Kellyville Pets, p 1.

<sup>65</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, p 31.

<sup>66</sup> Submission 3, RSPCA NSW, p 2.

<sup>67</sup> Submission 3, RSPCA NSW, p 2.

- 2.16** Animal welfare representatives highlighted that breeding requires careful selection of breeding dogs to maximise positive health outcomes for puppies. As noted by the RSPCA NSW, this should involve 'observation and objective assessment of canine health and temperament in addition to relevant health screening tests (for example, radiographs, cardiac ultrasound, ocular examination) and genetic testing where appropriate'.<sup>68</sup>
- 2.17** The Breeding Code provides standards and guidelines to ensure the health of animals, including regularly monitoring for signs of disease, injury and distress. These require all dogs and cats to be inspected at least once daily to monitor their health and well-being, noting if the animal:
- is not eating, drinking, defecating, urinating and behaving normally
  - is showing signs of illness or distress
  - is not able to move about freely
  - is not displaying a normal coat.<sup>69</sup>
- 2.18** Animal welfare organisations including the Animal Defenders Office cautioned the committee about the possible physical health impacts that intensive animal breeding can cause to the animals and their offspring, including inbreeding, malnourishment, genetic and birth defects, and illnesses due to squalid conditions and little to no veterinary care.<sup>70</sup>
- 2.19** Participants noted a number of medical issues suffered by fertile females who come from large-scale cat or dog breeding facilities. Sentient reported that many suffer from eclampsia as a result of prolonged nutrient depletion. In addition, Sentient noted 'bitches are typically mated as soon as they come into season and are in a constant state of either pregnancy or nursing, all of which places a lot of stress on the body'.<sup>71</sup>
- 2.20** Sentient argued that fertile female dogs should not be bred during their first oestrus cycle to prevent increased metabolic demands while they are still growing. To minimise health risks, Sentient recommend that 'all animals should also be examined by a veterinarian before breeding, to ensure suitability and fitness to breed, and a veterinarian certificate should be issued to confirm this'.<sup>72</sup>
- 2.21** In addition, the committee heard that breeding 'purebred' and 'designer' companion animals for their popular aesthetics can also lead to negative health outcomes. A number of stakeholders including People for the Ethical Treatment of Animals (PETA) highlighted that breeding dogs to meet 'aesthetic standards' may be detrimental to their health:

Dachshunds have been bred to have long backs and short legs, which leads to a higher risk of lifelong problems with the back, knees, and other joints. German Shepherds commonly have hip dysplasia and chronic pelvic pain.<sup>73</sup>

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<sup>68</sup> Submission 3, RSPCA NSW, p 4.

<sup>69</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, pp 23-24.

<sup>70</sup> Submission 6, Animal Defenders Office, p 7.

<sup>71</sup> Answers to supplementary questions, Sentient, p 1.

<sup>72</sup> Answers to questions on notice, Sentient, p 6.

<sup>73</sup> Submission 17, PETA Australia, p 1.



**2.22** In the same vein, Tree of Compassion explained that brachycephalic (flat-faced) breeds such as pugs, French bulldogs, and British bulldogs, commonly suffer from breathing problems:

Some brachycephalic dogs have trouble breathing while lying down, so they are often sleep deprived. Others develop oesophageal issues. These dogs are also susceptible to heat stress, exercise intolerance, eye problems, dental disease, skin infections, and spinal deformities.<sup>74</sup>

**2.23** Sentient raised similar concerns, stating that:

The current approach of breeding companion animals for appearance rather than health and temperament, along with the demand for brachycephalic or flat-faced dogs and cats, is responsible for animal suffering that is entirely preventable and should be banned in animal welfare legislation. These animals suffer gross physical deformities that make everyday life unbearably stressful. The current breed standards need complete revision.<sup>75</sup>

**2.24** While the majority of evidence gathered during this inquiry focused on dog breeding, it was also acknowledged by some that intensive breeding of kittens is similarly problematic in terms of negative animal health consequences.<sup>76</sup>

**2.25** The Cat Protection Society of NSW reported that certain cat breeds are vulnerable to health problems, stating 'the tragedy is that these 'popular' cat breeds are often those with inherent serious health problems, such as the Scottish Fold and those with brachycephalic features such as Persians'.<sup>77</sup>

**2.26** Many participants highlighted the increasing need for consumers to be better educated and informed about the health risks of these designer pets. This is discussed further in chapter 6.

### **Behavioural and emotional impacts**

**2.27** Alongside physical health concerns, the committee heard about the behavioural and emotional impacts of intensive breeding on female dogs and cats and their offspring. The RSPCA NSW cautioned that extreme and prolonged confinement with limited exercise, socialisation and companionship results in 'frustration, boredom, and distress' which in turn can lead to lifelong health and behavioural problems.<sup>78</sup>

**2.28** In their submission, the RSPCA NSW referenced a North American study of over 1,100 dogs which found significantly higher rates of fear, house-soiling and compulsive behaviours (including spinning, tail chasing, fence running, and pacing) among those from puppy farms compared to other dogs. The study found that puppy farming is linked to less desirable behaviour including aggression, touch sensitivity and separation-related distress, pointing to

<sup>74</sup> Submission 10, Tree of Compassion Incorporated, p 3.

<sup>75</sup> Evidence, Dr Elliott, 7 April 2022, p 34.

<sup>76</sup> Submission 6, Animal Defenders Office, p 2.

<sup>77</sup> Submission 8, Cat Protection Society of NSW, p 1.

<sup>78</sup> Submission 3, RSPCA NSW, p 4.

'stress-induced psychopathology and inadequate early socialisation and/or lack of exposure to environmental stimuli' as causal factors.<sup>79</sup>

- 2.29** Similarly, Animals Australia referenced a UK study conducted by animal scientists at Newcastle University in 2016 which found that 'across all behaviour categories, including trainability, dogs from less responsible breeders had significantly less favourable behaviour and temperament scores than puppies from responsible breeders'.<sup>80</sup>
- 2.30** On the other hand, with respect to breeding more generally, evidence from the Australian Association of Pet Dog Breeders highlighted the positive emotional benefits breeding dogs experience postpartum, including the 'same flood of oxytocin during lactation as human mothers'. The Association contended that a female dog with her offspring 'in the first three intense emotional weeks postpartum experiences emotions that no desexed pet would ever feel'. The Association suggest that 'a well-planned guardian program has the potential to improve the behaviour and genetic health of the pet dog population'.<sup>81</sup>

### Socialisation impacts

- 2.31** Several stakeholders highlighted the importance of puppies and kittens having quality socialisation with humans, their mother and their littermates during the critical early weeks of their development. These stakeholders raised concerns about the lack of socialisation standards in existing New South Wales breeding practices.
- 2.32** To promote the physical and behavioural welfare of dogs and cats, the Breeding Code guidelines state that 'dogs and cats which are well socialised to human adults and children and with other animals will become well-adjusted companions. The best opportunity to socialise puppies to humans and other animals is before twelve weeks of age'.<sup>82</sup>
- 2.33** Dr Imogen Tomlin-Game, Chief Veterinary Officer at RightPaw, was critical of what she saw as the current Breeding Code's lack of minimum socialisation requirements, and argued that socialisation standards would have much more bearing on the overall health and wellbeing of dogs than the size of the facility from which a puppy originates:

[N]o matter what size facility you are, there is nothing currently in the New South Wales code of practice that discusses minimum socialisation requirements ... That would be incredibly important, probably much more so than just regulating the numbers you are allowed to keep in one place. No matter what numbers you are keeping, mandating with a standard the minimum socialisation requirements will have far more influence on the welfare of the dogs.<sup>83</sup>

<sup>79</sup> Submission 3, RSPCA NSW, p 5, quoting Franklin D McMillan, 'Psychological characteristics of rescued puppy mill and hoarded dogs', (2013) Small Animal and Exotics Proceedings. *North American Veterinary Conference*, Orlando, Florida, pp 19-23.

<sup>80</sup> Submission 34, Animals Australia p 2, quoting Rebecca Gray, Catherine Douglas, Sophie Butler, James Serpell, 'Do puppies from 'puppy farms' [puppy mills] show more temperament and behavioural problems than if acquired from other sources?' (2016) Presented at *British Society of Animal Science Annual Conference*, Chester, UK.

<sup>81</sup> Submission 76, The Australian Association of Pet Dog Breeders, p 5.

<sup>82</sup> Department of Primary Industries, *Animal Welfare Code of Practice – Breeding Dogs and Cats*, p 32.

<sup>83</sup> Evidence, Dr Imogen Tomlin-Game, Chief Veterinary Officer, RightPaw, 7 April 2022, p 6.

**2.34** Ms Joanna Randall, International Head of Companion Animal Campaigns at Four Paws, echoed the importance of quality socialisation:

The science would say that companion animals like dogs and cats need regular interaction with both people and other animals in a way that facilitates their natural behaviour and that encourages healthy behaviour at a young age as well. Providing the proper and adequate socialisation and learning from a young age for puppies as well is incredibly important.<sup>84</sup>

**2.35** Linked to socialisation, the committee heard from a number of stakeholders who drew attention to the negative implications of removing a puppy from its mother at a young age. RSPCA Australia observed that 8 weeks is the minimum acceptable age for removing puppies from their mother for adoption or purchase, as is reflected in the Breeding Code.<sup>85</sup> Sentient explained that this age is the minimum because the weaning process (the transition from milk to solid foods) is gradual and occurs usually between 8 and 12 weeks of age. Sentient argued that 12 weeks is a more appropriate age to remove a puppy from its mother.<sup>86</sup> Dr Rosemary Elliott, President of Sentient, explained to the committee that a good breeder will keep puppies until they are weaned. This ensures the puppies have plenty of opportunities to socialise and get used to different experiences and allows their brain to develop optimally.<sup>87</sup> Ms Elliot remarked:

I would certainly say 12 weeks would be better. There are a lot of things that they learn, and they are still in that socialisation period. With the mother and their litter mates they learn about behaviour with conspecifics. A lot of dogs do not have any idea about how to relate to other dogs, and I think that they did not get that nudging and slight nipping from their mums to know not to be too in your face.<sup>88</sup>

**2.36** Participant views in relation to purchasing animals with health and behavioural problems, and relatedly, unwanted pets and animal shelters, are all explored in detail in chapter 6 on consumer protection and education.

## Community concerns

**2.37** The committee received significant evidence from members of the public indicating their concerns in relation to the current state of regulation around breeding in New South Wales and puppy farming. Reflecting these concerns, one witness summarised that 'If people are serious about buying a member of the family – purchasing a pet – they should go to a reputable and licensed breeder. That is it. No pet shops, no puppy farming. They should be closed down – not next week or next year but as soon as possible – to stop the cruelty'.<sup>89</sup>

<sup>84</sup> Evidence, Ms Joanna Randall, International Head of Companion Animal Campaigns, Four Paws, 7 April 2022, p 42.

<sup>85</sup> Answers to questions on notice, Sentient, p 2.

<sup>86</sup> Answers to questions on notice, Sentient, pp 2-3, citing Moriah Hurt, Judi Stella, and Candace Crony, 'Implications of weaning age for dog welfare', (2015) *Purdue University*, Indiana, USA.

<sup>87</sup> Evidence, Dr Elliott, 7 April 2022, p 38.

<sup>88</sup> Evidence, Dr Elliott, 7 April 2022, p 38.

<sup>89</sup> Evidence, Ms Grace Gate, Individual, 23 May 2022, p 12.

- 2.38** In response to the online questionnaire issued by this committee, which received 6,088 responses, the vast number of respondents (over 86 per cent) indicated that they would like to see laws to stop puppy farming.

### **Committee comment**

- 2.39** The committee concludes this chapter with two key findings. First, that all other factors being equal, there is an inverse relationship between numbers of animals at intensive breeding facilities and the ability to guarantee positive welfare outcomes for animals. Accordingly, limits must be placed on the number of dogs that can be housed at a breeding facility. Second, that without imposing staffing ratios and socialisation requirements, it is impossible to meet positive welfare outcomes for all animals housed in industrial-scale breeding facilities.

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#### **Finding 1**

That all other factors being equal, there is an inverse relationship between numbers of animals at intensive breeding facilities and the ability to guarantee positive welfare outcomes for animals. Accordingly, limits must be placed on the number of dogs that can be housed at a breeding facility.

#### **Finding 2**

That without imposing staffing ratios and socialisation requirements, it is impossible to meet positive welfare outcomes for all animals housed in industrial-scale breeding facilities.

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- 2.40** This chapter has documented the welfare concerns as they relate to cat and dog breeding facilities, current breeding and rearing practices, and its impact on the physical, behavioural, emotional, and social health and wellbeing of companion animals. The committee acknowledges these issues here in order to inform the debate on specific matters that follow in the remaining chapters of this report.

## Chapter 3 Companion Animals Amendment (Puppy Farms) Bill 2021

The Companion Animals Amendment (Puppy Farms) Bill 2021 (hereafter the Puppy Farms Bill) was introduced by the Hon Emma Hurst MLC in the Legislative Council on 13 October 2021. In the second reading speech for the bill, Ms Hurst emphasised that, at present, New South Wales does not impose caps on the number of dogs or litters they may have, or any minimum staffing requirements on breeders.<sup>90</sup>

Accordingly, the Puppy Farms Bill proposes to amend the *Companion Animals Act 1998* to regulate the conduct of businesses breeding companion animals and other companion animal businesses, and to provide enforcement powers for the purposes of regulating the conduct of such businesses. It does this by inserting Part 6A into the Act and Division 3 into Part 7A. In many ways, it follows the Victorian model outlined in chapter 1. However, there are some notable differences.

This chapter provides an overview of a number of aspects of the bill, and inquiry participants' views on them. It discusses the definitions employed by the bill, and the implications of them. It also examines the proposed introduction of caps on the number of breeding females as well as caps on the number of litters female dogs and cats may have. The need for companion animal businesses to register with their local council is explored, as well as the requirements that the proprietor be a fit and proper person. Further, the chapter considers the matters of staffing ratios, veterinary checks, breeding arrangements, limitations on pet stores, and enforcement provisions proposed by the bill.

### Definitions

- 3.1** As noted in chapter 1, the Puppy Farms Bill does not seek to define 'puppy farms'. Some inquiry participants contended that the bill should include a definition, while others thought it was unnecessary.<sup>91</sup> Further, there were varying opinions as to what constitutes a puppy farm, with some focusing on the welfare of the animals irrespective of numbers, whereas for others, the size of a breeding facility is also a factor. The Animal Defenders Office considered that it would be problematic to define puppy farm in legislation, with it best kept as a colloquial term.<sup>92</sup>
- 3.2** The bill divides breeders into two main groups: microbreeders and companion animal breeding businesses. It also refers to companion animal businesses, which include, but are not limited to, companion animal breeding businesses. Its definitions for each are set out below.

#### Microbreeders

- 3.3** Proposed section 61A defines a microbreeder as a person who:
- (a) carries out the breeding of dogs or cats for sale, and

<sup>90</sup> *Hansard*, Legislative Council, 13 October 2021, p 7 (Emma Hurst).

<sup>91</sup> Submission 4a, DOGS NSW, p 1; Submission 5, Animal Care Australia, p 1; Submission 9, NSW Cat Fanciers Association, p 2; Evidence, Ms Tara Ward, Solicitor, Animal Defenders Office, 7 April 2022, p 48.

<sup>92</sup> Evidence, Ms Tara Ward, Solicitor, Animal Defenders Office, 7 April 2022, p 48.

(b) has, at any one time, no more than 2 fertile female dogs or 2 fertile female cats.

### **Companion animal breeding business**

**3.4** Proposed section 61E defines a companion animal breeding business as an enterprise that carries out the breeding of dogs or cats for sale and has no less than three fertile female dogs or cats.

### **Companion animal business**

**3.5** Proposed section 61D defines a 'companion animal business' as one of the following:

- a pet shop
- a companion animal breeding business
- an enterprise that rears or keeps dogs or cats for sale, profit or a fee, or in exchange for a service
- an enterprise that trains or boards dogs or cats for profit.

**3.6** The bill proposes that a companion animal business must comply with the applicable business code of practice. The relevant codes of practice under the bill are:

- *Animal Welfare Code of Practice – Breeding dogs and cats* (August 2009)
- *Animal Welfare Code of Practice – Animals in pet shops* (August 2008)
- *Animal Welfare Code of Practice No 5 – Dogs and cats in animal boarding establishment* (October 1996)
- a business code of practice made by the Departmental Chief Executive and published in the Gazette.<sup>93</sup>

### **Implications of definitions**

**3.7** Many of the changes proposed by the Puppy Farms Bill, such as caps on the number of litters, requirements for council registration, and compulsory veterinary checks, as detailed throughout this chapter, apply to companion animal breeding businesses and companion animal businesses but not to microbreeders. Under the Puppy Farm Bill, microbreeders would still be required to comply with the Breeding Code and would be subject to the source number and traceability regime outlined at paragraph 3.43 – 3.48. Microbreeders may be denied a source number (and therefore will be unable to advertise an animal for sale) if they lack 'sufficient qualifications or experience in caring for companion animals' – see proposed section 61U.

**3.8** The definitions employed by the bill are consequently of considerable weight. The categorisation of breeders into the two main groups of microbreeders and companion animal breeding businesses, and the differing requirements to which each is subject, provoked much comment from inquiry participants. Whether microbreeders should be exempt from some legislative

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<sup>93</sup> Proposed sections 61ZB and 61C, Puppy Farms Bill.

requirements was a point of contention for many stakeholders, and is discussed later in this chapter.

### Cap on number of breeding females

**3.9** One of the key elements of the Puppy Farms Bill is that it would cap the number of female breeding animals that a proprietor of a companion animal breeding business may have at no more than 10 fertile female dogs or cats.<sup>94</sup> This includes dogs or cats that are the subject of a breeding arrangement (defined in proposed section 61B) (as discussed in chapter 2). Many inquiry participants held a strong view as to whether or not this cap is appropriate, and differed according to whether animals kept as part of breeding arrangements should be included.

**3.10** Animal protection organisations were supportive of a cap. For example, the Cat Protection Society of NSW stated:

Total numbers do matter. We are talking about companion animals. They need to live in homes in family structures, not institutions. Even the best institutional care is not the same as a home. No cat or dog thrives in a shelter, pound, boarding or quarantine facility. These provide short-term shelter only. Animals need homes to thrive.<sup>95</sup>

**3.11** The Animal Defenders Office agreed, noting that:

The community expects that dogs and cats should be afforded the highest levels of legal and regulatory protection. When we discuss the regulations and legal system today, we have to remember that anything short of best standard is failing these animals. This means that any business with a high number of breeding mothers and litter outputs must be considered through a strict lens and the question should be what kind of business can provide the level of individual care and attention expected of animals bred to be family members.<sup>96</sup>

**3.12** Dogs NSW expressed concern that capping the number of breeding females to 10 could have a severe impact on the preservation of purebred dog breeds.<sup>97</sup> They highlighted that many purebred breeders keep their puppies until they are older than eight weeks, sometimes for many months, whilst they determine whether a puppy is suitable for showing, breeding or dog sports. They remarked that the bill could potentially define a puppy as a breeding dog, and include it in the count of breeding females held.<sup>98</sup>

**3.13** A number of inquiry participants raised concerns about the potential impact of a cap on bloodlines.<sup>99</sup> Ms Yvonne Yun, Executive Member, German Shepherd Dog Council of Australia, explained that in relation to German shepherds, the dogs bred as suitable for a family differ to

<sup>94</sup> Proposed section 61ZC, Puppy Farms Bill.

<sup>95</sup> Evidence, Ms Kristina Vesk, Chief Executive Officer, Cat Protection Society of NSW, 23 May 2022, p 27.

<sup>96</sup> Evidence, Ms Sarah Margo, Solicitor, Animal Defenders Office, 7 April 2022, p 42.

<sup>97</sup> Submission 4, Dogs NSW, p 3.

<sup>98</sup> Submission 4, DOGS NSW, p 2.

<sup>99</sup> Evidence, Mr John Carr, dog breeder, 7 April 2022, p 13; Evidence, Ms Yvonne Yun, Executive Member, German Shepherd Dog Council of Australia, 7 April 2022, p 15.

those bred for use as service dogs by the police, air force, or in prisons.<sup>100</sup> Some have their own breeding programs and access specific bloodlines to ensure a dog's temperament is suited to their purpose.

- 3.14** The Australian Association of Pet Dog Breeders similarly expressed alarm about the impact of a cap on breeding females. They cautioned that limiting breeders to ten fertile females would prevent them from:
- maintaining genetic diversity in their breeding stock
  - selecting only the best dogs for the next generation
  - generating enough income to invest in excellent infrastructure
  - employing good staff and paying them well.<sup>101</sup>
- 3.15** Some stakeholders highlighted the possible repercussions of a cap on the availability of puppies in the face of considerable consumer demand. In this vein, Kellyville Pets claimed that limiting breeders to ten fertile females will result in a 'significant increase' in backyard breeding, due to the resulting shortage of puppies and consequent inflated prices.<sup>102</sup>
- 3.16** Others objected to the imposition of a cap on the basis that it would negatively impact breeders without improving animal welfare. RightPaw, a start-up that verifies responsible dog breeders against a vet-approved code of ethics, strongly opposed the number of fertile female dog and cats being capped at 10, stressing that it is possible to responsibly breed more than 10 dogs. They claimed that many NSW breeders currently breed more than 10 dogs and do so with exceptional standards of animal welfare.<sup>103</sup>
- 3.17** In contrast, other inquiry participants passionately supported the imposition of a cap on the number of fertile female animals held.<sup>104</sup> People for the Ethical Treatment of Animals Australia (hereafter PETA Australia) argued that a cap of 10 breeding dogs would prevent 'large-scale intensive factory farming-style operations'.<sup>105</sup>
- 3.18** The Cat Protection Society of NSW viewed large-scale commercial premises as 'cruel and unnecessary', contending that 'there are no regulations that could provide animals with good welfare when the number of animals kept is on an industrial scale'.<sup>106</sup> They view the imposition of a cap as beneficial for enforcement, arguing that the banning of breeding in high numbers will facilitate the identification of puppy farmers.<sup>107</sup>
- 3.19** The number of animals at which a cap be set was also a matter of debate. Oscar's Law stated that they were '... in strong support of a cap on 10. We would not want to see it any more than

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<sup>100</sup> Evidence, Ms Yun, 7 April 2022, p 15.

<sup>101</sup> Submission 76, Australian Association of Pet Dog Breeders, p 3.

<sup>102</sup> Submission 223, Kellyville Pets, p 2.

<sup>103</sup> Submission 16, RightPaw, p 3.

<sup>104</sup> Submission 34, Animals Australia, p 1; Submission 75, Humane Society International, p 6.

<sup>105</sup> Submission 17, People for the Ethical Treatment of Animals, p 5.

<sup>106</sup> Submission 8, Cat Protection Society of NSW, p 2.

<sup>107</sup> Submission 8, Cat Protection Society of NSW, p 4.



that. That was where we were meant to land in Victoria and we do think that it is the best model without amendment'.<sup>108</sup>

**3.20** Sentient agreed, noting that 'the more animals the more stressful it is in general and the harder it is for people to look after them and to provide sufficient enrichment. Ten seems like a reasonable number. Obviously this is all highly subjective but we feel pretty confident that 10 provides the ability for a typical family, like one primary, two primary carers to look after a dog with a ratio of one human to five dogs'.<sup>109</sup>

**3.21** Some inquiry participants observed that a cap on the number of fertile females will not in itself ensure the welfare of the animals concerned. The Australian Veterinary Association stressed that animal welfare practices can be good or bad irrespective of the size of a cat or dog breeding facility:

Limiting the number of animals allowed to be kept by breeders is not necessarily going to improve animal welfare. The ability of an establishment to provide for an animal's welfare is influenced by its capacity to care through the provision of space, resources, time, and trained staff in adequate numbers.<sup>110</sup>

**3.22** The RSPCA NSW highlighted the complexities surrounding whether large scale cat and dog breeding facilities should be permitted, suggesting that 'it encompasses considerations of both animal welfare science and ethical decision-making around what compromises to welfare standards are acceptable to meet consumer demand'.<sup>111</sup> In her evidence, Dr Liz Arnott, Chief Veterinarian, RSPCA NSW, referred to the increased risks to animal welfare in high-volume breeding establishments and correspondingly, pointed to a need for greater safeguards and requirements in respect of them:

While it may be possible for intensive, large-scale breeding establishments to comply with the laws relating to breeding, we do believe it requires closer examination as to whether the animals' welfare can be sufficiently safeguarded in these environments and what level of staffing, staff qualifications and animal care that would require.<sup>112</sup>

**3.23** The complexities around limiting the size and scale of breeders in the context of a licensing scheme are discussed in chapter 5.

## Limits on breeding

**3.24** In addition to limits on the number of fertile females, the Puppy Farms Bill restricts when a dog or cat may be used for breeding, and would introduce limits in respect of litters.

**3.25** Proposed section 61ZF limits a companion animal breeding business to breeding from a female dog or cat a maximum of two times. A dog or cat must also not be bred from if a heritable

<sup>108</sup> Evidence, Ms Georgie Purcell, President, Oscar's Law, 23 May 2022, p 10.

<sup>109</sup> Evidence, Dr Katherine van Ekert, Vice President, Sentient, 7 April 2022, p 36.

<sup>110</sup> Submission 219, Australian Veterinary Association, p 7.

<sup>111</sup> Evidence, Dr Liz Arnott, Chief Veterinarian, RSPCA NSW, 7 April 2022, p 53.

<sup>112</sup> Evidence, Dr Arnott, 7 April 2022, p 53.

defect is identified in a previous litter, and they must not be bred with a dog or cat related by blood.

- 3.26** Proposed section 61ZK requires the proprietor of a companion animal breeding business to cease breeding from a dog or cat when they are no longer suitable for breeding, is no longer required by the business, or is female and has delivered two litters. Male dogs are not to be used for breeding purposes once they are six years or older.

### **A cap on litters**

- 3.27** The cap on the number of litters a female may have, and the imposition of a maximum breeding age for male dogs, provoked a variety of responses from inquiry participants.
- 3.28** The imposition of a two litter cap was strongly supported by a number of stakeholders.<sup>113</sup> Animals Australia commended this restriction, arguing that it is based on the recommendations of animal welfare experts and would maximise the 'welfare and quality of life for the breeding females after their "use" has ceased'.<sup>114</sup> Similarly, Sentient referred to a number of studies and stressed that 'Peer-reviewed research findings clearly identify negative welfare outcomes for both mothers and their puppies when a female dog is overbred and some studies recommend against breeding female dogs more than twice'.<sup>115</sup>
- 3.29** On the other hand, the RSPCA NSW warned that a cap on litters 'encourages breeders to acquire increasingly more animals as they regularly retire breeding females, to allow for continued breeding'.<sup>116</sup> It further argued that it does not allow for breeding practices that prioritise breeding from those animals with proven ability to produce healthy offspring of sound temperament and with specific performance traits. They also warned of the potential impact on breeding programs for assistance and working dogs, and observed that the bill does not allow for the evaluation of maternal care behaviour.<sup>117</sup>
- 3.30** Various stakeholders argued that the timing and spacing of breeding is a more important welfare consideration than the number of litters. For example, the RSPCA NSW stated 'we are unaware of any evidence to suggest that sufficiently spaced and timed breeding, in animals that can breed and whelp naturally without problems, compromises welfare if undertaken more than twice'.<sup>118</sup> A number of submissions cited Professor Clair Wade, Chair of Computational Biology and Animal Genetics at the University of Sydney, to argue that the cap on litters lacks animal welfare justifications and scientific support.<sup>119</sup> Kellyville Pets advocated that the number of litters be capped at five instead of two, and that it be based on pre-mating and post-partum veterinary checks.<sup>120</sup>

<sup>113</sup> Submission 10, Tree of Compassion, p 1; Submission 17, People for the Ethical Treatment of Animals, p 5; Submission 75, Humane Society International, p 6.

<sup>114</sup> Submission 34, Animals Australia, p 1.

<sup>115</sup> Answers to supplementary questions, Sentient, 19 May 2022, p 7.

<sup>116</sup> Submission 3, RSPCA NSW, p 1.

<sup>117</sup> Submission 3, RSPCA NSW, p 2.

<sup>118</sup> Submission 3, RSPCA NSW, p 3. See also: Submission 16, RightPaw, p 3.

<sup>119</sup> For example, Submission 4, DOGS NSW, p 5.

<sup>120</sup> Submission 223, Kellyville Pets, p 3.

- 3.31** It is noted that many breeder organisations impose a litter cap on their members. For example, the Australian Association of Pet Dog Breeders advised they had a cap of five litters and Dogs NSW indicated they have a cap of six litters. The Victorian Code of Practice also imposes a cap of five litters over a lifetime.<sup>121</sup>

### **Other restrictions**

- 3.32** Some stakeholders remarked on the other breeding restrictions proposed by the Puppy Farms Bill. Animal Care Australia argued that there is no documented welfare reason to desex an animal at the age of six. It also warned, 'By removing the male at 6 years of age and all females after two litters this is effectively reducing genetics and healthy bloodlines to the point of extinction of the breed'.<sup>122</sup>
- 3.33** While the Australian Veterinary Association provided in principle support to the requirement that a dog or cat not be bred from where a heritable defect has been identified in a previous litter, it called for the meaning of a heritable defect to be clarified, noting that some dog breeds have serious health and welfare problems because they have been deliberately bred with exaggerated features.<sup>123</sup>

### **Registration with local council**

- 3.34** The Puppy Farms Bill requires the premises of a companion animal business to be registered for that purpose with the local council.<sup>124</sup> It is an offence under proposed section 61Z to conduct a companion animal business on unregistered premises.
- 3.35** Proposed sections 61F to 61R detail the registration process and its requirements. An authorised officer of the council is required to enter and inspect the premises to determine whether the applicable business codes of practice have been complied with before the business registers, or renews registration for, the premises.<sup>125</sup> The bill also makes provisions for councils to set a fixed fee for registrations and renewals.

### **Fit and proper person test**

- 3.36** Proposed section 61K sets out a number of discretionary grounds which may form the basis for a council refusing an application (or suspending or revoking an existing registration). These grounds include where the applicant or proprietor:
- has previously been declared bankrupt
  - may not be able to meet the necessary expenses

<sup>121</sup> Evidence, Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, 7 April 2022, p 7.

<sup>122</sup> Submission 5, Animal Care Australia, Response to Companion Animal Amendment Bill 2021, p 20.

<sup>123</sup> Submission 219, Australian Veterinary Association, p 7.

<sup>124</sup> Proposed section 61Z.

<sup>125</sup> Proposed sections 61F and 61G, Puppy Farms Bill.

- has failed to comply with a business code of practice, the *Companion Animals Act* or regulations, or a term or condition of the registration
- has given false or misleading information in the application
- does not have sufficient qualifications or experience in caring for companion animals
- is not a fit and proper person to conduct the business.

**3.37** Proposed section 61L requires a council to refuse or revoke an application where the applicant or proprietor has been found guilty of an offence under the *Companion Animals Act*, POCTAA or associated regulations, or under corresponding laws in other states or territories. An application must also be refused or revoked if the applicant has been:

- the subject of a disqualification order
- the subject of an interstate prohibition order
- found guilty of bestiality (including attempted)
- found guilty of serious animal cruelty
- found guilty of having killed or seriously injured animals used for law enforcement.<sup>126</sup>

**3.38** Some participants commented on this aspect of the bill. The Animal Defenders Office noted that a fit and proper person test was included in the *Dog Amendment (Stop Puppy Farming) Act 2021 (WA)*.<sup>127</sup>

**3.39** Oscar's Law noted that 'There are a number of puppy farmers operating right now in New South Wales who have been charged and convicted of animal cruelty and do continue to operate'. They discussed the case of a New South Wales breeder who was convicted of 18 counts of animal cruelty, but was still allowed to keep 105 dogs. Oscar's Law noted that, by contrast, in Victoria, 'anyone who is convicted of animal cruelty cannot run a domestic animal business'.<sup>128</sup>

**3.40** The limited ability of councils to currently consider whether someone is a fit and proper person to operate a cat or dog animal breeding facility is discussed in chapter 4. An overview of the information that is presently included in the NSW Pet Registry is provided in chapter 5.

**3.41** The Australian Veterinary Association supported the exclusion of anyone who has been found guilty of an animal cruelty offence from being able to register a companion animal business, and agreed that councils should be able to suspend and revoke registrations. In its view this is particularly important as 'a significant number of animal hoarders identify as breeders'.<sup>129</sup>

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<sup>126</sup> Sections 30B(1), 31 and 31(AA)(1), *Prevention of Cruelty to Animals Act 1979*; sections 79, 80, 530 and 531, *Crimes Act 1900*.

<sup>127</sup> Evidence, Ms Ward, 7 April 2022, p 48; Section 26J of the *Dog Amendment (Stop Puppy Farming) Act 2021 (WA)* empowers a local government to refuse to grant an approval to breed where the applicant is not a fit and proper person to breed dogs.

<sup>128</sup> Evidence, Ms Purcell, 23 May 2022, pp 18-19.

<sup>129</sup> Submission 219, Australian Veterinary Association, p 6.

- 3.42** In addition, Oscar's Law and Animals Australia highlighted the importance of recognising interstate convictions to prevent puppy farmers from relocating to other jurisdictions.<sup>130</sup>

### Source numbers and traceability

- 3.43** Proposed section 61S requires a companion animal business to be issued with a source number. Animal rescuers, microbreeders and others who propose to sell a dog or cat by advertising, may also apply for a source number.<sup>131</sup> Any advertisement of a dog or cat for sale must include the source number of the person selling the animal.<sup>132</sup>
- 3.44** Many stakeholders strongly approved of the increased traceability of animals as an effective means of combatting puppy farms. Four Paws contended that traceability 'is absolutely crucial to ending the cruelty inherent in puppy farming'. They gave evidence that the inclusion of source numbers and breeder registrations in the Puppy Farms Bill would put New South Wales on par with what has been implemented across the European Union following the implementation of the EU Animal Health law in April 2021.<sup>133</sup>
- 3.45** The Animal Defenders Office supported the requirement for a source number, to provide members of the public with some assurance that the seller is both legitimate and has been authorised to sell dogs or cats. In addition it argued this would 'make it more difficult for "rogue" or illegal breeders to operate'.<sup>134</sup>
- 3.46** The Master Dog Breeders and Associates favoured a universal breeder identification system with all dogs advertised to be identified by a Breeder Identification Number as well as microchip details. While they applauded the proposed introduction of source numbers, they argued that 'it still falls far short of what is required and has aspects which places power on a Departmental Executive which [are] not required and will not work'.<sup>135</sup>
- 3.47** The Australian Veterinary Association voiced its support for 'the implementation of a rigorous companion animal registration system coupled with a comprehensive breeder registration system that will provide a high level of traceability of companion animals throughout the supply chain in the community'.<sup>136</sup>
- 3.48** The centrality of traceability to preventing puppy farms is discussed in the context of the NSW Pet Registry and the proposal for a licensing scheme in chapter 5.

<sup>130</sup> Evidence, Ms Purcell, p 21; Evidence, Ms Shatha Hamade, Legal Counsel, Animals Australia, 23 May 2022, p 21.

<sup>131</sup> Proposed section 61T, Puppy Farms Bill.

<sup>132</sup> Proposed section 61ZP, Puppy Farms Bill.

<sup>133</sup> Evidence, Ms Joanna Randall, International Head of Companion Animal Campaigns, Four Paws, 7 April 2022, p 50.

<sup>134</sup> Submission 6, Animal Defenders Office, p 4.

<sup>135</sup> Submission 220, Master Dog Breeders and Associates, p 5.

<sup>136</sup> Submission 219, Australian Veterinary Association, p 5.

## Staffing ratios

- 3.49** Proposed section 61ZG requires a companion animal breeding business to always have one staff member at the premises for every five animals kept. Failure to do so risks a maximum penalty of 400 penalty units and/or one year imprisonment for an individual, and 2000 penalty units for a corporation. This is similar to the ideal staffing ratio proposed by the EU Platform on Animal Welfare and was supported by a number of inquiry participants, including Animals Australia and Humane Society International.<sup>137</sup>
- 3.50** RSPCA NSW also noted the importance of staffing ratios, stating that 'careful surveillance from adequate numbers of staff is necessary to ensure disease and injury is not overlooked among the large number of animals'.<sup>138</sup>
- 3.51** However, Dogs NSW argued that this ratio is excessive and not sustainable, noting that even the RSPCA does not operate with such a high proportion of carers to animals.<sup>139</sup> Kellyville Pets declared it 'an outrageous unnecessary cost burden on breeders designed to make breeding unviable'.<sup>140</sup> It noted that shelters with higher maintenance dogs utilise a ratio of one staff member for every 20 dogs, and the Victorian laws allow for a ratio of 1 to 25.<sup>141</sup>
- 3.52** A number of participants spoke of the practical difficulties with such a ratio, especially given that many breeders operate from their homes. The French Bulldog Club stressed that its members are mostly hobby breeders and do not have staff, with their dogs primarily their pets and companions.<sup>142</sup>
- 3.53** The Australian Veterinary Association suggested that further consultation be conducted with stakeholders on this aspect of the bill, observing that the effectiveness and practicalities of the proposed ratio are contestable.<sup>143</sup>

## Requirements for veterinarian care

- 3.54** The Puppy Farms Bill provides for greater involvement by veterinarians in the care of breeding dogs and cats. Proposed section 61ZD requires proprietors of companion animal breeding businesses to ensure each dog or cat of the business undergoes a general health assessment with a veterinary practitioner:
- at least once a year
  - within four weeks of breeding
  - within eight weeks of a litter being delivered (in the case of a female dog or cat).

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<sup>137</sup> Submission 34, Animals Australia, p 2; Submission 75, Humane Society International, p 7.

<sup>138</sup> Submission 3, RSPCA NSW, p 9.

<sup>139</sup> Submission 4, DOGS NSW, p 6.

<sup>140</sup> Submission 223, Kellyville Pets, p 2.

<sup>141</sup> Submission 223, Kellyville Pets, p 2.

<sup>142</sup> Submission 74, French Bulldog Club, p 2.

<sup>143</sup> Submission 219, Australian Veterinary Association, p 8.

- 3.55** Failing to meet this requirement risks a maximum penalty of 400 penalty units and/or one year imprisonment for an individual. The maximum penalty for a corporation is 2000 penalty units.
- 3.56** Under the bill, the proprietors of a companion animal breeding business would be required to obtain veterinary certification that a dog or cat is suitable for breeding within four weeks before breeding from them.<sup>144</sup> This includes an assessment that the cat or dog is at least 12 months old and is sufficiently physically mature before they are bred from.
- 3.57** The committee received evidence that highlighted some of the practical difficulties associated with these requirements.<sup>145</sup> The RSPCA NSW noted that it is difficult for a veterinarian to confidently determine that a breeding animal is over 12 months of age.<sup>146</sup>
- 3.58** Dogs NSW contended that the requirement for an annual veterinary check in addition to a check within four weeks of breeding and within eight weeks of birthing is 'too rigid and not supported scientifically'.<sup>147</sup>
- 3.59** In contrast, the Animal Defenders Office argued that there is a strong need for the bill's requirements for veterinary assessments, referring to the requests it receives for assistance from people who have purchased puppies or kittens affected by illnesses or conditions likely to have been contracted at the premises of the breeder.<sup>148</sup> The inclusion of the various mandatory veterinary checks in the Puppy Farming Bill was also supported by World Animal Protection and Sentient, who noted that under the current regulatory framework, there is 'no mandate for routine veterinary care for breeding animals or their offspring'.<sup>149</sup>

### Breeding arrangements and guardian homes

- 3.60** The Puppy Farms Bill intends to regulate 'breeding arrangements', also referred to as guardian homes by some inquiry participants. These are defined in proposed section 61B(1) as an arrangement between a breeding business and a person where the dog or cat lives with the person but returns to the breeding business on occasion for the purposes of breeding or delivering a litter. 'Breeding arrangements' and 'guardianship' or 'guardian homes' were frequently used interchangeably by participants throughout the inquiry.
- 3.61** During the inquiry it became apparent that breeding arrangements are more common in relation to dog than cat breeding. Ms Kristina Vesk, Chief Executive Officer of the Cat Protection Society of NSW gave evidence that, whilst cat breeders work with other breeders, she was not aware of a situation where a cat breeder will sell a kitten on the proviso that it return for breeding purposes.<sup>150</sup>

<sup>144</sup> Proposed section 61ZE, Puppy Farms Bill.

<sup>145</sup> Evidence, Ms Michelle Grayson, Treasurer, NSW Cat Fanciers Association, 7 April 2022, p 29.

<sup>146</sup> Submission 3, RSPCA NSW, p 3.

<sup>147</sup> Submission 4, DOGS NSW, p 4.

<sup>148</sup> Submission 6, Animal Defenders Office, p 4.

<sup>149</sup> Submission 22, World Animal Protection, p 1; Submission 200, Sentient, pp 3-4.

<sup>150</sup> Evidence, Ms Vesk, 23 May 2022, p 31.

**3.62** Opinions on the ethics of breeding arrangements, and whether dogs and cats subject to such arrangements should be included in the cap on the number of breeding females, varied greatly. Participant views also differed as to the ease with which a breeding arrangement should be able to be terminated.

**3.63** Dr Imogen Tomlin-Game, Chief Veterinary Officer, RightPaw, highlighted some of the benefits of these breeding arrangements:

[A] breeder would usually sell a dog to a family with a contract where they have usually paid a smaller fee for the dog, and the dog is not necessarily registered in the new owner's name yet. It might still be technically owned by the breeder. So it goes to live with another family, but it will come back to the breeder for the purposes of breeding or having a couple of litters. Then eventually, when they are done with breeding, they will be desexed and go back to that original family. It is a way of a family purchasing a dog but on terms with the breeder. It is going to be used for breeding and then it will eventually go to live with them permanently. It is a really nice way of dogs being able to have a family and live in a home environment and not having to be kept in a kennel, basically, in a large breeding facility.<sup>151</sup>

**3.64** RightPaw believes these breeding arrangements, or 'guardian homes', often offer 'better housing and socialisation opportunities for breeding dogs, as compared to kennelling on a single premises'.<sup>152</sup>

**3.65** Ms Yvonne Yun, Executive Member, German Shepherd Dog Council of Australia, raised concerns about the use of breeding arrangements by large scale puppy breeding facilities on the basis that the breeder does not know the temperament of the animal in that situation and is unaware of other factors that allow for the best breeding result.<sup>153</sup>

**3.66** The Chief Inspectors from the RSPCA NSW and Animal Welfare League NSW voiced concerns that breeders can use breeding arrangements to avoid compliance with the law. The welfare of animals may be jeopardised as a result.<sup>154</sup> According to Mr Matthew Godwin, Chief Inspector, Animal Welfare League NSW, 'guardianship has been used to move animals around and it makes them very hard to find'.<sup>155</sup> The RSPCA NSW asserted that 'if you are going to permit this sort of arrangement, then the requirements for establishing them, monitoring them and being able to check on the welfare of the animals that are the subject of them is vital'.<sup>156</sup>

**3.67** Oscar's Law agreed and observed that:

When it comes to guardianship laws, we are really happy to see that included in this bill. The reasons for that being, we get so many complaints from people who take on those guardian animals not realising the arrangement that they have entered into and that they

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<sup>151</sup> Evidence, Dr Imogen Tomlin-Game, Chief Veterinary Officer, RightPaw, 7 April 2022, p 4.

<sup>152</sup> Submission 16, RightPaw, p 2.

<sup>153</sup> Evidence, Ms Yun, 7 April 2022, p 18.

<sup>154</sup> Evidence, Mr Scott Meyers, Chief Inspector, RSPCA NSW, 7 April 2022, p 61.

<sup>155</sup> Evidence, Mr Matthew Godwin, Chief Inspector, Animal Welfare League NSW, 7 April 2022, p 62.

<sup>156</sup> Evidence, Ms Kathryn Jurd, General Counsel, RSPCA NSW, 7 April 2022, p 61.



are bound by that contract. It is very, very distressing for people who semi-own those animals to then have to return them to a puppy farm for breeding and whelping.<sup>157</sup>

### **Inclusion in the cap on breeding females**

- 3.68** Under the bill, breeding females subject to a breeding arrangement are to be counted in the total number of breeding females held by a proprietor.
- 3.69** Dogs NSW disagreed with the inclusion of animals subject to a breeding arrangement in the cap on the number of breeding females, asserting that it 'will have unintended consequences to our members striving to maintain a breeding program for the preservation of health tested purebred dogs raised in a family environment'.<sup>158</sup>
- 3.70** RightPaw recommended that dogs who are part of a breeding arrangement be excluded from the total number of fertile females, arguing that encouraging larger puppy breeding facilities to use these arrangements maximises the welfare of the breeding dog by providing them with better housing and socialisation opportunities.<sup>159</sup>
- 3.71** In a similar vein, Kellyville Pets strongly objected to the inclusion of dogs within a breeding arrangement in the total number of fertile females held on the basis that such arrangements embody best practice in animal welfare:

This form of breeding practice ticks every box of welfare, where a breeding dog gets to live in a family home and are bred by an experienced breeder at the breeder's premises for a limited number of litters. The breeding dog is then desexed and becomes the family pet once breeding is complete. We should be encouraging this practice more rather than restrict it.<sup>160</sup>

- 3.72** The Australian Association of Pet Dog Breeders also opposed the inclusion of 'guardian homed' dogs in the ten dog limit. In their view, 'Guardian programs allow breeders to assess their breeding dogs behaviourally, as adults, in a real-world situation, for their suitability as pets'.<sup>161</sup>

### **Termination of arrangements**

- 3.73** Proposed section 61B empowers a person who has entered into a breeding arrangement to terminate the arrangement at any time and keep the dog or cat so long as they pay the market price of the dog or cat. In addition, the breeding arrangement may be terminated without payment of the market price if a vet has assessed the animal as being unsuitable for breeding.
- 3.74** Dogs NSW objected to the bill allowing an otherwise legally binding contract between the breeder and purchaser to be retrospectively considered null and void.<sup>162</sup> In contrast, the Animal

<sup>157</sup> Evidence, Ms Purcell, 23 May 2022, p 20.

<sup>158</sup> Submission 4, DOGS NSW, p 3.

<sup>159</sup> Submission 16, RightPaw, p 2.

<sup>160</sup> Submission 223, Kellyville Pets, p 2.

<sup>161</sup> Submission 76, Australian Association of Pet Dog Breeders, p 5.

<sup>162</sup> Submission 4, DOGS NSW, p 2.

Defenders Office argued that the ability to terminate these arrangements is warranted, noting that:

The ADO receives requests for assistance from people who have 'purchased' a puppy but their possession of the animal is subject to a breeding arrangement. This arrangement ultimately causes significant distress to the new keepers of the animals. If the animal is a female she can be away from her new family for a relatively long time while being used for breeding. The travel times and distances between the breeders and the animal's new family can be lengthy, and having to make the trip multiple times can be stressful for both the animal and keepers. There are also situations where the animal has behavioural or medical issues which according to expert veterinary advice would be best addressed by desexing the animal.<sup>163</sup>

**3.75** As a result, they held that it is only appropriate that such an arrangement can be terminated when in the best interests of the animal.<sup>164</sup>

**3.76** In response to concerns that the relationship between the breeder and the person/s with whom the animal normally resides can become difficult, Mr Nathan Olivieri, Chief Executive Officer, RightPaw, drew the committee's attention to the circumstances in which breeding arrangements are done well, stressing the importance of transparency and ongoing positive relationships of trust:

I think that a lot of great breeders are very transparent and educate their owners upfront about going into an arrangement on breeders' terms to know what they are getting into and setting expectations. All the great responsible breeders would ultimately build a relationship with those guardian homes over time, be very transparent and upfront and create that community ... I think it is the irresponsible breeders who have not built up that trust and relationship with their guardian homes, have not been upfront about what will happen and when the dogs will come back.<sup>165</sup>

**3.77** Nonetheless, Dr Imogen Tomlin-Game, Chief Veterinary Officer, RightPaw, spoke to the committee about the current confusion around who owns the dog in a breeding arrangement, and highlighted the need for greater clarity regarding the rights of both parties.<sup>166</sup> The Animal Defenders Office agreed that 'breeding arrangements' raise complex legal issues:

It is certainly an area that needs regulating because these issues do arise and legally it is a very strange situation where, for all intents and purposes, a title is being transferred and yet it is not. The keepers of the animals end up in quite a difficult situation with no recourse other than breach of contract. There are all sorts of ethical issues associated with it.<sup>167</sup>

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<sup>163</sup> Submission 6, Animal Defenders Office, pp 2-3.

<sup>164</sup> Submission 6, Animal Defenders Office, p 3.

<sup>165</sup> Evidence, Mr Nathan Olivieri, Chief Executive Officer, RightPaw, 7 April 2022, p 8.

<sup>166</sup> Evidence, Dr Tomlin-Game, 7 April 2022, p 8.

<sup>167</sup> Evidence, Ms Ward, 7 April 2022, p 45.

## Pet stores

**3.78** The Puppy Farms Bill intends to change some of the ways pet stores currently operate. Under proposed section 61ZM it would be illegal for a pet shop to sell a companion animal that is not from a rehoming organisation such as the RSPCA, the Animal Welfare League, a council pound, or a rescue group registered with the Office of Local Government. Further, pet shops could only sell dogs that are at least six months old, while cats would need to be at least eight weeks old.<sup>168</sup>

**3.79** The committee heard that Dogs NSW already prohibits members from selling or supplying puppies to pet stores.<sup>169</sup> Whilst the NSW Cat Fanciers Association does not prohibit members from selling to Pet Industry Association Australia accredited pet shops, it acknowledged that pet shops may not provide the conditions that allow dogs and cats to thrive whilst there:

Depending on the set up, it is debatable whether the area allocated is suitable to allow sufficient exercise, ability to retreat from the lights, noise or members of the public, separation of eating, toileting and sleeping areas, environmental enrichment and appropriate socialisation at the ages where puppies and kittens are at their most impressionable.<sup>170</sup>

**3.80** The Animal Defenders Office supported the bill's changes for pet stores on the basis that the trading of dogs and cats through pet shops creates a market for animals sourced from puppy or kitten farms. Further, they contended the proposed restrictions would 'go a long way to stamp out unscrupulous breeders who keep high numbers of breeding animals in intensive and poor conditions'.<sup>171</sup> Animals Australia similarly argued that pet shops are a highly inappropriate environment for puppies and kittens and act as a channel for 'unscrupulous breeders' because, according to Animals Australia, responsible breeders do not usually sell their puppies and kittens through them.<sup>172</sup>

**3.81** Oscar's Law agreed, noting that:

Good breeders will not allow their puppies to be sold in pet shops and for registered breeders, it is already against their code of practice. This means that only backyard breeders and puppy farmers sell in pet shops.<sup>173</sup>

**3.82** On the other hand, the Australian Veterinary Association did not oppose the sale of dogs and cats in pet stores so long as they have been sourced from responsible breeders.<sup>174</sup>

**3.83** Some inquiry participants viewed the restrictions on the age and source of animals sold in pet stores as problematic. Animal Care Australia stressed that most families looking for a pet want a puppy or kitten. They argued that a six month old dog that has been in a shelter 'will have

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<sup>168</sup> Proposed section 61ZN, Puppy Farms Bill.

<sup>169</sup> Tabled document, Dogs NSW, *Regulations Part XIII Code of Ethics*, December 2018 (amended September 2020), p 5.

<sup>170</sup> Submission 9, NSW Cat Fanciers Association, p 8.

<sup>171</sup> Submission 6, Animal Defenders Office, p 6.

<sup>172</sup> Submission 34, Animals Australia, p 3,

<sup>173</sup> Answers to supplementary questions, Oscar's Law, pp 1-2.

<sup>174</sup> Submission 219, Australian Veterinary Association, p 9.

reduced socialisation skills ... animals from shelters are often ignored because no one wants to buy someone else's problem animal'.<sup>175</sup> In a similar vein, Mr Jason Gram, a pet store owner, highlighted that the majority of dogs that are in pounds and animal shelters are Staffordshire or cattle dog crosses, and not the designer type dogs, such as cavoodles, that are generally sold in pet stores.<sup>176</sup> The issues of unwanted pets and animals relinquished to shelters are explored in detail in chapter 6.

- 3.84** The ability to regulate pet stores as opposed to online sales was emphasised by a number of inquiry participants as beneficial to animal welfare outcomes.<sup>177</sup> Kellyville Pets highlighted that pet stores are the most transparent part of the pet industry, as they are open to the public and able to be audited by the RSPCA or Animal Welfare League without notice.<sup>178</sup> Linked to this, Mr Gram listed all the provisions for pets sold in his pet store:

RSPCA etc can come in at any moment and have full access to all my breeder records. All our puppies and kittens are heartworm/flea/intestinal worm treated, vaccinated, microchipped, come with a written health guarantee, one month's free insurance, a free vet check before and after purchase, free desexing for Rescue Pets, free health coverage and a Lifetime Rehoming Guarantee.<sup>179</sup>

- 3.85** Kellyville Pets warned that banning the sale of puppies from pet stores will simply redirect potential consumers to the much more unregulated online arena.<sup>180</sup> The committee is cognisant that it can be difficult to determine whether someone selling online or in a pet shop is sourcing animals from an ethical or genuine breeder; nor do enforcement agencies have the resources available to monitor them. The related issue of the anticipated impact of the bill on the supply of puppies is explored in paragraph 3.107.
- 3.86** Consumer protection and education regarding the sale of dogs and cats are discussed at length in chapter 6.

## Enforcement provisions

- 3.87** The Puppy Farms Bill inserts Division 3 into Part 7A of the *Companion Animals Act 1998*, granting enforcement powers to councils, the NSW Police Force, RSPCA NSW and the Animal Welfare League.<sup>181</sup>
- 3.88** Under the bill, should an enforcement officer determine that a proprietor is breaching proposed Part 6A or a relevant regulation, a compliance notice may be issued or the officer may enter the property and potentially seize all dogs and cats kept by the person.<sup>182</sup>

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<sup>175</sup> Submission 5, Animal Care Australia, Response to Companion Animal Amendment Bill 2021, p 21.

<sup>176</sup> Submission 15, Jason Gram, p 1.

<sup>177</sup> Submission 15, Jason Gram, p 1.

<sup>178</sup> Submission 223, Kellyville Pets, p 2.

<sup>179</sup> Submission 15, Jason Gram, p 1.

<sup>180</sup> Submission 223, Kellyville Pets, p 2.

<sup>181</sup> *Hansard*, Legislative Council, 13 October 2021, p 10 (Emma Hurst).

<sup>182</sup> Proposed section 69K, Puppy Farms Bill.

- 3.89** Enforcement officers would also be empowered, on the recommendation of the relevant council or the Departmental Chief Executive, to enter property and seize dogs and cats from proprietors of companion animal businesses whose registration had been suspended or revoked, or had expired.<sup>183</sup>
- 3.90** Both RSPCA NSW and Dogs NSW expressed concerns with the proposed additions to the existing remit of POCTAA authorised officers.<sup>184</sup> For example, RSPCA NSW highlighted the likely increased demand on council rangers, whilst further suggesting that the bill places an unrealistic onus on enforcement officers:
- The Bill attempts to extend criminal liability in ways generally not seen in the criminal law, requiring proprietors to prevent acts of cruelty or aggravated acts of cruelty being committed upon their animals. This is, respectfully, nearly impossible to enforce because proprietors can only prevent that which they can foresee, and if the act of cruelty for example is perpetrated by someone not known to them or able to be controlled by them, then the section becomes very difficult to enforce.<sup>185</sup>
- 3.91** By contrast, animal protection organisations such as Animals Australia supported the 'greater enforcement powers, including for council and authorised officers' proposed in the Puppy Farms Bill.<sup>186</sup> Oscar's Law noted that in Victoria, they 'have not had any issues or complaints from councils about implementing the legislation', noting that councils already have responsibilities in relation to the enforcement of companion animal issues and 'it is not a really big change in that aspect'.<sup>187</sup>
- 3.92** LGNSW was also supportive in principle. They noted that 'the Bill makes provision for councils to set a fixed fee for registrations and renewals', but that additional resourcing would be required in order to support councils with their additional responsibilities.<sup>188</sup>
- 3.93** Others raised concerns about the need to properly fund those entrusted with enforcement, such as councils and the RSPCA, to fully allow for the inspection, enforcement and prosecutions envisaged in the bill.<sup>189</sup> Bathurst Regional Council observed that many councils do not have sufficient resources to absorb the additional responsibilities under the Puppy Farms Bill.<sup>190</sup> Many animal shelters and pounds already operate at capacity. The bill thus raises questions as to whether rehoming organisations will receive greater funding to deal with the likelihood of more dogs and cats being seized as a result of the bill.
- 3.94** The Australian Veterinary Association indicated its in principle support for the enforcement powers granted to councils, NSW Police, RSPCA NSW and Animal Welfare League to enter properties and seize dogs and cats where the registration has been suspended, revoked or

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<sup>183</sup> Proposed section 69L, Puppy Farms Bill.

<sup>184</sup> Submission 3, RSPCA NSW, p 3; Submission 4, DOGS NSW, p 6.

<sup>185</sup> Submission 3, RSPCA NSW, p 4.

<sup>186</sup> Evidence, Ms Hamade, 23 May 2022, p 17.

<sup>187</sup> Evidence, Ms Purcell, 23 May 2022, p 22.

<sup>188</sup> Correspondence from Cr Darrica Turley, President, Local Government NSW, to Chair, received 15 June 2022.

<sup>189</sup> Submission 50, ACT Rescue and Foster Association, p 2.

<sup>190</sup> Submission 925, Bathurst Regional Council, p 3.

expired.<sup>191</sup> Nonetheless, it flagged that clarification is required as to who will bear the cost of enforcement and suggested that special training be provided 'to ensure inspections and animal seizures are conducted by persons capable of completing the tasks, [who] have a robust understanding of animal behaviour, and [are] well informed in animal welfare legislation'.<sup>192</sup>

- 3.95** Whilst some inquiry participants objected to what they view as an invasion of privacy given many breeders operate from their homes,<sup>193</sup> the Animal Defenders Office commented that the limited power to enter residential premises and seize animals is 'proportionate and contains sufficient checks and balances to ensure that any intrusion on a person's privacy would be minimised, while allowing necessary compliance and enforcement action to occur'.<sup>194</sup>

### Transition period

- 3.96** The Puppy Farms Bill would commence one year after the date of assent (clause 2) thus providing a transition period.
- 3.97** Animal Defenders Office stated that the one year transition period provides stakeholders with adequate time to prepare for the new regulatory framework.<sup>195</sup>
- 3.98** However, RSPCA NSW highlighted a potentially problematic issue concerning breeding establishments that currently have many more than ten dogs, questioning where the excess animals would go once the legislation is in force.<sup>196</sup> It also raised concerns about the number of litters that may be attempted to be bred in the 12 months before the legislation comes into force. Consequently, it suggested that a grandfathering provision may be appropriate.<sup>197</sup>

### General views on the bill

- 3.99** Looking beyond the specific provisions of the bill, inquiry participants held a wide range of views on the Puppy Farms Bill as a whole, from those strongly opposing it, to those ardently in favour, with some stakeholders expressing support for parts of the bill only. This section includes a sample of some of those views, as well as considering some of the opinions expressed as to the impact of the bill on the supply of puppies, whether the bill targets the right people, and lessons to be learned from Victoria.
- 3.100** The Australian Association of Pet Dog Breeders strongly opposed the bill, arguing that it is 'deliberately designed to ensure that no-one can make a living from breeding dogs' rather than being about animal welfare.<sup>198</sup>

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<sup>191</sup> Submission 219, Australian Veterinary Association, p 6.

<sup>192</sup> Submission 219, Australian Veterinary Association, p 6.

<sup>193</sup> Submission 25, John Carr, p 3.

<sup>194</sup> Submission 6, Animal Defenders Office, p 7.

<sup>195</sup> Submission 6, Animal Defenders Office, p 2.

<sup>196</sup> Submission 3, RSPCA NSW, p 2.

<sup>197</sup> Evidence, Ms Jurd, 7 April 2022, p 58.

<sup>198</sup> Submission 76, Australian Association of Pet Dog Breeders, p 3.

**3.101** Similarly, Dogs NSW made a number of fundamental criticisms, stating that it:

... cannot express strongly enough that this Bill if passed through Parliament would see the end of healthy, responsibly bred and raised companion pets. It is draconian and poorly drafted. It duplicates existing legislation and imposes excessive penalties and raises concerns over denial of natural justice. This bill does not address the puppy farm issues, it will contribute to the problem.<sup>199</sup>

**3.102** The NSW Cat Fanciers Association argued that the bill 'does nothing to address the issues of puppy or kitten farms' and 'will have a devastating impact on the preservation of purebred dog and cat breeds in NSW, and likely across Australia. It will also see the increase in the costs to purchase a purebred dog or cat as those breeders who have the time, resources and funding to run as a commercial business will own the market for companion animals'.<sup>200</sup>

**3.103** By contrast, Oscar's Law highlighted that these concerns raised by breeders were not borne out in respect to the Victorian legislation, which the Puppy Farm Bill is modelled off. They stated:

Similar claims were made when it came to the Victorian legislation, and our bill also ended up in an inquiry. These claims are made out of—I guess they come from fear from puppy farmers, and they take people on a scare campaign to make them think that smaller breeders and micro breeders are going to be impacted as well. This legislation is modelled very similar to Victoria's, which we have proven has not had that impact. I guess my message to smaller registered breeders would be that this legislation actually improves what they are doing, creates more accountability and fixes any concerns that the puppies they are breeding might be coming from an unethical place, and it makes the industry as a whole a better place to operate in.<sup>201</sup>

**3.104** Similarly, animal protection groups universally indicated they strongly supported the bill. For example, Animals Australia stated:

Animals Australia strongly supports the bill's primary aims and particulars, which are to address the serious animal welfare issues and the consumer detriment issues which arise through puppy farming and private breeding of dogs and cats, including pet shop and online sales of these vulnerable animals. We are pleased and supportive that the bill is modelled on the Victorian model in this regard, as we have held concerns about the movement of Victorian puppy farmers into New South Wales to escape the new Victorian puppy farm laws. A consistent cross-jurisdictional approach is overdue and urgently required.<sup>202</sup>

**3.105** The Animal Defenders Office wholly supported the bill, arguing that the measures proposed by it are 'balanced, proportionate and necessary, and will go a long way to stamping out intensive and unscrupulous dog and cat breeding in NSW'.<sup>203</sup> In the same vein, PETA Australia contended that there is a 'desperate' need for regulations around puppy farming in NSW, recommending that the bill 'be passed and made into law as urgently as possible'.<sup>204</sup>

<sup>199</sup> Submission 4, DOGS NSW, p 7.

<sup>200</sup> Submission 9, NSW Cat Fanciers Association, p 2.

<sup>201</sup> Evidence, Ms Purcell, 23 May 2022, p 19.

<sup>202</sup> Evidence, Ms Hamade, 23 May 2022, p 17.

<sup>203</sup> Submission 6, Animal Defenders Office, p 2.

<sup>204</sup> Submission 17, People for the Ethical Treatment of Animals, p 1.

- 3.106** Some participants, such as RightPaw, supported the Puppy Farms Bill in part, but contended that regular inspection of breeders' properties, coupled with enforcement of current legislation, would have a greater impact on stopping puppy farming.<sup>205</sup>

### **Impact on supply**

- 3.107** A number of inquiry participants highlighted the anticipated impact of the bill on the supply of puppies. Animal Care Australia asserted that if passed, the bill's provisions would actually lead to an increase in the number of unethical breeders, in that fewer animals will become available, creating an incentive for unethical breeders to take advantage of heightened demand.<sup>206</sup> Mr Jason Gram similarly argued that by ignoring the reality of demand, the bill, should it pass, will cause more harm than good:

[O]ne must accept that there is huge demand from the general public to buy puppies and kittens and this will not stop. By severely restricting breeding and then the sale of ethically sourced puppies/kittens through pet stores, all that will happen is the cost of puppies and kittens will rise dramatically, the difficulty in sourcing puppies and kittens for potential owners will rise dramatically also, and these two factors will drive a surge in unregulated black market puppy/kitten farming and illegal sales of puppies/kittens from these places.<sup>207</sup>

- 3.108** By contrast, Oscar's Law emphasised that there was no shortage of puppies in Victoria, and that the number of registered litters from small breeders had actually increased since their puppy farm legislation commenced:

There definitely is not an issue in terms of the supply of puppies ... registered breeders and small breeders have actually produced more litters since the legislation came into effect. So, no, there is not going to be some sort of puppy shortage crisis if New South Wales outlaws puppy farms. It will just mean that the puppies being bred and raised in the state will be bred and raised in a more ethical way.<sup>208</sup>

### **Scope of the bill**

- 3.109** On a related point, several participants objected to the bill on the basis that it targets the wrong people. The French Bulldog Club stressed the need to distinguish between Dogs NSW registered breeders and unregistered commercial puppy farmers, noting that:

Dogs NSW registered breeders are visible, easily found, already bound by our strict Code of Ethics, National Code of Practice for Heritable Diseases, and custodians of pure-bred dog breeds.

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<sup>205</sup> Submission 16, RightPaw, p 6.

<sup>206</sup> Submission 5, Animal Care Australia, p 1.

<sup>207</sup> Submission 15, Jason Gram, p 2.

<sup>208</sup> Evidence, Ms Purcell, 23 May 2022, p 22.



Unregistered puppy farmers are untraceable, the worst of them breeding solely for profit, no health testing, undermining everything Dogs NSW breeders are doing to breed healthy dogs.<sup>209</sup>

- 3.110** With regard to the issue of targeting, RightPaw concluded that better outcomes would result from the investigation of specific concerns:

A more established and well-resourced process for investigating concerns raised by vets and members of the public regarding suspicious breeding activity, would also radically improve the targeting of inspections towards potential puppy farms, rather than targeting the responsible, well known breeding community who have far more visibility but who are not the problem.<sup>210</sup>

- 3.111** A point of contention for a number of participants was the exclusion of microbreeders from many of the requirements proposed by the Puppy Farms Bill. Dogs NSW declared the definition of a microbreeder to be too limiting, noting that not all entire females can produce litters.<sup>211</sup> The ACT Rescue and Foster Association argued that the bill should not concentrate on larger breeding businesses, stressing that the same issues of animal welfare, breeder competency and genetic considerations apply to microbreeders.<sup>212</sup> However, the Animal Defenders Office, whilst noting that there can still be significant welfare issues with fewer animals, supported the threshold of three fertile cats or dogs to define a companion animal breeding business.<sup>213</sup>

- 3.112** On the other hand, some participants observed that the Puppy Farms Bill at times casts an inappropriately wide net. For example, the Australian Veterinary Association expressed concern with the breadth of the definition of a companion animal business, noting that it would encompass a veterinary clinic that provides puppy training classes or boarding services.<sup>214</sup> It argued that this definition is unnecessarily broad as the veterinary industry is already heavily regulated and inspected. It advocated that the bill utilise the same categorisation of breeders as applies in Victoria, namely, micro breeders, recreational breeders, breeding domestic animal businesses, and commercial breeders.<sup>215</sup>

### **Jurisdictional consistency**

- 3.113** As discussed in chapter 1, some jurisdictions, notably Victoria and Western Australia have amended their laws in recent years to increase the regulation of dog and cat breeding. Many inquiry participants observed that the laws in New South Wales are weaker than some other jurisdictions and are less effective at ensuring the welfare of dogs and cats used for breeding purposes.<sup>216</sup> Given the ease with which people can purchase puppies or kittens from other states, there are potential gains from ensuring similar welfare and breeding standards apply throughout Australia.

<sup>209</sup> Submission 74, French Bulldog Club, p 2.

<sup>210</sup> Submission 16, RightPaw, p 6.

<sup>211</sup> Submission 4, DOGS NSW, p 2.

<sup>212</sup> Submission 50, ACT Rescue and Foster Association, p 1.

<sup>213</sup> Submission 6, Animal Defenders Office, p 3.

<sup>214</sup> Submission 219, Australian Veterinary Association, p 5.

<sup>215</sup> Submission 219, Australian Veterinary Association, p 7.

<sup>216</sup> For example, Submission 6, Animal Defenders Office, p 1.

- 3.114** A number of inquiry participants reported that the tightening of requirements around breeding dogs and cats in Victoria has led to the relocation of some large scale breeders to New South Wales, with border communities thought to be particularly affected.<sup>217</sup> Oscar's Law observed that:

As we knock out puppy farming state by state, it is creating a crisis for New South Wales that must be immediately addressed. While a number of puppy farmers have chosen to shut down completely as a result of legislation in each State, a significant number have also made the decision to relocate to New South Wales, which has the weakest laws in the country when it comes to puppy farming. Our successes in other states have resulted in this state becoming the puppy farming capital and it will only continue to worsen.<sup>218</sup>

- 3.115** Murray River Council, located near the border of New South Wales and Victoria, confirmed they had experienced a 500 per cent increase in development applications for large-scale dog breeding facilities.<sup>219</sup>
- 3.116** Some expressed their support for the Puppy Farms Bill on the basis that it would introduce legislative consistency between states.<sup>220</sup> They argued that this would discourage operators of large cat or dog breeding facilities from relocating their businesses from jurisdictions with stricter laws into New South Wales.<sup>221</sup> For example, Ms Shatha Hamade, Legal Counsel, Animals Australia, gave evidence that a 'consistent cross-jurisdictional approach is overdue and urgently required'.<sup>222</sup>

### **Lessons from Victoria**

- 3.117** A number of inquiry participants discussed the impact of the Victorian legislation. Some inquiry participants felt the Victorian legislation had unintended consequences which could also arise in New South Wales. The Australian Association of Pet Dog Breeders referred to the exemption of small breeders from regulations in Victoria (as discussed in chapter 1), arguing that this has led to:
- a strong incentive for backyard breeders to breed their pets due to the rise in puppy prices
  - established breeders using the exemption to place breeding dogs in unregulated guardian homes
  - illegal breeders using the exemption to keep more than three dogs and sell them from suburban homes in Victoria

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<sup>217</sup> Submission 21, Local Government NSW, p 8; Evidence, Mr Rod Croft, Director, Planning and Environment, Murray River Council, 23 May 2022, p 32; Submission 219, Australian Veterinary Association, p 10; Submission 17, People for the Ethical Treatment of Animals, p 5; Submission 34, Animals Australia, p 1; Submission 76, Australian Association of Pet Dog Breeders, p 16.

<sup>218</sup> Evidence, Ms Purcell, 23 May 2022, p 17.

<sup>219</sup> Evidence, Mr Croft, 23 May 2022, p 34.

<sup>220</sup> Submission 75, Humane Society International, p 75; Submission 6, Animal Defenders Office, p 1.

<sup>221</sup> Submission 75, Humane Society International, p 5.

<sup>222</sup> Evidence, Ms Hamade, 23 May 2022, p 17.

- breeders with less than four dogs being regarded as practicing a hobby, with no oversight of animal welfare.<sup>223</sup>

**3.118** The Master Dog Breeders and Associates raised similar concerns, contending that there has been an increase in unregulated microbreeders in Victoria due to the monetary rewards resulting from less competition for sales with regulated breeders.<sup>224</sup>

**3.119** The RSPCA NSW provided the following examples to highlight how some breeding businesses in Victoria are not subject to the legislation or have sought to circumvent it:

- some breeders are distributing their animals to associated individuals so that the number of animals kept by each person is below either three or ten, allowing them to fall within the definition of a recreational or micro breeder
- working dog exemptions may be claimed without the status being verified
- breeders with up to 10 breeding females that are registered with an applicable organisation are exempt from the Breeding and Rearing Code, but the degree to which breeders are monitored and the organisational code enforced is not apparent.<sup>225</sup>

**3.120** Others pointed to the success of the Victorian scheme. For example, Ms Georgie Purcell, President, Oscar's Law, gave evidence that the Victorian legislation has helped to protect some of the smaller breeders by ensuring accountability, prompting ethical breeding and improving the industry as a whole.<sup>226</sup> She also contended that the laws had resulted in more education and awareness around the source of animals, encouraging the adoption of animals or waiting for the right ethical breeder to be available if a person wanted a puppy.<sup>227</sup>

## Committee comment

**3.121** The committee acknowledges the contributions of the full range of stakeholders in the inquiry, from dog and cat breeders, members of the pet industry, to animal welfare organisations, government bodies, as well as purchasers of companion animals. In many instances, the views of these groups, as well as those expressed in the numerous individual submissions to the inquiry as to whether or not the Puppy Farms Bill should be passed have been passionately communicated, reflecting deep-seated beliefs about companion animals.

**3.122** The committee acknowledges that there is a wide range of views in relation to what is an appropriate size for a dog or cat breeding facility. We recognise that the greater the size of a facility, the greater the risk to animal welfare. However, we accept that animal welfare may equally be a concern in a small cat or dog breeding facility or in relation to a 'backyard breeder'.

**3.123** We note the strong and varied views expressed by inquiry participants as to whether a cap on the number of breeding females is appropriate (in particular, whether a cap of 10 fertile females

<sup>223</sup> Submission 76, Australian Association of Pet Dog Breeders, p 17.

<sup>224</sup> Submission 220, Master Dog Breeders and Associates, p 4.

<sup>225</sup> Submission 3, RSPCA NSW, p 10.

<sup>226</sup> Evidence, Ms Purcell, 23 May 2022, p 18.

<sup>227</sup> Evidence, Ms Purcell, 23 May 2022, p 19.

as specified in the bill would be appropriate), along with the varying evidence on whether the number of litters a female has should be capped at two.

- 3.124** It is clear to the committee that stakeholders differed to a significant extent over whether the Puppy Farms Bill would be effective, with breeding organisations concerned with the impact on their businesses, while animal protection organisations highlighted the benefits it would have in stopping large scale puppy farming. Certain participants felt strongly that the bill was well targeted to achieve defined outcomes, while others were concerned that the bill may drive puppy farming further underground.
- 3.125** Noting the diversity of views on these issues, as well as the strength with which those views are held, the committee has chosen not to form a view on the bill itself, but rather to document the evidence we gathered during the inquiry, elucidating the areas of particular concern to participants. We trust that this will assist the Parliament's detailed consideration of the bill. The committee recommends that the House proceed to debate the bill, and that the concerns identified by stakeholders as set out in this report be addressed during debate.
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### **Recommendation 1**

That the evidence documented in this report, and the conclusions of the committee, inform the Legislative Council's consideration of the Companion Animals Amendment (Puppy Farms) Bill 2021.

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- 3.126** In preparation for that debate, the committee notes the broader context of law reform taking place in other Australian jurisdictions, most notably in Victoria and South Australia, with whom New South Wales shares borders.
- 3.127** The committee acknowledges that dog and cat breeding are more tightly regulated in both Victoria and Western Australia (in the latter state regarding dogs only) than is currently the case in New South Wales. We note further that South Australia has committed to passing similar legislation.<sup>228</sup> In addition, the committee heard that the introduction of stricter legislation regarding dog and cat breeding in Victoria has led to a number of breeders relocating to New South Wales. The committee accepts that this has caused particular issues in some border communities. Further, it recognises that there are benefits to be gained from uniformity of legislation in this area throughout Australia. We support this view, noting the mobility of puppies and their breeders across state borders, driven as they are by a profitable market.
- 3.128** In light of progress in other states, community concerns and the serious animal welfare issues raised in this inquiry, it is clear that action must be taken to address puppy and kitten farming in New South Wales. Therefore, the Committee recommends that if the Companion Animals Amendment (Puppy Farms) Bill 2021 does not pass, the NSW Government should take urgent action on puppy and kitten farms.

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<sup>228</sup> Evidence, Ms Purcell, 23 May 2022, p 17.

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**Recommendation 2**

That, if the Companion Animals Amendment (Puppy Farms) Bill 2021 does not pass, the NSW Government urgently introduce legislation on puppy and kitten farming in New South Wales.

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- 3.129** Several aspects of the bill emerged during the inquiry that the committee recognises as offering significant improvements for New South Wales.
- 3.130** The committee recognises that the inclusion of a fit and proper person test in the *Companion Animals Act*, as intended by the bill, would go some way to addressing concerns raised in evidence, namely, it could be used to empower councils in New South Wales to refuse development applications from persons that have been convicted of animal cruelty offences in New South Wales, or from persons that have relocated into the state who have been convicted of animal cruelty offences in other jurisdictions. We consider that measures should be introduced in New South Wales that recognise animal cruelty convictions in New South Wales, as well as in other states, ensuring that such persons are unable to operate or be associated with cat and dog breeding facilities or the breeding of dogs and cats generally.
- 3.131** The committee takes up the significant issue of a fit and proper person test for breeders, and the related imperative to address the disconnect between planning laws and animal welfare considerations in chapter 4. Our recommendation there includes that the NSW Government ensure that animal cruelty convictions in other jurisdictions are able to be recognised in New South Wales.
- 3.132** Many participants gave evidence about the use of breeding arrangements, frequently referring to them interchangeably with 'guardianship' or 'guardian homes'. The committee recognises that the use of breeding arrangements between breeders and dog owners appears to be an emerging practice and we have some concerns as to the legal strength of this construct. It is clear to the committee that these arrangements can become complicated when breeders and those with whom the dog usually resides differ in their positions as to what is in the best interests of the dog. Further, the committee notes there are some concerns as to the extent to which such contracts are legally binding. For these reasons, the committee recommends that the NSW Government examine the legality of breeding arrangements in New South Wales, including the terms of agreement commonly used, and provide further guidance to the community as to how these arrangements may be problematic if insufficient consideration is given to the terms of such agreements. We also urge the NSW Government to clarify what would be acceptable grounds to terminate a breeding arrangement with a view to ensuring that the best interests of the animal are paramount in any arrangement.
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**Recommendation 3**

That the NSW Government investigate the legality of breeding arrangements, including guardianship, and provide guidance to dog and cat breeders and potential consumers as to appropriate terms of agreement as well as acceptable grounds for termination of arrangements, with a view to ensuring that the best interests of the animal are paramount in any arrangement.

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- 3.133** The Committee notes that, while consensus could not be reached in relation to specific numbers, there was significant evidence presented about the need for a cap on the number of breeding dogs and cats, lifetime litter limits, and staffing ratios. The Committee therefore recommends that, in consultation with key stakeholders, the NSW Government take action to introduce these measures.

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**Recommendation 4**

That the NSW Government closely consider evidence before this inquiry and introduce:

- a cap on the number of female breeding animals that a proprietor of a companion animal breeding business may have
- lifetime litter limits for cats and dogs used for breeding
- staff to animal ratios for companion animal breeding businesses.

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- 3.134** The further important issues of pet stores and sheltered animals raised by the bill are explored in detail in chapter 6, in the context of consumer protection and education.

## Chapter 4 The effectiveness of the current regulatory framework

Having examined the specific provisions of the Companion Animals Amendment (Puppy Farms) Bill 2021 in detail in the previous chapter, the committee now turns to the broader regulatory framework for companion animal breeding in New South Wales. This chapter reviews the evidence received throughout the inquiry with regard to the effectiveness of the way in which dog and cat breeding is currently regulated (as outlined in chapter 1). Inquiry participants pointed to perceived gaps in legislation, raised questions as to the adequacy of the current codes of practice of various breeder associations, and voiced concerns about the functionality of the current pet registry scheme. A number of participants highlighted the challenges councils face in terms of resourcing and enforcement of laws, as well as some of the limitations presented by planning laws in relation to the assessment of development applications for cat and dog breeding facilities. The chapter then explores some of the difficulties experienced by the RSPCA and Animal Welfare League in enforcing the legislation and associated requirements. This is followed by an overview of the role of the Puppy Factory Taskforce and views as to its effectiveness.

It should be noted that a number of stakeholders also questioned the effectiveness and adequacy of current consumer protection mechanisms. This issue is addressed in detail in chapter 6.

### Perceived gaps

- 4.1** Throughout the inquiry, strongly opposing views as to the effectiveness of the current regulatory framework for dog and cat breeding in New South Wales (as set out in chapter 1) became apparent. Some stakeholders spoke of the requirements under the *Companion Animals Act 1998*, the *Prevention of Cruelty to Animals Act 1979* (POCTAA) and their regulations, as well as the *Animal Welfare Code of Practice – Breeding Dogs and Cats* (hereafter the Breeding Code), as both sufficient and effective. Others, whilst believing the current regulatory framework to be adequate, argued that it needs to be better enforced to be truly effective. Some inquiry participants pointed to perceived deficiencies in the Breeding Code, and felt that tightening its requirements would lead to improvements in animal welfare. Others felt that the current framework is severely lacking, with many changes or a complete overhaul urgently required.
- 4.2** The NSW Department of Primary Industries (hereafter DPI) expressed the view that New South Wales already has strong laws in POCTAA, the Prevention of Cruelty to Animals Regulation 2012 and the Breeding Code.<sup>229</sup> In her evidence, Ms Tara Black, Deputy Director-General, Strategy and Engagement, DPI, outlined actions taken by the NSW Government in the last five years to address community concerns in relation to puppy breeding, including through education and enforcement campaigns, upgrades to the NSW Pet Registry, and the increasing of penalties for animal welfare offences.<sup>230</sup> The Office of Local Government contended that passage of the *Prevention of Cruelty to Animals Amendment Act 2021* had created some of the toughest animal cruelty penalties in Australia.<sup>231</sup>

<sup>229</sup> Evidence, Ms Tara Black, Deputy Director-General, Strategy and Engagement, NSW Department of Primary Industries, 23 May 2022, p 44.

<sup>230</sup> Evidence, Ms Black, 23 May 2022, p 40.

<sup>231</sup> Evidence, Ms Ally Dench, Executive Director, Local Government, Office of Local Government, 23 May 2022, p 41.

- 4.3** Other stakeholders similarly viewed the elements of the regulatory framework as providing a solid foundation. Four Paws Australia, a global animal welfare organisation, suggested that, with some exceptions, the current legislative framework 'offers good provisions and comprehensive requirements for the keeping ... of dogs and cats used for breeding'. Nonetheless, it advised that improvements could be made to achieve better animal welfare, as well as strengthen traceability and consumer provisions.<sup>232</sup>
- 4.4** The Australian Association of Pet Dog Breeders considered the current enforcement framework to be effective. However, it argued that it should be expanded and funded by fees generated by an annual breeder identification/licensing fee for each registered entire dog.<sup>233</sup> RightPaw, a start-up that verifies responsible dog breeders against a vet-approved code of ethics, similarly viewed the current legislation as sufficient but argued that it needs to be properly enforced.<sup>234</sup>
- 4.5** On the other hand, numerous inquiry participants saw the current framework as providing inadequate protections for the breeding of animals.<sup>235</sup> In response to the proposition that it should be sufficient to rely on the existing framework, Ms Sarah Margo, Solicitor, Animal Defenders Office, countered:

We disagree and submit that the existing framework is a somewhat haphazard approach because some adverts will list a microchip number, others will list a breeder identification number or a rescue organisation number. This really needs to be streamlined because with the existing framework, it is simply too easy for puppy and kitten farms to sell.<sup>236</sup>

- 4.6** The RSPCA NSW informed the committee that it regularly encounters breeders (including those with few as well as many animals) who have clearly neglected their animals.<sup>237</sup> Mr Scott Meyers, Chief Inspector, RSPCA NSW, emphasised that breaches of animal welfare occur throughout New South Wales, both in regional and metropolitan areas. He referred to a case in Sydney where 60 dogs had been kept in cages stacked three high in a two bedroom unit before they were seized.<sup>238</sup> However, the RSPCA argued that the focus of this inquiry should not just be on 'the cruelty that exists in these noncompliant and neglectful breeding obligations, this does little to inform decisions about what regulatory changes are likely to be effective to ensure ethical, responsible breeding activity and high welfare standards. The issues that require closer examination are, firstly, whether compliance with the current laws and codes related to breeding are sufficient to achieve acceptable animal welfare and, secondly, whether large-scale breeding establishments carry an unacceptable risk to either compliance or to good welfare'. It was ultimately RSPCA NSW's submission that 'compliance with POCTAA and the code for breeding of dogs and cats in New South Wales alone is not synonymous with good welfare'.<sup>239</sup>

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<sup>232</sup> Submission 18, Four Paws Australia, p 1.

<sup>233</sup> Submission 76, Australian Association of Pet Dog Breeders, p 10.

<sup>234</sup> Submission 16, RightPaw, p 6.

<sup>235</sup> Submission 10, Tree of Compassion, p 1.

<sup>236</sup> Evidence, Ms Sarah Margo, Solicitor, Animal Defenders Officer, 7 April 2022, p 51.

<sup>237</sup> Evidence, Dr Liz Arnott, Chief Veterinarian, RSPCA NSW, 7 April 2022, p 53.

<sup>238</sup> Evidence, Mr Scott Meyers, Chief Inspector, RSPCA NSW, 7 April 2022, p 57.

<sup>239</sup> Evidence, Dr Arnott, 7 April 2022, p 53.



4.7 A number of inquiry participants highlighted that conditions in New South Wales have enabled puppy farms to exist. People for Ethical Treatment of Animals Australia (hereafter PETA Australia) described a number of raids of puppy farms in New South Wales, with the RSPCA seizing 79 dogs from a property in the Central West, in which all animals were admitted to veterinary hospital, in addition to raids in Inverell and Wagga Wagga.<sup>240</sup>

## Could the Breeding Code be improved?

4.8 As described in chapter 1, the Breeding Code sets out the standards and guidelines relating to the care and management of breeding dogs and cats for fee or reward in New South Wales. A number of inquiry participants expressed strong views about whether there is a need to improve and strengthen the Breeding Code specifically.

4.9 In her evidence, Ms Black, representing DPI, stressed that the Breeding Code is outcomes focused as opposed to imposing staffing ratios and placing a cap on the number of dogs and the total number of litters a female may have in her life.<sup>241</sup> However, the Breeding Code does include some limits, such as female dogs having no more than two litters in any two year period (and female cats restricted to a maximum of three litters in the same period), unless a veterinary practitioner has provided written approval.<sup>242</sup> With regard to the specific issue of staffing ratios required in the Breeding Code, DPI subsequently noted that the Animal Welfare Advisory Council had completed a review of whether a staff to animal ratio for cat and dog breeding facilities would improve animal welfare outcomes, resulting in advice that supported a ratio of a minimum of one person to 24 animals.<sup>243</sup>

4.10 RightPaw observed that while the Breeding Code is adequate, its enforcement is problematic, due to 'a lack of government resources dedicated to inspection of breeding premises and investigation of complaints or suspicious activity'.<sup>244</sup> Further, it asserted that, 'It is our experience that vets across NSW do not readily report suspicious breeders because they don't know of any robust process in place for lodging their concerns and have no faith that a useful outcome will result from their complaint'.<sup>245</sup>

4.11 Animal Care Australia expressed its general support for the Breeding Code while accepting there is room for improvement. It stressed that different breeds have specific needs and that the Breeding Code should be recalibrated to account for this.<sup>246</sup>

4.12 Others similarly had concerns with the 'one size fits all' approach of the Breeding Code. The NSW Cat Fanciers Association was critical of its failure to differentiate between commercial breeding facilities and hobby/recreational breeders, describing it as 'not fit for purpose'.<sup>247</sup>

<sup>240</sup> Submission 17, People for the Ethical Treatment of Animals, p 3.

<sup>241</sup> Evidence, Ms Black, 23 May 2022, p 49.

<sup>242</sup> Department of Primary Industries, *Animal Welfare Code of Practice Breeding Dogs and Cats*, August 2021, standards 10.1.1.10 and 10.1.1.11.

<sup>243</sup> Answers to supplementary questions, Department of Primary Industries, 27 June 2022, p 3.

<sup>244</sup> Submission 16, RightPaw, p 4.

<sup>245</sup> Submission 16, RightPaw, p 4.

<sup>246</sup> Submission 5, Animal Care Australia, p 9.

<sup>247</sup> Submission 9, NSW Cat Fanciers Association, p 7.

- 4.13** Many inquiry participants argued that the Breeding Code does not sufficiently protect the welfare of animals.<sup>248</sup> The Cat Protection Society of NSW, for example, argued that the code 'does not provide for the health and welfare standards that the community would reasonably expect for dogs and cats in 2021'.<sup>249</sup>
- 4.14** Notably, the RSPCA NSW concluded that the Breeding Code 'does not adequately safeguard the welfare of dogs and cats living in, and produced in, breeding establishments' by:
- permitting breeders to perpetuate heritable diseases
  - not mandating a minimum level of demonstrated competency in the people caring for and managing breeding animals, pups and breeding decisions
  - failing to insist on a staff to animal ratio that supports good care, enrichment, socialisation and monitoring of animals
  - not requiring puppies to be habituated to the domestic environments, people and animals that they will be required to interact with comfortably throughout life
  - allowing confinement of animals in small enclosures, subject to social and spatial restriction, for up to 23 hours and 40 minutes every day.<sup>250</sup>
- 4.15** Breeding organisations also expressed particular concern about the exercise requirements. For example, the Australian Association of Pet Dog Breeders stated that:
- Only revisions to the Breeding Code, addressing management practices and appropriate areas available for exercise, would be able to ensure that all dogs have access to free running exercise, where they can express normal social behaviour, for most of their day.<sup>251</sup>
- 4.16** In particular, the RSPCA NSW highlighted that several provisions considered critical for adequate welfare outcomes are guidelines as opposed to standards, and are thus unenforceable. Further, it suggested that the Breeding Code is deficient compared to more modern canine welfare codes such as the *Victorian Code of Practice for the Operation of Breeding and Rearing Businesses 2014* and the *Victorian Code of Practice for the Private Keeping of Dogs*.<sup>252</sup>
- 4.17** RightPaw voiced similar concerns with the distinction drawn between standards and guidelines, and recommended that a number of the guidelines in the Breeding Code be changed to compulsory standards.<sup>253</sup>
- 4.18** The Australian Association of Pet Dog Breeders called for the Breeding Code to undergo a 'complete overhaul', with urgent consideration of:
- the level of oversight and regulation required for different scales of enterprise

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<sup>248</sup> Submission 17, People for the Ethical Treatment of Animals, p 3.

<sup>249</sup> Submission 8, Cat Protection Society of NSW, p 3.

<sup>250</sup> Submission 3, RSPCA NSW, p 6.

<sup>251</sup> Submission 76, Australian Association of Pet Dog Breeders, p 15.

<sup>252</sup> Submission 3, RSPCA NSW, p 6.

<sup>253</sup> Submission 16, RightPaw, p 5.

- the imposition of limits on the number of breeding dogs a breeder may own, based on staffing levels and available space for regular free running exercise, as well as possible upper limits on total numbers consistent with good welfare outcomes
- the mental and physical wellbeing of breeding dogs
- the appropriate regulation of guardian dogs to address the interests of guardians and breeders
- the number of litters a breeding dog can have, including a limit on the number of caesarean sections
- extension of breeder responsibilities for the dogs they breed and sell, beyond a three day 'cooling off' period.<sup>254</sup>

**4.19** The Department of Primary Industries advised the committee that as of June 2022, all of the provisions in the Breeding Code are to be reviewed as part of the Standards phase of the animal welfare reform process. This will include consultation with stakeholders and the community.<sup>255</sup>

### Breeder groups' codes of practice

**4.20** As noted in chapter 1, in addition to the requirements under the *Companion Animals Act*, POCTAA, their regulations and the Breeding Code, a number of cat and dog breeder organisations also require members to abide by a specific code of practice.<sup>256</sup> For example, members of Dogs NSW are subject to its regulations and code of ethics; members who contravene them may be disqualified from the organisation.<sup>257</sup> The codes of ethics/practice that apply to an organisation's members may enforce stricter standards than apply under the law.<sup>258</sup>

**4.21** In his evidence, Mr Scott Meyers, Chief Inspector, RSPCA NSW, spoke of some breeders who are members of the relevant breeder association but are unaware of their obligations under their association's code of practice. At the same time some breeder associations are proactive in ensuring their members comply with their code, thus embodying best animal welfare practices.<sup>259</sup>

**4.22** However, as Mr John Grima, Member of the Pet Industry Association of Australia and owner of Kellyville Pets, noted, 'at the end of the day, associations can only cancel a membership. They cannot actually prosecute and they cannot actually make anybody do anything. They can only cancel those memberships'.<sup>260</sup>

<sup>254</sup> Submission 76, Australian Association of Pet Dog Breeders, p 20.

<sup>255</sup> Answers to supplementary questions, Department of Primary Industries, 27 June 2022, p 3.

<sup>256</sup> For example, Australian Association of Pet Dog Breeders, Animal Care Australia, NSW Cat Fancier Association, Pet Industry Association of Australia, Right Paw, German Shepherd Dog Council of Australia, French Bulldog Club, and Master Dog Breeders and Associates.

<sup>257</sup> Submission 4, Dogs NSW, p 2.

<sup>258</sup> Answers to questions on notice, Kellyville Pets, 19 May 2022, p 1.

<sup>259</sup> Evidence, Mr Meyers, 7 April 2022, p 56.

<sup>260</sup> Evidence, Mr John Grima, Member, Pet Industry Association of Australia and Owner, Kellyville Pets, 7 April 2022, p 24.

- 4.23** In response to the proposition that every breeder should belong to a registered breeding organisation as a way of preventing puppy farms, Ms Sarah Margo, Solicitor, Animal Defenders Office, countered that a legislative framework would deliver better animal welfare outcomes:

I think that the thing we really need is harmony [across jurisdictions] and for the same set of laws and regulations to apply statewide. I think deferring to specific organisations to come up with their own minimum standards will just create issues for breeders and issues for consumers. There will be a lack of clarity and ultimately less regulation, and less assurance that animal welfare standards are being met.<sup>261</sup>

## Traceability

- 4.24** The committee heard that the current regulatory framework already utilises identification numbers to facilitate the traceability of animals. Under the *Companion Animals Act*, an animal must have a microchip number before it is 12 weeks old or before it is sold or given away.<sup>262</sup> In addition, section 23A of POCTAA requires advertisements for dogs or cats to include either the microchip number, breeder identification number or rehoming organisation number.
- 4.25** As noted in chapter 1, the NSW Pet Registry is a portal that records various details about pets and their owners, and enables a person to register as a breeder. Ms Black, representing DPI, stated that the NSW Government upgraded the registry in the last five years to improve traceability.<sup>263</sup> However, during the inquiry there was some discussion about the onus being on individuals to register their pets, and to update details, with the consequence that the NSW Pet Registry may include details that are out of date, such as in relation to pets that are no longer alive.<sup>264</sup>
- 4.26** A number of inquiry participants expressed the view that the current system is not effective in ensuring the traceability of animals and their source. Animals Australia argued that identifying the source of animals is key to ensuring animal welfare and preventing uncontrolled breeding, asserting that, 'The lack of a mandatory breeder permit number and the ability to sell the animals with easy anonymity (and blank microchips), makes tracing the source of the animals virtually impossible'.<sup>265</sup>
- 4.27** Oscar's Law agreed, stating that in NSW, 'There is no system to track animal movements like there is in Victoria, so we just do not know how many puppies are being bred and sold in the state'.<sup>266</sup> Oscar's Law went on to explain that:

No animal can be sold in Victoria without being registered on the Pet Exchange Register. So if there is a high amount of animals being sold in a certain area, we can now get that data. Councils can look into whether that breeder is registered, whether they are following the laws and whether they are doing the right thing. So even though some

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<sup>261</sup> Evidence, Ms Margo, 7 April 2022, p 47.

<sup>262</sup> Evidence, Ms Suzanne Robinson, Director, Animal Welfare, NSW Department of Primary Industries, 23 May 2022, p 48.

<sup>263</sup> Evidence, Ms Black, 23 May 2022, p 40.

<sup>264</sup> Evidence, 23 May 2022, pp 45-46.

<sup>265</sup> Submission 34, Animals Australia, p 4.

<sup>266</sup> Evidence, Ms Georgie Purcell, President, Oscar's Law, 23 May 2022, p 19.

people might choose to not follow the law, now we are actually able to track them down in a way.<sup>267</sup>

**4.28** Similarly, several other participants insisted that increasing the traceability of animals is a key way to target puppy farmers. For example, the Master Dog Breeders and Associates called for 'systems designed to locate and identify who is breeding dogs, where they are located and where they are homing their puppies ... rather than introducing more and more restrictions and overreach on those who are already doing the right things for their dogs, in plain sight'.<sup>268</sup>

**4.29** In her evidence, Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, insisted on enforced, universal identification of dogs at the point of sale:

... we want to see individual identification of every entire dog in New South Wales and we want to see guaranteed enforcement of that at every point of sale. Every pet shop, every newspaper advertisement has to have a breeder ID number and the microchip number of every puppy. If you can do that, it is going to make it very difficult for everybody who is an illegal breeder to sell their dog because they will not be able to find a way of selling them. That is where we have to target: identification and point-of-sale identification.<sup>269</sup>

**4.30** A number of inquiry participants promoted the greater use of breeder identification numbers, as well as ease of verification. Local Government NSW (hereafter LGNSW) referred to a motion at the 2020 LGNSW Conference where members urged the NSW Government to strengthen legislation to ensure breeder identification numbers are required for all litters, including one-off litters.<sup>270</sup> Four Paws Australia argued that a breeder identification number must be mandatory in advertisements for puppies less than six months old, to ensure full traceability.<sup>271</sup> It is also stressed that advertising platforms must be able to verify the breeder identification number, highlighting that countries in Europe are moving towards this practice.<sup>272</sup>

**4.31** Some participants were of the view that the current system does not utilise its potential. Mr Michael Donnelly, President, Animal Care Australia, claimed that were the NSW Pet Registry updated and formalised, it would enable more to be done such as storing microchip data about the history of an animal. He further advised that microchips do not always last and are not always able to be scanned.<sup>273</sup>

## Enforcement

**4.32** A number of stakeholders referred to the difficulties of enforcing the current law. The committee heard that these difficulties are particularly exacerbated in relation to puppy and kitten farms which hide their existence and operations.

<sup>267</sup> Evidence, Ms Purcell, 23 May 2022, p 20.

<sup>268</sup> Submission 220, Master Dog Breeders and Associates, p 9.

<sup>269</sup> Evidence, Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, 7 April 2022, p 11.

<sup>270</sup> Submission 21, Local Government NSW, p 5.

<sup>271</sup> Submission 18, Four Paws Australia, p 1.

<sup>272</sup> Submission 18, Four Paws Australia, p 4.

<sup>273</sup> Evidence, Mr Michael Donnelly, President, Animal Care Australia, 7 April 2022, p 26.

**4.33** The Animal Defenders Office observed that:

Like most, if not all, intensive animal industries, puppy and kitten farms operate far from the public gaze, behind closed doors and often in remote areas. This aspect of puppy and kitten farms can make enforcement action difficult. These enterprises also present further difficulties when it comes to enforcement because they can operate from within or adjacent to people's homes, blurring the line between residential and commercial premises. The power to enter residential premises under animal welfare laws in NSW is much more limited compared to public or even commercial land.<sup>274</sup>

**4.34** The Animal Defenders Office also noted that it receives complaints about poor enforcement of POCTAA's requirement that advertisements for dogs or cats include either a microchip number, breeder identification number or rehoming organisation number, especially in rural or regional areas. It recommended that the enforcement of sale and advertising requirements be prioritised to stop puppy and kitten farms and 'rogue breeders' from thriving.<sup>275</sup>**4.35** However, Mr Scott Meyers, Chief Inspector, RSPCA NSW, informed the committee of the difficulties in enforcing the requirement for identification numbers to be included in advertisements, as some numbers are simply made up. Mr Meyers stated while the RSPCA receives many complaints regarding animals advertised for sale but not meeting the requirements, its ability to respond is hampered in that, 'We will call the mobile phone number. We need to advise who we are, we cannot pretend we are someone looking to buy a puppy and it goes nowhere very quickly'.<sup>276</sup>**4.36** According to the NSW Cat Fanciers Association, the recent increase in penalties for animal cruelty under POCTAA will result in limited changes to the attitudes and behaviours of those prosecuted under the Act. It pointed to a lack of will on the part of courts to impose weightier penalties and ensure implementation:

[The courts ... do not hand out any worthwhile sentences or consequences to curb the intent, actions and behaviour of people being prosecuted, and to be honest, the charitable organisation that has brought the prosecution doesn't follow up payment of the fine or implementation of any court orders or sentence.<sup>277</sup>

**4.37** A key issue that emerged was the need to ensure that enforcement organisations are adequately funded and resourced. In her evidence, Dr Liz Arnott, Chief Veterinarian, RSPCA NSW, highlighted that whilst the RSPCA NSW and police may be empowered to identify and investigate illegal activities concerning animals, their capacity to do so 'is limited by available evidence and the resources necessary to adequately enforce the law and subsequently care for the animals'.<sup>278</sup> RightPaw similarly stressed the 'lack of government resources dedicated to inspection of breeding premises and investigation of complaints or suspicious activity'.<sup>279</sup>

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<sup>274</sup> Submission 6, Animal Defenders Office, p 10.

<sup>275</sup> Submission 6, Animal Defenders Office, p 11.

<sup>276</sup> Evidence, Mr Meyers, 7 April 2022, p 57.

<sup>277</sup> Submission 9, NSW Cat Fanciers Association, p 7.

<sup>278</sup> Evidence, Dr Arnott, 7 April 2022, p 53.

<sup>279</sup> Submission 16, RightPaw, p 4.

**4.38** Murray River Council drew attention to some of the difficulties around enforcement in regional areas where many puppy farms operate. It informed the committee that while the current operating model centres on the RSPCA as the lead agency, the contact officer at the RSPCA for Murray River Council is located in Orange, 11 hours away, with obvious implications for regular inspections and actions.<sup>280</sup> In relation to some of the limitations of council resources, Bathurst Regional Council stressed that many do not have the facilities to accommodate large numbers of seized animals.<sup>281</sup>

**4.39** On a related issue of resourcing, some participants highlighted the repercussions of increased enforcement for various organisations associated with animal welfare. The RSPCA NSW contended that proper regulatory oversight and enforcement must include resourcing for veterinary care and the housing of seized animals.<sup>282</sup> PETA Australia stressed the impact of these situations on the limited resources of vets, foster carers, the legal system, and the RSPCA. It highlighted the very substantial impact on not-for-profit groups and volunteers:

A significant proportion of the work of rescuing, fostering, caring for, and finding homes for the thousands of homes dogs in Australia is performed by not-for-profit shelters, adoption groups, and networks of foster homes. These entities are primarily funded by community donations, state government grants, and bequests and are often heavily reliant on volunteers to sustain their work. Many are permanently overwhelmed and often refuse to accept animals because they are full.<sup>283</sup>

**4.40** In response to questions concerning the need for a provision to prevent people with animal cruelty convictions from running a puppy farm in New South Wales, Ms Black of DPI stressed that disqualification orders are available under POCTAA. Nonetheless, she acknowledged that it is not mandatory for courts to impose a disqualification order.<sup>284</sup>

## Challenges for councils

**4.41** A number of stakeholders highlighted the impact on New South Wales of the tightening of the law around the breeding of dogs and cats in Victoria following passage of the *Domestic Animals Amendment (Puppy Farm and Pet Shops) Act 2017* (Vic) (detailed in paragraphs 1.36-1.41). LGNSW advised that mass dog breeding facilities are a growing concern/phenomenon in New South Wales, which is viewed as having weaker animal protection laws compared to states such as Victoria and Western Australia.<sup>285</sup> The committee heard how councils on the Victorian border such as Murray River Council and Edward River Council have been particularly affected by breeders moving over the border.<sup>286</sup>

**4.42** Mr Rod Croft, Director, Planning and Environment, Murray River Council, explained to the committee how a number of large-scale breeders had relocated across the border into Murray

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<sup>280</sup> Evidence, Mr Rod Croft, Director, Planning and Environment, Murray River Council, 23 May 2022, p 37.

<sup>281</sup> Submission 925, Bathurst Regional Council, p 3.

<sup>282</sup> Submission 3, RSPCA NSW, p 11.

<sup>283</sup> Submission 17, People for the Ethical Treatment of Animals, p 5.

<sup>284</sup> Evidence, Ms Black, 23 May 2022, p 44.

<sup>285</sup> Submission 21, Local Government NSW, p 9.

<sup>286</sup> Submission 21, Local Government NSW, p 8; Evidence, Mr Croft, 23 May 2022, p 34.

River Council following the introduction of tighter restrictions on companion animal breeding in Victoria.<sup>287</sup> He gave evidence that between four and six development applications had been issued and approved for commercial dog breeding facilities since the introduction of the Victorian legislation, involving 800 to 1,000 breeding dogs, with another under assessment as of May 2022.<sup>288</sup> The committee also heard of a development application for a dog breeding facility in Moama that resulted in more than 3,000 petitions to council and was the subject of extensive media coverage.<sup>289</sup>

**4.43** A number of inquiry participants highlighted a present disjuncture between planning laws and animal welfare considerations. The Cat Protection Society of NSW commented on the difficulties encountered by councils such as Murray River, who face backlash from their local community in allowing puppy farms, but are hampered in their ability to refuse these sort of development applications.<sup>290</sup>

**4.44** The committee heard that councils must assess development applications in accordance with section 4.15 of the *Environmental Planning and Assessment Act 1979*. LG NSW stressed that at present the law requires councils to give greater weight to planning principles than ethical considerations when determining applications, such that they must accept objectively undesirable applications:

Although a council can take into consideration submissions made by the public there is an obligation on the council to ensure that they assess the DA in accordance with planning principles. While there may be social or moral reasons raised by individuals making submissions (eg previous convictions of animal cruelty in other States) there would be a risk to council to refuse the DA if the applicant otherwise satisfied the other matters set out in section 4.15(1).<sup>291</sup>

**4.45** This observation was supported by Mr Croft of Murray River Council who informed the committee that while the council can consider public submissions or public interest when assessing development applications, the public interest is an insufficient reason of itself to refuse the application. He told the committee of legal advice that doing otherwise would leave council exposed to appeal. Mr Croft also advised councils' inability to consider whether an applicant is a fit and proper person when assessing a development application.<sup>292</sup> Councils are even unable to consider animal cruelty convictions from other jurisdictions when considering a development application.<sup>293</sup>

**4.46** LGNSW detailed the related difficulties faced by councils when considering development applications as there is no standalone land use for 'animal breeding' within the Local Environment Plan under the *Environmental Planning and Assessment Act*. Councils must consider any animal breeding establishments within the land use of 'animal boarding or training

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<sup>287</sup> Evidence, Mr Croft, 23 May 2022, p 32.

<sup>288</sup> Evidence, Mr Croft, 23 May 2022, p 33.

<sup>289</sup> Evidence, Mr Croft, 23 May 2022, p 32.

<sup>290</sup> Submission 8, Cat Protection Society of NSW, p 4.

<sup>291</sup> Submission 21, Local Government NSW, p 9.

<sup>292</sup> Submission 21, Local Government NSW, p 8.

<sup>293</sup> Evidence, Mr Croft, 23 May 2022, p 32.



establishments'. LGNSW highlighted that this bundles a number of types of development with quite different considerations.<sup>294</sup>

**4.47** Further, LGNSW advised the committee that planning legislation does not refer to the Breeding Code, thus limiting the ability of councils to refer to the code's requirements when assessing a development application.<sup>295</sup> Mr Croft of Murray River Council informed the committee that a council's policy cannot be more onerous than state legislation. As a result, his council has 'not been able to provide any further assurance around approving appropriate development ... and we are very limited by the disconnect between the Prevention of Cruelty to Animals Act, the animal welfare code of practice and their linkages to our planning system'.<sup>296</sup>

**4.48** That these issues are experienced by a number of councils throughout New South Wales can be seen in the following motion having been endorsed at the 2022 Special Conference for Local Government NSW:

That Local Government NSW calls on the State Government to urgently review the issue of large-scale mass dog-breeding facilities in NSW, including the need for legislative reform and greater oversight by the Government to overcome the issues that councils currently face when considering development applications for such facilities.<sup>297</sup>

**4.49** Nevertheless, the committee also heard of situations where the development application process had worked well. In its submission, Bathurst Regional Council informed the committee of its positive experience with Rockley Valley Park, a dog breeding facility near Bathurst, which sought to adopt best practice in animal welfare. In addition, Bathurst Regional Council warned that where compliance with the law is onerous, some cat and dog breeding facilities may avoid the proper application and assessment process altogether.<sup>298</sup>

**4.50** An example of how some councils have attempted to respond to these issues is the *Companion Animal Breeding Policy* adopted by Murray River Council on 26 October 2021. The policy:

- applies to companion animal breeding establishments with 10 or more breeding companion animals per property
- provides clear advice to applicants and the broader community of new breeding establishments
- clarifies Council's expectations of any existing approved establishments which apply to modify their development consent
- clarifies that whilst development applications for companion animal breeding establishments are assessed with consideration of POCTAA and the Breeding Code, priority consideration is given to the *Environmental Planning and Assessment Act 1979*.<sup>299</sup>

<sup>294</sup> Submission 21, Local Government NSW, p 7.

<sup>295</sup> Submission 21, Local Government NSW, p 7.

<sup>296</sup> Evidence, Mr Croft, 23 May 2022, p 32.

<sup>297</sup> Submission 21, Local Government NSW, p 6.

<sup>298</sup> Submission 925, Bathurst Regional Council, p 2.

<sup>299</sup> Tabled document, Murray River Council, *Companion Animal Breeding Policy*, October 2021, p 2.

## Puppy Factory Taskforce

- 4.51** As noted in chapter 1, in October 2020, the NSW Government provided \$400,000 in funding to support the establishment of a Puppy Factory Taskforce within RSPCA NSW.<sup>300</sup> The taskforce was to focus on identifying and responding to puppy factory activity following reports of increased activity during the COVID-19 pandemic.
- 4.52** In its submission, the RSPCA NSW detailed how four inspectors have been deployed by the taskforce (also known as the Intensive Breeding Taskforce) since March 2021.<sup>301</sup> The inspectors, assisted by a digital intelligence officer, are dedicated to proactive auditing and responding to complaints and intelligence in relation to breeding establishments. Mr Scott Meyers, Chief Inspector, RSPCA NSW, informed the committee of how the taskforce uses their own methods to investigate and identify breeders based on every complaint they receive or intelligence held, with inspectors going through a process to investigate some of the large breeders.<sup>302</sup>
- 4.53** The RSPCA NSW summarised the work of the Puppy Factory Taskforce as follows:
- 428 breeding establishments were inspected from August 2020 to February 2022, totalling 621 visits when revisits are included
  - oversight of almost 8,000 animals
  - 141 animals were seized to provide immediate and necessary care
  - 193 written directions and 58 penalty infringement notices were issued for non-compliance and three prosecutions initiated
  - companion animal breeder related inspectorate activity increased by a factor of 2.7 compared to the 18 months prior.<sup>303</sup>

### Compliance issues

- 4.54** The committee heard that a further benefit of the taskforce is its provision of data about compliance with animal welfare laws in the puppy breeding industry. According to the RSPCA NSW, the taskforce has resulted in increased oversight of the cat and dog breeding industry.
- 4.55** The RSPCA reported that between 1 April 2021 and 25 February 2022, 77 per cent of the 133 breeding establishments visited were not compliant with relevant animal welfare laws.<sup>304</sup>
- 4.56** Ms Black of DPI informed the committee that poor compliance tends to relate to lower level requirements than animal cruelty per se:

Our analysis of the taskforce data shows that in the last six months the rates of noncompliance are higher than we would like, but most of the issues relate to things

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<sup>300</sup> Submission 2, NSW Government, p 1.

<sup>301</sup> Submission 3, RSPCA NSW, p 10.

<sup>302</sup> Evidence, Mr Meyers, 7 April 2022, p 54.

<sup>303</sup> Submission 3, RSPCA NSW, p 10.

<sup>304</sup> Submission 3, RSPCA NSW, p 10.

like record keeping and documentation requirements rather than serious animal welfare issues.<sup>305</sup>

- 4.57** The RSPCA NSW provided a breakdown of section 24N written directions issued by the Puppy Factory Taskforce from 1 August 2020 to 30 April 2022, noting that multiple instructions may be issued on such a direction:

**Table 1 Section 24N Written directions issued by the Puppy Factory Taskforce (1 August 2020 to 30 April 2022)**<sup>306</sup>

Instructions relating to	Clause of COP	Total
Record keeping	5.1	396
Accommodation	6.1.1	239
Environment	6.2.1	5
Security	6.3.1	14
Animal care	7.1.1	18
Food and water	7.2.1	13
Cleaning and disinfection	7.3.1	22
Health checks	8.1.1	2
Veterinary care	8.2.1	96
Transfer of ownership	9.1.1	129
Breeding and rearing	10.1.1	52
Provide vet treatment and follow all instructions	POCTAA	8
Notify inspector of result of vet consult	POCTAA	4
Treat dogs for fly bite	POCTAA	1
Do not use shock collars	POCTAA	1
Total instructions		992
Total 24N's issued		221

- 4.58** There was some discussion at the hearings on 7 April 2022 and 23 May 2022 about the sort of breaches for which written notices were issued, and whether they mostly concerned paperwork errors as opposed to specific instances of animal cruelty. Mr Donnelly of Animal Care Australia asserted that some of the section 24N notices were issued for trivial matters, such as the phone number for a vet not being located where the inspector wanted it, paperwork regarding a

<sup>305</sup> Evidence, Ms Black, 23 May 2022, p 40.

<sup>306</sup> Answers to questions on notice, RSPCA NSW, 18 May 2022, p 1.

guarantee not being immediately available, and requiring 1.8 metre high fencing for a chihuahua.<sup>307</sup>

- 4.59** When asked about non-compliance, Ms Black of DPI responded with reference to Strawberry, a dog whose mistreatment by breeders gained widespread media attention, to reiterate that most non-compliance has been found in respect of more 'minor' requirements:

We are concerned about the high level of noncompliance with the code. I suppose the point I was trying to make is that cases like Strawberry are isolated. Those kinds of issues are not widespread. They are serious, but the higher rates of noncompliance, according to the statistics from the taskforce, are around record keeping and documentation rather than failure to provide food or vet care or those kinds of things that are a more serious welfare issue than not having your paperwork up to date.<sup>308</sup>

- 4.60** Ms Kathryn Jurd, General Counsel, RSPCA NSW, took issue with the notion that paperwork claims do not equate to real animal welfare risks contending that they relate to 'very fundamental aspects of the keeping of animals' such as an awareness of the number of animals on a property or ensuring that animals are vaccinated to protect them from illness and disease.<sup>309</sup> Ms Jurd also emphasised that there is a statutory threshold that must be met before a section 24N written direction can be issued, requiring a suspicion on reasonable grounds that POCTAA or its regulations have been contravened.<sup>310</sup> As a result, the courts have oversight over whether powers are being properly exercised, ensuring they are not issued on a mere whim of the inspector.

### **Effectiveness**

- 4.61** Throughout the inquiry, it was apparent that there were varying views as to the effectiveness of the Puppy Factory Taskforce. The Animal Defender's Office noted the fundamental difficulty of identifying puppy and kitten farms, as they usually operate 'under the radar' and are 'unlikely to be publicly listed or professionally audited'.<sup>311</sup> PETA Australia claimed the taskforce was good in theory but was 'hamstrung by the inadequate laws which currently exist around puppy farming in the state'.<sup>312</sup>
- 4.62** Animal Care Australia was highly critical of the taskforce, claiming that it 'was a failure in relation to its original intent. It had the wrong impact and the effect it had on real puppy farms is not known as no supportive data of the three potential prosecutions has been made public. Overall, Animal Care Australia finds the Puppy Farm Taskforce was a complete misuse of public funds'.<sup>313</sup>
- 4.63** There was some discussion at the hearing on 23 May 2022 about the adequacy of the taskforce's funding, with one member referring to a specific case, noting that the cost of care for the animals

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<sup>307</sup> Evidence, Mr Donnelly, 7 April 2022, p 22.

<sup>308</sup> Evidence, Ms Black, 23 May 2022, p 51.

<sup>309</sup> Evidence, Ms Kathryn Jurd, General Counsel, RSPCA NSW, 7 April 2022, p 55.

<sup>310</sup> Evidence, Ms Jurd, 7 April 2022, p 55.

<sup>311</sup> Submission 6, Animal Defenders Office, p 11.

<sup>312</sup> Submission 17, People for the Ethical Treatment of Animals, p 4.

<sup>313</sup> Submission 5, Animal Care Australia, p 17.

seized from that property alone totalled \$150,000.<sup>314</sup> In response, Ms Black advised that the Department of Primary Industries will conduct a review of funding that will consider proactive inspections.<sup>315</sup>

## Committee comment

- 4.64** It became clear throughout the inquiry that the current regulatory framework for cat and dog breeding in New South Wales is not preventing puppy farms, nor facilitating appropriate responses to them. However, whether the current framework needs to simply be strengthened and better enforced, or a complete overhaul required, is contestable.
- 4.65** It is clear to the committee that the Breeding Code, even with the 2021 amendments, does not adequately ensure the welfare of animals. The fact that the key stakeholder the RSPCA NSW considers that the code does not adequately safeguard animals in breeding establishments is cause for significant concern. Indeed, there was very little evidence of stakeholder satisfaction with the current code, both in terms of its content and its ability to be enforced.
- 4.66** The committee would thus welcome significant improvements to the Breeding Code in the interests of animal welfare and consistent with community expectations. The NSW Government needs to improve both the strength of the code and its enforcement. In doing so it will also improve stakeholders' confidence in the regulation of cat and dog breeding.
- 4.67** The committee considers that a number of specific aspects of the code need to be addressed. Its 'one size fits all' approach is problematic, for example in respect of differing breeds, all of which are covered by minimum enclosure requirements based on height, rather than the requirements of individual breeds, for instance. We agree with participants that the code must be recalibrated to address these aspects more effectively.
- 4.68** It was clear to the committee that the physical and mental wellbeing and socialisation of breeding dogs and cats must also be given due weight in the Breeding Code. As highlighted in chapter 2, each aspect is key to puppies and kittens' welfare, yet potentially at risk in an intensive breeding environment.
- 4.69** Very importantly, the committee shares the concerns of a number of stakeholders that the division between standards and guidelines in the current code is inappropriate and hampers enforcement. We were encouraged to hear that all of the provisions in the Breeding Code are to be reviewed as part of the standards phase of the animal welfare reform process currently underway in the NSW Government. Stakeholders including the RSPCA NSW and Australian Association of Pet Dog Breeders highlighted further necessary improvements (see paragraphs 4.14 and 4.18).
- 4.70** However, given the animal welfare reform process may take some time, we encourage the government to commence the review of the Breeding Code as soon as possible in light of the issues raised in this inquiry. We also recommend that this review look at the Victorian *Code of practice for the operation of breeding and rearing businesses* as a good example of a modern breeding code.

<sup>314</sup> Hon Emma Hurst MLC, Hearing, 23 May 2022, p 46.

<sup>315</sup> Evidence, Ms Black, 23 May 2022, p 46.

- 4.71 The committee recommends that the NSW Government urgently review the Breeding Code, and in doing so, rework the division between standards and guidelines to strengthen mandatory standards, improve enforceability and facilitate the enforcement of the code. The committee urges the NSW Government to better provide for the differing requirements of various breeds. We consider it crucial that the physical and mental wellbeing, space requirements, exercise and enrichment requirements of dogs and cats all be properly addressed, and further provision made for their socialisation requirements. In addition, the code must ensure competency standards for people caring for breeding animals, provide that routine veterinary checks and health care plans are mandatory, and address the breeding of heritable defects. The issue of enforcement is discussed further below.

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### Recommendation 5

The NSW Government urgently conduct a review of the *Animal Welfare Code of Practice – Breeding dogs and cats*, and in doing so:

- realign the division between standards and guidelines, to strengthen mandatory standards, improve enforceability and facilitate enforcement of the Breeding Code
- provide for the varying requirements of the differing breeds
- better address the physical and mental wellbeing, space requirements, exercise and enrichment requirements, and socialisation of dogs and cats
- ensure competency standards for people caring for breeding animals
- ensure routine veterinary checks and health care plans are mandatory
- address the breeding of heritable defects.

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- 4.72 The committee concludes that more work needs to be done by the NSW Government to improve the traceability of companion animals and ensure a better functioning pet registry. Without these improvements, the ability of responsible agencies to enforce the current regulatory framework will continue to be hampered. We share the view of many inquiry participants that improved traceability will help counter the problem of puppy farms as it becomes easier to identify and monitor problematic sellers of puppies and kittens. The committee makes a strong recommendation to improve the NSW Pet Registry in the following chapter.
- 4.73 The committee has learned that the funding and resourcing of those agencies responsible for enforcement of the current laws is far from adequate. This lack of resourcing extends to animal shelters and foster organisations who provide much needed care for those companion animals who are unwanted or have been seized due to breaches of animal welfare. We acknowledge the large cost involved in responding to and investigating complaints about illegal breeding practices. Animals who are seized require shelter and are often in need of substantial medical attention and rehabilitation. The committee considers that without adequate resourcing, the effectiveness of any legislative framework will be compromised. We take up this issue in respect of breeder licensing in chapter 5.
- 4.74 In addition, the committee considers that the provision of additional funding is essential to enabling animal welfare organisations, such as the RSPCA NSW and Animal Welfare League, to adopt more proactive and effective enforcement strategies. While the NSW Government must improve the traceability of companion animals and ensure a better functioning pet registry,

further funding to those organisations responsible for animal welfare and enforcement is equally critical to ensuring the current framework is more effective. Funding for rescue groups is also needed to ensure they can continue to perform their important function of rehoming cats and dogs. The committee urges the NSW Government to take action in this area.

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### **Recommendation 6**

That the NSW Government substantially increase funding allocated to organisations such as the RSPCA NSW and Animal Welfare League and ensure this funding covers the costs of the compliance and enforcement operations of these organisations, without reliance on charitable donations.

### **Recommendation 7**

That the NSW Government consider providing funding to animal rescue organisations.

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- 4.75** It is clear to the committee that many councils find themselves in a difficult situation in relation to mass dog and cat breeding facilities. This a growing issue that requires action. Participants told us that there is a disconnect between planning and animal welfare laws, that councils are clearly uncomfortable with. The committee is concerned that current planning laws do not enable councils to give due weight to animal welfare when assessing development applications for large cat and dog breeding facilities. What a council may give weight to during its assessment of a development application for such a facility may differ greatly from what members of the local community believe it should.
- 4.76** As a specific issue, the committee considers that only appropriate persons should be able to own or operate a cat or dog breeding facility, and we accept that councils require the ability to properly weigh whether an applicant is a fit and proper person. The committee is extremely concerned that a person who has been convicted of an animal cruelty offence could continue to breed dogs or cats or operate a companion animal breeding facility in New South Wales.
- 4.77** The committee thus supports the recommendation of Local Government NSW, a key stakeholder, for legislative reform in this area. Councils need to be better positioned to deal with development applications from large dog breeding facilities, to ensure that they operate consistent with current animal welfare law and community expectations.
- 4.78** The committee recommends that the NSW Government address the disconnect between planning laws and animal welfare considerations by allowing councils to give due weight to animal welfare. Councils must also be able to assess whether an applicant is a fit and proper person as part of the development application process, and to recognise animal cruelty convictions from other jurisdictions. To better enable consideration of these factors, the committee recommends that the NSW Government insert 'companion animal breeding facility' as a land use category in the planning laws, and that compliance with the Breeding Code be an assessment consideration for animal breeding establishments under the Local Environment Plan.

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**Recommendation 8**

That the NSW Government act to address the disconnect between planning laws and animal welfare considerations in local government decisions regarding companion animal breeding facilities by:

- enabling due weight to be given to animal welfare in assessment of development applications
  - providing for consideration of whether an applicant is a fit and proper person
  - inserting 'companion animal breeding facility' as a land use category in the planning laws
  - amending the Standard Instrument Local Environmental Plan to include compliance with the *Animal Welfare Code of Practice – Breeding dogs and cats* as an assessment consideration
  - ensure that animal cruelty convictions in other jurisdictions are able to be recognised in New South Wales.
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- 4.79** The committee was very concerned that it is currently not mandatory for a court to impose a disqualification order on a person who has been convicted of animal cruelty, meaning that people convicted of animal cruelty offences are still able to legally breed dogs and cats in New South Wales. The Committee therefore recommends that the NSW Government introduce legislation to ban anyone convicted of animal cruelty offences from being involved in breeding a dog or cat, create a presumption in favour of a court making a disqualification order following conviction of any animal cruelty offence, and require a court to impose a disqualification order where a person has been convicted of an aggravated animal cruelty offence, multiple cruelty offences, or convicted of previous animal cruelty offences. This will send a strong and clear signal that those who are cruel to animals may not have any part in the breeding of dogs or cats in this state.
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**Recommendation 9**

That the NSW Government introduce legislation to ban anyone convicted of animal cruelty offences from being involved in breeding a dog or cat, create a presumption in favour of a court making a disqualification order following conviction of any animal cruelty offence, and require a court to impose a disqualification order where a person has been convicted of an aggravated animal cruelty offence, or multiple cruelty offences, or convicted of previous animal cruelty offences.

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- 4.80** The committee considers that together these recommendations will address the disconnect between planning laws and animal welfare legislation, and more broadly improve the current regulatory framework. The specific issues of licensing of breeders and registration of animals are explored in detail in the following chapter.
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## Chapter 5 Breeder licensing and pet registration

As discussed in the previous chapter, under the current regulatory framework, any person in New South Wales involved in breeding companion animals is subject to the *Prevention of Cruelty to Animals Act 1979* (POCTAA), the *Companion Animals Act 1998*, and the *Animal Welfare Code of Practice – Breeding Dogs and Cats* (hereafter the Breeding Code). However, there is currently no mandatory breeder licence system in the state.

This chapter provides an overview of the NSW Pet Registry and existing requirements in relation to animal breeding. The Department of Primary Industries (hereafter DPI) released a consultation paper in November 2021 on the licensing and regulation of cat and dog breeders, with a consultation report subsequently published in March 2022.<sup>316</sup> This chapter considers the various views of stakeholders in relation to the proposal for a licensing scheme, and explores the cost, administration, enforcement, and auditing involved in operating such a scheme. It also considers how licensing would add to the current framework and provide improved traceability and oversight.

### Pet registration in New South Wales

**5.1** In New South Wales, all cats and dogs, other than exempt cats and dogs, must be microchipped by 12 weeks of age and must be registered by six months of age.<sup>317</sup>

**5.2** As noted in chapter 1, microchip and registration records are kept on the NSW Pet Registry, an online portal administered by the Office of Local Government. The NSW Pet Registry enables people to transfer ownership, pay fees, report a pet missing, and update details online.<sup>318</sup> Breeders are also encouraged to have an online profile and to obtain a breeder identification number, although this is not mandatory.<sup>319</sup> In the previous chapter the committee documented stakeholder views highlighting the need for greater traceability of individual pets as one way to address puppy farming.

**5.3** Participants including Ms Kristina Vesk, the Chief Executive Officer of the Cat Protection Society of NSW, identified the NSW Pet Registry as critical to pet traceability and accountability:

[It] is really critical that we get the Companion Animal Register and the NSW Pet Registry at functionality and working and doing the best things that they can possibly do. They are critical factors in the issue of lifetime traceability and accountability. That is a very important vehicle.<sup>320</sup>

**5.4** Throughout the inquiry a number of participants expressed concern that the current NSW Pet Registry is not fit for purpose, including that it houses outdated information and

<sup>316</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022.

<sup>317</sup> Office of Local Government, *Microchipping and registration* (2022), <https://www.olg.nsw.gov.au/public/dogs-cats/nsw-pet-registry/microchipping-and-registration/>

<sup>318</sup> Answers to supplementary questions, Department of Primary Industries, 27 June 2022, p 3.

<sup>319</sup> Evidence, Ms Karin Bishop, Director, Sector Performance and Intervention, Office of Local Government, 23 May 2022, p 41.

<sup>320</sup> Evidence, Ms Kristina Vesk, Chief Executive Officer, Cat Protection Society of NSW, 23 May 2022, p 31.

problems with its functionality.<sup>321</sup> In this vein, there was almost unanimous support to update and improve the pet registration system in New South Wales, with many advocating for an overhaul of the NSW Pet Registry to help stop puppy farming, prevent online scams, and improve animal welfare.<sup>322</sup>

- 5.5** Participants made many recommendations to improve the NSW Pet Registry, including making breeder identification numbers compulsory.<sup>323</sup>
- 5.6** Currently it is not mandatory for breeders to have a Breeder Identification Number issued by the NSW Pet Registry or to display this in advertisements. The Master Dog Breeders and Association highlighted that 'this is a glaring omission and has a number of unintended consequences. The most obvious being that this allows no traceability of who [is] breeding puppies, where they are or where they are placed'.<sup>324</sup>
- 5.7** Some participants raised concerns that the identification numbers that are included when advertising a pet online may be fraudulent, such that consumers erroneously believe that they are purchasing from a reputable breeder. Others expressed concerns that some breeders may falsely claim to be a member of a breeding organisation, further highlighting the problem with the NSW Pet Registry in its current form.<sup>325</sup>
- 5.8** Ms Karin Bishop, Director, Sector Performance and Intervention with the Office of Local Government, confirmed that as of May 2022, the NSW Pet Registry was in the process of undergoing a complete rebuild:

[T]here is work going on to rebuild the registry from scratch ... it is an old system. It was set up 20-something years ago. It is coming to the end of its life, so we currently are working on a prototype with funding from the Digital Restart Fund to develop a new registry.<sup>326</sup>

## What is licensing and what would it achieve?

- 5.9** Some participants used the terms 'licensing' and 'registration' interchangeably during the inquiry. Whilst there is some overlap between the two, and some systems may involve elements of both licensing and registration, they differ in a number of ways.

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<sup>321</sup> Evidence, Mr Michael Donnelly, President Animal Care Australia, 7 April 2022, p 26.

<sup>322</sup> Submission 220, Master Dog Breeders and Associates, pp 5-6; Submission 5, Animal Care Australia, Attachment 1, Animal Care Australia Submission NSW DPI Consultation Paper – Licensing of cat and dog breeders 2021, p 10.

<sup>323</sup> Submission 76, The Australian Association of Pet Dog Breeders, p 8; Submission 220, Master Dog Breeders and Associates, p 5.

<sup>324</sup> Submission 220, Master Dog Breeders and Association, p 5.

<sup>325</sup> Evidence, Ms Julie Nelson, Managing Director, Master Dog Breeders and Association, 7 April 2022, p 10; Submission 76, The Australian Association of Pet Dog Breeders, p 13; Submission 220, Master Dog Breeders and Associates, p 6; Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022, p 5.

<sup>326</sup> Evidence, Ms Bishop, 23 May 2022, p 50.

- 5.10** A licence is 'an official approval to perform an activity'.<sup>327</sup> A breeder licensing scheme, such as that which operates in the Australian Capital Territory, requires a person who intends to breed a companion animal to obtain a licence. Licences frequently include conditions, such as compliance with certain breeding standards. A breeder licence number indicates that the holder has been approved to breed animals.
- 5.11** The case study below explains the ACT Breeder Licence system.

#### Case study: Breeder licence – Australian Capital Territory

A breeder licensing scheme operates in the ACT.<sup>328</sup> In order to keep a dog or cat which has not been desexed, the owner must apply for a permit. If they intend to breed a litter, they will also need to apply for a breeder licence. A fee of \$445.40 is payable prior to being granted the licence.<sup>329</sup>

As detailed in the *Domestic Animals Act 2000* (ACT), a licence ensures that adequate conditions are maintained for the safety and welfare of all animals, including limitations on the number of litters a dog or cat may breed.<sup>330</sup>

The legislation to outlaw puppy and kitten farms in the ACT was introduced in 2015 and further laws to regulate animal breeding were introduced in 2017. Since then, all breeders, including accidental litters, have been required to hold a licence and are only allowed to breed dogs aged between 18 months and six years of age with a limit of four litters per dog. A dog can only have one litter within an 18-month period. Breeders of cats are required to only breed their cats between the ages of 12 months and seven years of age, with a limit of eight litters per cat, restricted to three litters within any two-year period.<sup>331</sup>

The ACT Government has stated that these legislative changes 'have resulted in much stronger regulations around illegal breeding'.<sup>332</sup>

- 5.12** The NSW Government has described how the requirement for a licence ensures that certain activities may only be performed by appropriate persons:

Requiring a person to obtain a licence makes sure that the NSW Government is aware of who is performing an activity and where they are performing it. Licensing provides an opportunity to engage with the licensee and provide education material to ensure that the activity is performed safely. The requirements of specific licences can vary – but they can be used to ensure that only appropriate people perform the activity, to

<sup>327</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, p 7.

<sup>328</sup> Section 72, *Domestic Animals Act 2000* (ACT).

<sup>329</sup> ACT Government City Service, *Dogs: Your responsibilities*, <https://www.cityservices.act.gov.au/pets-and-wildlife/domestic-animals/dogs/your-responsibilities>

<sup>330</sup> Section 72E(2), *Domestic Animals Act 2000* (ACT).

<sup>331</sup> Section 15B – Intensive breeding of cats or dogs, *Animal Welfare Act 1992* (ACT)

<sup>332</sup> Answers to questions on notice, Animal Defenders Office, 23 May 2022, p 3.

place conditions on how the activity must be carried out and to provide for licences to be suspended or cancelled if a licence holder does the wrong thing.<sup>333</sup>

- 5.13** A licensing scheme would also provide an opportunity to assess prospective breeders, and set specific requirements for how they will operate, such as limiting the number of breeding animals permitted.<sup>334</sup>

## **Licensing of cat and dog breeders in New South Wales**

- 5.14** The committee heard from many stakeholders who supported the proposal for a licensing scheme in New South Wales. The NSW Cat Fanciers Association was one such supporter, stating 'if we are serious about animal welfare, every breeder of dogs and cats should be required to hold a licence and comply with a fit for purpose Breeding Code of Practice which is authorised and legislated under POCTAA'.<sup>335</sup>
- 5.15** Alongside this strong and widespread support, several stakeholders debated the value of introducing a licensing scheme for cat and dog breeders in New South Wales. Topics of concern included the cost and administration of a licensing scheme, enforcement and auditing, and exemptions to the scheme.
- 5.16** Much of the conversation stemmed from the DPI consultation paper titled 'Licensing and regulation of cat and dog breeders' (hereafter Consultation Paper).

### **Department of Primary Industries consultation paper**

- 5.17** In November 2021, the DPI released the Consultation Paper seeking feedback from community stakeholders on a proposal to introduce a companion animal breeder licence to improve regulation within the industry.<sup>336</sup>
- 5.18** DPI received 164 submissions in response, with 12 per cent of respondents from organisations such as breeding clubs, peak bodies, and advocacy groups, and 88 per cent from individuals including breeders and community members.<sup>337</sup>
- 5.19** Inquiry participants criticised the consultation process, reflecting that it was too short and too broad, and suggesting it was a missed opportunity to properly address critical issues. Ms Michelle Grayson from NSW Cat Fanciers Association remarked:

It was rather open-ended. It left a lot of opportunity for people to go off on different tangents as to what their opinions were or what their thought processes were. I felt that

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<sup>333</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, p 7.

<sup>334</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, p 7.

<sup>335</sup> Submission 9, NSW Cat Fanciers Association Incorporated, p 9.

<sup>336</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, pp 5-6.

<sup>337</sup> Submission 2, NSW Government, p 5.

it probably could have been a little more targeted, asking some specific questions, not "What do you think should happen?"<sup>338</sup>

**5.20** This opinion was echoed by Ms Vesk from the Cat Protection Society who stated that the consultation process 'was a wasted opportunity'.<sup>339</sup>

**5.21** Representatives of the NSW DPI informed the committee that they intended to wait until the release of this inquiry report and give attention to participants' views and the committee's recommendations before progressing any further with the proposed licensing scheme. Ms Tara Black, Deputy Director-General, Strategy and Engagement, told the committee:

We have considered the feedback and ... it is very mixed and there is no consensus around how licensing schemes should apply or how it would work. It is certainly our intention to take on board the recommendations and discussions through this hearing process with regards to that proposal for a licensing scheme.<sup>340</sup>

**5.22** The views gathered by the committee are set out in the sections below.

### **Proposed licensing scheme**

**5.23** As detailed in the Consultation Paper, the proposed licensing scheme would require 'large-scale dog breeders' to be licensed.<sup>341</sup>

**5.24** There was broad support from stakeholders for the introduction of a licensing scheme in New South Wales. Many said it would improve traceability, provide oversight and instil confidence within the community that breeders are meeting their legal obligations and maintaining a high standard of care for their animals.<sup>342</sup>

**5.25** For example, Dr Liz Arnott, the Chief Veterinarian at RSPCA NSW, argued that a licensing scheme would ensure transparency and accountability within the industry:

We believe a sensible starting point would be to require licensing of anyone who breeds cats and dogs to ensure that transparency and accountability is possible. Over time this would allow the possibility of linking licensing to competency requirements, performance monitoring and the ability to set licence conditions, which may certainly include limits to animal numbers where justified.<sup>343</sup>

**5.26** In its submission, the RSPCA NSW envisaged a proper licensing scheme would have eligibility standards and compliance monitoring:

<sup>338</sup> Evidence, Ms Michelle Grayson, Treasurer, NSW Cat Fanciers Association, 7 April 2022, p 30.

<sup>339</sup> Evidence, Ms Vesk, 23 May 2022, p 27.

<sup>340</sup> Evidence, Ms Tara Black, Deputy Director, General Strategy and Engagement, NSW Department of Primary Industries, 23 May 2022, p 47.

<sup>341</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, p 7.

<sup>342</sup> Evidence, Dr Liz Arnott, Chief Veterinarian, RSPCA NSW, 7 April 2022, p 54; Evidence, Mr John Grima, Owner, Kellyville Pets, 7 April 2022, p 21; Evidence, Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, 7 April 2022, p 3.

<sup>343</sup> Evidence, Dr Arnott, 7 April 2022, p 54.

RSPCA NSW accepts and supports the value of a registration or licensing scheme for breeders ... that requires relevant information to be assessed and certain competency to be demonstrated. Compliance with contemporary, detailed welfare codes of practice should be mandatory and monitoring of compliance and performance essential.<sup>344</sup>

- 5.27** This viewpoint was shared by dog breeders such as Mr John Grima from Kellyville Pets and Rockley Valley Park, also representing the Pet Industry Association of Australia (hereafter PIAA), who remarked that 'as an industry body we welcome licensing.'<sup>345</sup> Mr Grima explained to the committee a licence was the only way to eradicate puppy farming:

We strongly believe that is the only way we are going to eradicate the puppy farm issue: licensing for all dogs and all breeders. At the moment, the entry level for a breeder is to own two entire dogs and you can call yourself a breeder. That is why we have an issue with puppy farms. We need an external regulator ... to regulate pet shops and breeders to ensure that they are abiding by a code of practice.<sup>346</sup>

- 5.28** Support for a licensing scheme also came from the breeding representative bodies. Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders (AAPDB) stated that they too support a licensing scheme for dog breeders:

The AAPDB recommends a universal licencing system with compulsory breeder identification and an annual registration fee for all breeding dogs that would bring them in line with cat registration currently in New South Wales and could be used to fund the DPI-RSPCA task force.<sup>347</sup>

- 5.29** Not all inquiry participants viewed a licensing scheme as beneficial, however. Animal Care Australia firmly disagreed with the proposed introduction of a licence system, stating that it 'has no added animal welfare benefit'.<sup>348</sup> It told the committee that the issue of compliance would not be solved with a breeder licensing system as a licence system would only identify breeders 'doing the right thing'.<sup>349</sup> It remarked that targeting breeders with more regulations and licences will reduce the overall number of animals available for sale, concluding that this would actually increase puppy farming.<sup>350</sup>

- 5.30** By contrast, Oscar's Law gave evidence that their licensing and registration system in Victoria was effective, even if some unethical breeders tried to avoid complying with the law:

Even though some people might choose to not follow the law, now we are actually able to track them down in a way. There was this argument with the legislation that it would force puppy farmers underground. It has done the complete opposite; it has brought them to our attention, which was exactly the purpose of the legislation.<sup>351</sup>

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<sup>344</sup> Submission 3, RSPCA NSW, p 3.

<sup>345</sup> Evidence, Mr Grima, 7 April 2022, p 21.

<sup>346</sup> Evidence, Mr Grima, 7 April 2022, p 24.

<sup>347</sup> Evidence, Dr Schoeffel, 7 April 2022, p 3.

<sup>348</sup> Submission 5, Animal Care Australia, Appendix 1, Animal Care Australia Submission *NSW Consultation Paper: Licensing and regulation of cat and dog breeders*, p 6.

<sup>349</sup> Submission 5, Animal Care Australia, p 23.

<sup>350</sup> Submission 5, Animal Care Australia, p 8.

<sup>351</sup> Evidence, Ms Georgie Purcell, President, Oscar's Law, 23 May 2022, p 20.

- 5.31 Other participants such as the Cat Fanciers Association expressed strong support for a licensing system but emphasised it should not be expensive or onerous for breeders.<sup>352</sup>

### Cost and administration

- 5.32 Throughout the inquiry, the committee heard concerns from some participants that the cost associated with licensing could force smaller compliant breeders to stop breeding, resulting in price increases, and perversely, lead to an expansion of underground unethical breeders.<sup>353</sup>
- 5.33 Animal Care Australia argued that a breeder licence would be resource intensive, duplicating much of the work already conducted by the Office of Local Government and NSW Pet Registry. Animal Care Australia noted that the *Companion Animals Act 1998* already requires dogs and cats to be microchipped and registered.<sup>354</sup>
- 5.34 Opposition to a licensing scheme primarily came from breeders and breeding organisations concerned with the impact on small-scale breeders. Dogs NSW stated that there is a risk that the introduction of a licensing system may result in significant costs for breeders.<sup>355</sup> It surmised that many breeders would be unable to afford the costs associated with a breeding licence, resulting in 'unscrupulous' breeders expanding their operations:

The very few businesses that could gain registration from their local council would not be able to fund the cost of this system. That would drive the underground unscrupulous rogue animal breeding enterprises to expand their operations to meet the demand for family pets and it would drive ethical and responsible companion animal breeders to stop breeding health tested and socialised animals altogether.<sup>356</sup>

- 5.35 While the Consultation Paper did not specifically seek feedback on the way a licensing scheme would be paid for or administered, some respondents commented on how it would be funded. Some suggested, for example, that costs could be scaled with the size of the breeder, the licensing scheme could be cost recovered by applying a levy, or fees could be discounted or waived for members of breeding organisations.<sup>357</sup>
- 5.36 One possible funding solution presented to the inquiry is to expand the current permits for non-desexed cats to include non-desexed dogs.<sup>358</sup> Since July 2020, owners of cats that are not desexed by four months of age must obtain an annual permit. According to the Office of Local Government, non-desexed cat owners are required to pay an annual fee of \$80 in addition to

<sup>352</sup> Submission 9, NSW Cat Fanciers Association, p 9.

<sup>353</sup> Submission 223, Kellyville Pets, p 2; Submission 4, Dogs NSW, p 3; Evidence, Ms Karen Hedberg, Committee member, French Bulldog Club, 7 April 2022, p 12.

<sup>354</sup> Submission 5, Animal Care Australia, Appendix 1, Animal Care Australia Submission *NSW Consultation Paper: Licensing and regulation of cat and dog breeders*, p 7.

<sup>355</sup> Dogs NSW, *NSW Consultation Paper: Licensing and regulation of cat and dog breeders* (2021), p 3.

<sup>356</sup> Submission 4, Dogs NSW, p 3.

<sup>357</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022, p 11.

<sup>358</sup> Evidence, Dr Schoeffel, 7 April 2022, p 3.

their one-off lifetime pet registration fee.<sup>359</sup> Annual permits are paid via the NSW Pet Registry website, or through a local council. The revenue raised goes to the 'Companion Animals Fund which pays for companion animals management by local councils including pounds/shelters, ranger services, dog recreation areas, and education and awareness programs'.<sup>360</sup>

### Enforcement and auditing

- 5.37** Stakeholders throughout the inquiry emphasised that a licensing scheme would need to be appropriately enforced and audited, noting that appropriate resources were required to support it. The RSPCA NSW highlighted that proactive enforcement was already a challenge due to limited resources within the RSPCA NSW inspectorate.<sup>361</sup> The element of compliance monitoring that, as noted above, it envisaged for a licensing scheme, would require significantly more resources.
- 5.38** Some stakeholders, including Dogs NSW, suggested that the current regulatory framework is sufficient but not effectively enforced. These respondents reasoned that the desired outcomes could be achieved by shifting enforcement focus to better identify non-compliance with pet registration, desexing and advertising, or providing more funding for the Puppy Factory Taskforce, rather than introducing a new licensing scheme.<sup>362</sup>
- 5.39** DPI received other feedback during consultation which suggested that a broader cooperative approach be developed between breeding organisations and the NSW Government. This included suggestions that membership of a breeding organisation should be mandatory for breeders. This would improve communication and information sharing between breeding organisations and the NSW Government and help to 'identify problem breeders'.<sup>363</sup>
- 5.40** Some stakeholders raised concerns around the oversight limitations of breeding organisations, noting that membership within an organisation did not necessarily mean there was adequate oversight or enforcement. For example, the RSPCA noted that the role of breeding organisations in the Victorian regulatory regime was a weakness, stating that 'the degree to which monitoring, and enforcement of the breeder organisational codes occurs is not apparent and is not equivalent to enforcement agency activity'.<sup>364</sup> Oscar's Law also raised concerns that 'a number of the cruelty cases or unethical breeding cases exposed in Victoria, and also around Australia, have been registered breeders with a kennel club'.<sup>365</sup>

<sup>359</sup> Office of Local Government, *Introduction of annual permits for non-desexed cats and dangerous/restricted dogs - FAQs* (2020), <https://www.olg.nsw.gov.au/wp-content/uploads/2020/05/CA-Annual-permits-faq.pdf>

<sup>360</sup> Office of Local Government, *Introduction of annual permits for non-desexed cats and dangerous/restricted dogs - FAQs* (2020), <https://www.olg.nsw.gov.au/wp-content/uploads/2020/05/CA-Annual-permits-faq.pdf>

<sup>361</sup> Submission 3, RSPCA NSW, p 8.

<sup>362</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022 p 4; Dogs NSW, *NSW Consultation Paper: Licensing and regulation of cat and dog breeders* (2021), p 3.

<sup>363</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, p 5.

<sup>364</sup> Submission 3, RSPCA NSW, p 11.

<sup>365</sup> Evidence, Ms Purcell, 23 May 2022, p 19.



- 5.41** Animal Care Australia, who as noted above, disagreed with the establishment of a licensing scheme, contended that 'audits or compliance checks are only effective on the breeders that can be located and identified'.<sup>366</sup> It insisted that unannounced visits should not be part of compliance audits, and instead recommended that audits be agreed to as part of a licensing agreement or made by mutual appointment. Animal Care Australia underscored that they do not and will not support random audits that are unannounced 'unless there is an immediate reported animal welfare concern, or a warrant has been provided to access the property'.<sup>367</sup>

### Exemptions

- 5.42** Under the current Breeding Code anyone who breeds dogs or cats for fee or reward is a breeder. Feedback has been mixed as to who should be classified as a breeder for licensing purposes. Some participants called for anyone who breeds a companion animal to require a licence, while others advocated for certain exceptions, including hobby breeders and one-off accidental litters.<sup>368</sup> A central concern for these breeders is that licences are inappropriate for their size and circumstances.<sup>369</sup>
- 5.43** Another example of a potentially exempt group under the licensing scheme proposed by the Consultation Paper is the breeding of working dogs ordinarily kept on farmland.<sup>370</sup> DPI received feedback from working dog stakeholder groups that, while they did not want to be exempt from oversight, they did want a separate and standalone code, to ensure that fit for purpose rules apply to protect the welfare of working dogs, while accommodating their particular circumstances.<sup>371</sup>
- 5.44** The RSPCA NSW remarked in its submission that it strongly supports the licensing of all breeders, with no companion animal breeders to be exempt from the licence requirement. It observed that breeding and selling companion animals is a complex activity, requiring skill and knowledge to comply with the various regulations and codes.<sup>372</sup>
- 5.45** Similarly, PIAA contended that there should be no exemptions to the licensing scheme:

Animal welfare misconduct can be practiced by the untrained, unaware, single dog breeder or multiple dog breeders, there should be no discrimination, anyone in charge of an animal must face the same laws across the industry.<sup>373</sup>

<sup>366</sup> Submission 5, Animal Care Australia, p 23.

<sup>367</sup> Submission 5, Animal Care Australia, p 13.

<sup>368</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, pp 9-10.

<sup>369</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022 pp 4 and 16.

<sup>370</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, p 5.

<sup>371</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022 p 16.

<sup>372</sup> Submission 3, RSPCA NSW, p 8.

<sup>373</sup> Submission 224, Pet Industry Association of Australia, p 3.

### Size and scale of breeders

- 5.46** Linked to the issue of exemptions, the committee heard conflicting opinions on how to best measure, manage and license cat and dog breeding facilities of different sizes. Many animal welfare advocates warned that the greater the number of animals, the greater the risk that their welfare will be compromised. This was highlighted by the RSPCA NSW, which stressed that mitigating this risk requires 'animal health and behaviour knowledge and skills as well as sufficient time and resources to relieve the animal from spatial and often social restriction'.<sup>374</sup>
- 5.47** However, during its consultation, DPI frequently heard that the welfare requirements of animals do not change based on the scale of breeding, and that poor welfare outcomes can occur in smaller breeding establishments as well as larger ones. Those who held this view argued that licensing should be universally applied, regardless of size.<sup>375</sup>
- 5.48** The committee heard debate as to how to define small, medium, and large-scale breeders. An analysis conducted by DPI of regulations in other jurisdictions identified some of the more common approaches taken to delineate breeders of different scales. These include:
- number of fertile female animals held by the breeding operation
  - number of litters produced or sold by the breeder each year
  - level of income received from breeding dogs and cats.<sup>376</sup>
- 5.49** Half of the responses received by DPI recommended that a hard cap be set at ten breeding animals, aligning with Victoria. Conversely, a few respondents recommended against a hard cap, arguing that there may be unintended consequences as 'forcing larger breeders who achieve good welfare outcomes to scale down their operations may leave a supply vacuum that could be exploited by underground operators'.<sup>377</sup>
- 5.50** Recognising the challenge of restricting litter sizes due to the variability in litters from different breeds, Ms Tara Black from DPI told the committee:
- ... it is really challenging to set a limit and determine which number to pick. When you are talking about dogs there are a significant number of different breeds, so what is appropriate for one breed is unlikely to be appropriate for a different breed'.<sup>378</sup>

### Committee comment

- 5.51** It became very clear to the committee throughout the inquiry that the majority of participants lacked confidence in the functionality and effectiveness of the NSW Pet Registry. The

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<sup>374</sup> Submission 3, RSPCA NSW, p 9.

<sup>375</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022, p 15; As noted above the RSPCA NSW also supported universal licensing.

<sup>376</sup> Department of Primary Industries, *Consultation Paper: Licensing and regulation of cat and dog breeders*, November 2021, p 11.

<sup>377</sup> Department of Primary Industries, *Consultation outcomes report: Licensing and regulation of cat and dog breeders*, March 2022 p 10.

<sup>378</sup> Evidence, Ms Black, 23 May 2022, p 49.

committee understands this reflects the poor resourcing of this function by government over a long period of time. The issue of proper resourcing needs to be addressed if the NSW Pet Registry is to work as intended and gain and maintain the confidence of the community. In chapter 4 the committee concluded that the NSW Government needs to act to improve traceability to ensure agencies can enforce the current regulatory framework, and to help identify and monitor problematic puppy and kitten breeders.

- 5.52** While the committee was pleased to learn that the Office of Local Government is working on an upgrade of the registry, we are concerned that the new registry may still not be fit for purpose. As set out above, the NSW Government must ensure there is a proper level of resourcing, including for digital transformation, for this function or it will not work properly. The committee thus recommends that the Office of Local Government ensure that the redesigned registry is able to both collect and retain accurate information over the lifetime of companion animals. It is imperative that mechanisms are in place to ensure the information on the registry remains current and that the registry is properly funded. We also draw the Office's attention to the views and concerns expressed about the Pet Registry throughout the inquiry. A well-functioning and properly resourced registry could assist in tracking down cruelty at puppy farms in New South Wales. The committee believes that it is important for the Pet Registry to interact effectively with online sites such as Gumtree and the Trading Post, to assist both enforcement agencies and the public in easily identifying unethical breeders.

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#### **Recommendation 10**

That in fulfilling its commitment to rebuild the NSW Pet Registry, the Office of Local Government act promptly to ensure that the Registry is well resourced and fit for purpose in collecting and retaining accurate and up-to-date information over the lifetime of all cats and dogs, and ensure proper traceability of animals and breeders to assist both the public and enforcement agencies to identify unethical breeders.

#### **Recommendation 11**

The NSW Government work to ensure interoperability between the NSW Pet Registry and online sites such as Gumtree and the Trading Post, to reduce the ability of unethical breeders to sell online.

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- 5.53** Throughout the inquiry, the committee had the benefit of hearing a wide range of views as to whether or not a licensing scheme for dog breeders should be introduced in New South Wales. Many stakeholders impressed the value of a licensing scheme upon the committee, as a way of increasing transparency and ensuring the traceability of companion animals, thus making it harder for puppy farms to operate. However, other inquiry participants were of the strong opinion that a licensing scheme, while an improvement, would not be a sufficient mechanism to effectively counter unethical breeding practices. In addition, for the scheme to be worthwhile, it would need to be properly funded and resourced to ensure proper enforcement of its requirements. Some felt it would add to the regulatory burden already experienced by breeders without any improvements to animal welfare.
- 5.54** The committee recognises that many of the issues and disputes at the heart of the licensing scheme proposed by the Department of Primary Industries mirror those being considered by

this committee, especially in relation to the objectives of the Puppy Farms Bill and the means by which it seeks to achieve them.

- 5.55** The committee notes that the majority of inquiry participants were in favour of some form of licensing but differed as to some of the aspects of a licensing scheme, such as its cost and whether it should allow for exemptions.
- 5.56** The committee strongly believes that there is much to be gained from a well-constructed and properly resourced licensing scheme for New South Wales. We share the view of the RSPCA NSW that requiring the licensing of anyone who breeds cats and dogs is a starting point, providing much needed transparency and accountability that is more likely to both attain the necessary power over unethical breeders and lift animal welfare standards across the board. We also agree that there is potential in the setting of various licence conditions as a means of monitoring performance and ensuring the competency of those involved in breeding companion animals.
- 5.57** The Joint Select Committee on Companion Animal Breeding Practices in New South Wales recommended in August 2015 that the NSW Government introduce a breeder licensing scheme.<sup>379</sup> We uphold this recommendation and express our concern that seven years after it was made by another parliamentary committee, and ten years after it was recommended by the NSW Companion Animals Taskforce, there is still no licensing scheme in New South Wales. In the context of the companion animal boom that occurred in the COVID-19 pandemic, the need for a breeder licensing scheme is greater than ever.
- 5.58** We applaud the key principles of the licensing scheme proposed by DPI, namely that it seeks to be easy to understand, with proportionate costs, and aims to minimise unintended consequences. However, we acknowledge the concerns of some stakeholders that the consultation process was too broad and its timeframe too short. Given the feedback received by the department throughout the consultation process has been so mixed, we suggest that the proposal for a licensing scheme warrants further investigation and analysis. While it is clear to the committee that a licensing scheme is essential, substantial work needs to be done to ensure that it is both fit for purpose and has broad community support.
- 5.59** Further, provision must be made for the adequate resourcing of those involved in the regular auditing and enforcement of a licensing scheme. In chapter 4, the committee recommended that the NSW Government increase the funding allocated to organisations such as the RSPCA NSW and Animal Welfare League for the enforcement of animal welfare laws. A licensing scheme will add to the responsibilities of enforcement agencies, and without sufficient resourcing a licensing scheme will not be effective.
- 5.60** The committee is greatly encouraged that the Department of Primary Industries has indicated it will give attention to the feedback from this inquiry in its consideration of a licensing scheme. We urge the department to take into account the evidence received by this committee and our recommendation that a licensing scheme that contains robust licensing conditions for breeders be implemented. In addition, the department should undertake an in-depth consultation process with key stakeholders including but not limited to rescue organisations, animal protection organisations, enforcement agencies and breeders, in developing a licensing scheme.

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<sup>379</sup> Joint Select Committee on Companion Animal Breeding Practices in New South Wales, *Inquiry into companion animal breeding practices in New South Wales* (2015), recommendation 10.

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**Recommendation 12**

That the Department of Primary Industries implement a well-resourced breeder licensing scheme in New South Wales that contains robust licensing conditions for breeders, taking into account the evidence received by this committee.

**Recommendation 13**

That the Department of Primary Industries undertake an in-depth consultation process with key stakeholders including but not limited to rescue organisations, animal protection organisations, enforcement agencies and breeders, as part of its development of a licensing scheme.

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## Chapter 6 Consumer protection and education

Throughout the inquiry the committee received a great deal of evidence concerning consumer protection and the related issue of education. This chapter considers consumer demand for companion animals, the impact of the COVID-19 pandemic, and the role played by online sales. It examines a number of issues in relation to pet stores, noting concerns raised about the impact of this sort of environment on puppies and kittens and the increased likelihood of impulse buying. It also considers if it may be easier to regulate pet stores than other avenues for purchasing animals. The matters of unwanted pets and pet shelters are discussed, as are the difficulties presented to purchasers when pets develop medical problems, either hereditary conditions or problems resulting from poor breeding practices or a lack of appropriate care in the animal's first months of life.

Various views on the limitations of consumer law in respect of companion animals were presented to the committee, and some of the options for improvement are noted. Many inquiry participants spoke of the need for better consumer education, so the public understands what it means to be a responsible pet owner and how to choose an appropriate dog or cat for their lifestyle or home environment. The committee heard evidence around the need for the public to be better informed about the source of puppies and kittens, so they are conscious of unethical breeding practices and can accordingly avoid purchasing animals from these sorts of facilities but also heard evidence regarding the difficulties faced by consumers in trying to identify puppy farms and unethical breeders. The chapter examines each of these issues in turn.

### Consumer demand and the COVID-19 pandemic

- 6.1** The committee heard evidence that the COVID-19 pandemic and the subsequent lockdown restrictions led many people to introduce a companion animal into their home. In its submission, the Pet Industry Association of Australia (hereafter PIAA) contended that 'in a time of significant uncertainty and reduced social interaction, Australians have turned to pet ownership as a source of comfort and joy'.<sup>380</sup>
- 6.2** The PIAA referenced a recent study *Pets and the Pandemic* by Animal Medicines Australia which stated 'there has been a substantial boom in pet ownership with an estimated 30.4 million pets across the country. Nationally, 69 per cent of households now own a pet ... this has been led by a surge in dog ownership'. According to this research, over one million additional dogs have been brought into Australian households since 2019.<sup>381</sup>
- 6.3** Several participants noted that companion animal ownership increased as more people worked from home and spent less time socialising, giving them time to spend with their new pets.<sup>382</sup> In evidence to the committee, Barry Codling, PIAA President, referred to research that found 'the

<sup>380</sup> Submission 224, Pet Industry Association of Australia, p 1.

<sup>381</sup> Submission 224, Pet Industry Association of Australia, p 1, quoting Animal Medicines Australia, 'Pets and the Pandemic: A social research snapshot of pets and people in the COVID-19 era', (2021), *Nengage Research*, p 4.

<sup>382</sup> Submission 6, Animal Defenders Office, p 8; Submission 224, Pet Industry Association of Australia, p 1, citing Animal Medicines Australia, 'Pets and the Pandemic: A social research snapshot of pets and people in the COVID-19 era', (2021), *Nengage Research*, p 4.

companionship provided by pets continues to be highly valued by Australians, and the pandemic has given an opportunity for some to experience the benefits of pets for the first time'.<sup>383</sup>

- 6.4** The Animal Medicines Australia research report highlighted how pets have had a positive impact on the lives of owners throughout the pandemic as they 'provided joy, comfort and were good for mental health'.<sup>384</sup> In addition, participants noted other benefits of pet ownership, including affection, a sense of purpose and responsibility, as well as improved physical health and companionship.<sup>385</sup> NSW Cat Fanciers drew a direct line between COVID isolation and interest in a companion animal:

Covid-19 has certainly shown that being restricted from human contact has had a major impact on people's mental health and that the volume of pet enquiries has increased significantly with people seeking to bring a pet into their lives as a companion.<sup>386</sup>

- 6.5** The committee heard that rising demand for companion animals during the pandemic resulted in an increase in prices, making dog and cat breeding an appealing pursuit for first time breeders. Registered dog breeder John Carr explained, pointing to a pattern of purchasing that people may later regret:

Over the years a number of factors have pushed up the prices of puppies where some individuals that would not normally be involved in breeding dogs have decided to pursue breeding them as a means of easy financial gain. COVID has not helped matters causing increased demand for puppies. The effect has caused desperate people to acquire puppies under agreements they do not want or for prices which are exorbitant.<sup>387</sup>

- 6.6** This concern was echoed by the Australian Association of Pet Dog Breeders who stated that while the peak in prices seen during the COVID-19 lockdown has begun to subside, 'prices are still high enough to make dog breeding an extremely attractive pursuit, attracting a genuinely criminal element into the industry'.<sup>388</sup>

- 6.7** Participants told the committee that the influx of companion animals on the market since the start of the pandemic has led to a number of consumer protection issues emerging including unhealthy pets, poorly socialised animals, misleading or inaccurate information, and fraudulent scams. Various stakeholders including PETA Australia claimed that unscrupulous breeders took advantage of the travel and lockdown restrictions to sell pets to prospective owners who had little oversight, and no opportunity to view the premises or the animals before their purchase. In its submission, PETA Australia substantiated its concerns with research from the United Kingdom:

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<sup>383</sup> Evidence, Mr Barry Codling, President, Pet Industry Association of Australia, 7 April 2022, p 20.

<sup>384</sup> Submission 224, Pet Industry Association of Australia, p 2, quoting Animal Medicines Australia, 'Pets and the Pandemic: A social research snapshot of pets and people in the COVID-19 era', (2021), *Newgate Research*, p 4.

<sup>385</sup> Submission 9, NSW Cat Fanciers, p 3, citing Animal Medicines Australia, 'Pets in Australia: A national survey of pets and people', Survey Report (2019), *Newgate Research*, p 17.

<sup>386</sup> Submission 9, NSW Cat Fanciers, p 3.

<sup>387</sup> Submission 25, John Carr, p 7.

<sup>388</sup> Submission 76, Australian Association of Pet Dog Breeders, p 16.



Research conducted in the United Kingdom in 2020 found that 25 per cent of new dog owners bought a puppy during the pandemic with little research and admitted they could have inadvertently bought from a puppy farm. One in five wasn't sure if their dog would even suit their lifestyle after lockdown.<sup>389</sup>

**6.8** Dr Rosemary Elliott, President at Sentient, told the committee that she was aware of 'countless stories of hopeful pet owners whose desire to find a companion animal and whose emotional reactions to photos of animals up for sale, have been exploited'. According to Sentient, many potential owners purchased dogs or cats 'sight unseen' during the pandemic and were either scammed or received animals with health and behavioural problems related to irresponsible breeding practices.<sup>390</sup>

**6.9** This concern was shared by pet owners who told of their personal experience trying to buy a companion animal during the pandemic. Ms Emily Power explained that it was challenging to make an informed choice about the dog she was looking to purchase. She told the committee that she struggled to find accurate information:

Obviously with a rescue you expect that you do not know what the origins are but, when you are purchasing something for \$5,000 or more, you want to know that it is a healthy puppy, that it is well socialised and that it has been raised well.<sup>391</sup>

**6.10** Ms Power explained that due to travel restrictions she was unable to travel to regional New South Wales to inspect the puppy she was looking to purchase.<sup>392</sup>

**6.11** The committee sought information from NSW Fair Trading on numbers of consumer complaints about pet purchases. The data indicated a rise of complaints about the purchase of a dog in 2020 and 2021. The number of annual complaints it received about the purchase of a dog from 2013 to 2019 varied from 50 to 65. However, it received 74 complaints in 2020 before increasing further in 2021 to 104.<sup>393</sup>

## Online sales

**6.12** Online platforms such as Gumtree and Trading Post, as well as social media sites, are commonly used to sell puppies and kittens. During the inquiry the committee heard from numerous participants about the problematic nature of online platforms for the purchase of companion animals. Amongst other things, participants raised concerns about the inability to verify whether or not someone is a genuine and/or ethical breeder, as well as difficulties with ongoing monitoring of problematic sellers.

**6.13** Ms Joanna Randall, International Head of Companion Animal Campaigns, Four Paws, told the committee how the nature of online platforms allows unethical breeders to operate:

<sup>389</sup> Submission 17, PETA Australia, p 4.

<sup>390</sup> Evidence, Ms Rosemary Elliott, President, Sentient, 7 April 2022, p 33.

<sup>391</sup> Evidence, Ms Emily Power, private citizen, 23 May 2022, p 15.

<sup>392</sup> Evidence, Ms Power, 23 May 2022, p 10.

<sup>393</sup> Correspondence from Ms Natasha Mann, Commissioner for Fair Trading, to Chair, 16 June 2022.

This is where quite often cruelty and suspect practices can thrive. The online marketplace provides anonymity for unscrupulous puppy farmers and dealers who do not want members of the public to know the conditions in which they are breeding animals. They do not necessarily want to be meeting them face to face or having conversations with them before luring a buyer with a lovely image of a puppy that they have already fallen in love with before they have even met them.<sup>394</sup>

- 6.14** Ms Power explained how difficult it was, despite her best efforts, to verify whether she was purchasing from an 'ethical breeder':

I ended up buying my dog through Gumtree or the Trading Post. I rang a few of the owners to find out "How many dogs do you have?" and asked a few questions. They were a bit cagey. They did not really want to give me their address until they were sure that I wanted to come and inspect the puppy. When I did get the address, I would look it up on Google Earth and try to home in and have a look—was there grass in the backyard, and that sort of thing ... You sort of think a family breeding dogs, it must be so lovely, they are in a lovely environment. But you do not actually know because you cannot go in their backyard; you go to their front door. They show you photos of the puppies on a little blanket. It looks nice and cosy. But, as a consumer, you have no way of ensuring that it is a good environment.<sup>395</sup>

- 6.15** Some inquiry participants advocated for the banning of online sales of companion animals while others were in favour of continuing to allow them but in a more limited way and with tighter regulation. Both Animal Care Australia and the NSW Cat Fanciers Association were in favour of restricting the ability to advertise animals on platforms such as Gumtree and Trading Post. They argued that the sale of companion animals should be restricted to authorised websites or other platforms that enable the seller to be verified and monitored.<sup>396</sup>
- 6.16** Source numbers or breeder identification numbers were seen by a number of inquiry participants as key to transparency and traceability, especially for online sales.<sup>397</sup> Both Animal Care Australia and the NSW Cat Fanciers Association promoted the use of direct links to the breeder's name and prefix to counter those who list pets for sale with illegitimate breeder identification numbers.<sup>398</sup>
- 6.17** Four Paws, a global animal welfare organisation, similarly stressed the importance of being able to easily verify microchip and breeder identification numbers. It advocated that the onus for verification be on the platforms before an advertisement is placed online, stating that this would effectively protect potential purchasers from unregistered or untraceable breeders.<sup>399</sup>
- 6.18** The committee learned how certain mechanisms could be utilised to allow websites and online platforms to sell companion animals, but in a way that is ethical and enables reporting of any issues around non-compliance. For example, the Australian Veterinary Association referred to

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<sup>394</sup> Evidence, Ms Joanna Randall, International Head of Companion Animal Campaigns, Four Paws, 7 April 2022, p 50.

<sup>395</sup> Evidence, Ms Power, 23 May 2022, p 12.

<sup>396</sup> Submission 5, Animal Care Australia, p 8.

<sup>397</sup> Submission 22, World Animal Protection, p 2.

<sup>398</sup> Submission 9, NSW Cat Fanciers Association, p 7.

<sup>399</sup> Submission 18, Four Paws, p 4.

its policy for the online advertising of dogs and cats which includes standards that both support animal welfare and protect potential buyers.<sup>400</sup>

- 6.19** In response to questions about the online consumer protections available in Victoria, Ms Georgie Purcell, President, Oscar's Law, drew the committee's attention to the use of identification numbers to facilitate the verification of sellers:

With the online consumer protections, as I mentioned earlier, our legislation established what is known as a pet exchange register, and that is where anyone—whether they are a rescue group, an individual with one breeding dog or someone with 50 breeding dogs—has to create an online profile and every time they sell a puppy, they must not only advertise their microchip number, which was already the law, but they have to advertise this unique number that comes with the animal. That goes to show that the ad is legitimate and this person can be selling the animal. Consumers can go online and look up the number on the pet exchange register to check that it is real, and if it is not real then you can report it and the ad will be taken down. Then the council gets that data and is able to look into it. The other thing that is important is that it holds the online sellers accountable. Gumtree or Trading Post or any of those online platforms can be hit with a notice to comply, and if they do not, they can also be fined under the legislation, which is a really important part.<sup>401</sup>

- 6.20** Unfortunately, the committee did not receive any evidence from online platforms Gumtree Australia and Trading Post despite seeking submissions and inviting them to give evidence.

## Pet stores

- 6.21** This section discusses consumer protection as it relates to the sale of companion animals through pet stores, including participant concerns for animal welfare, regulation, oversight, supply of animals to pet stores, and purchasing decisions. The possible impact of the Companion Animals Amendment (Puppy Farms) Bill 2021 (hereafter Puppy Farms Bill) on pet stores was discussed in Chapter 3.

### Shop environments

- 6.22** Some stakeholders expressed the view that pet stores are not an appropriate environment for the sale of companion animals. Animals Australia was particularly concerned for puppies and kittens being 'separated from their mothers and siblings'. In addition, it warned that pet stores could be 'a channel for unscrupulous breeders'.<sup>402</sup>
- 6.23** Both NSW Cat Fanciers Association and Animal Care Australia observed that the pet store environment is not ideal for puppies and kittens as stores often don't have sufficient space or resources, which can lead to behavioural issues including anxiety. Some of their concerns regarding the pet store environment include bright lights, noise, inability to exercise, no

<sup>400</sup> Submission 219, Australian Veterinary Association, p 10.

<sup>401</sup> Evidence, Ms Georgie Purcell, President, Oscar's Law, 23 May 2022, p 21.

<sup>402</sup> Submission 34, Animals Australia Federation, p 3.

separation of eating, toileting and sleeping areas, and not having environmental enrichment or appropriate socialisation.<sup>403</sup>

- 6.24** In its submission, Animals Australia referenced a study published in 2016 titled 'Owner-reported aggressive behaviour towards familiar people may be a more prominent occurrence in pet shop-traded dogs'. The authors of the study found that 'there is long-standing recognition of the adverse effect of stressful experiences during early critical developmental periods and the later association with problematic behavioural issues in dogs ... The odds of displaying owner-directed aggression were significantly greater for the dogs that had been purchased from a pet store as puppies'. The study also found an association between 'a dog's pet store origin and other potential problem behaviours, including house soiling, body licking, and separation-related behaviour'. The authors concluded that that obtaining puppies from pet stores may predispose them to exhibit aggression and behavioural issues as they grow older.<sup>404</sup>

### Regulation

- 6.25** Some stakeholders stressed that pet stores are easier to regulate than online sales. Mr Jason Gram, proprietor of Room 4 Pets in Bondi Junction, noted that his business has more oversight than online sales. This view was shared by Kellyville Pets which defended pet stores as the 'most transparent sector of the pet industry as they are under constant public scrutiny and can be audited by an authority without notice'.<sup>405</sup> Mr John Grima of Kellyville Pets, also representing the Pet Industry Association of Australia, elaborated in his hearing:

I see the pet stores as part of the solution because we are 100 per cent transparent. An authority can come in and audit us at any time. We are already legally obliged to record where our animals come from. They are microchipped from the source. If we remove that, we are removing the only transparent sector of the industry.<sup>406</sup>

- 6.26** Similarly, Mr Gram reported that all puppies and kittens sold at Room 4 Pets are treated for parasites, vaccinated, microchipped, and vet checked, and in addition have a lifetime rehoming guarantee. Mr Gram noted these are consumer protections that are not commonly offered through unregulated online sellers.<sup>407</sup>
- 6.27** Consistent with this position, Kellyville Pets further warned that banning animal sales in store will 'drive additional sales to online where it is far more difficult to regulate'.<sup>408</sup>
- 6.28** On the other hand, a ban on pet stores was supported by some stakeholders including Oscar's Law, who stated that:

<sup>403</sup> Submission 9, NSW Cat Fanciers Association, p 8; Submission 5, Animal Care Australia, p 11-12

<sup>404</sup> Submission 34, Animals Australia Federation, p 4, quoting Federica Pirrone, Ludovica Pierantoni, Giovanni Quintavalle Pastorino, Mariangela Albertini, 'Owner-reported aggressive behavior towards familiar people may be a more prominent occurrence in pet shop-traded dogs', *Journal of Veterinary Behavior*, Volume 11, 2016.

<sup>405</sup> Submission 223, Kellyville Pets, p 2.

<sup>406</sup> Evidence, Mr John Grima, Owner, Kellyville Pets, 7 April 2022, p 21.

<sup>407</sup> Submission 15, Jason Gram, p 1.

<sup>408</sup> Submission 223, Kellyville Pets, p 2.

A ban on the sale of animals in pet shops will not stop puppy farming, but it is important as puppy farmers hide behind the pet shop window and it removes one of their easiest ways to deceive the public. Pet shops are simply retail outlets for puppy farmers.<sup>409</sup>

**6.29** According to Oscar's Law, stopping the sale of companion animals through pet stores could help change consumer culture:

Purchasing a puppy shouldn't be like walking into a shop to purchase a pair of shoes. It is preferable that people be allowed to meet the breeder, go to the place the puppy was born and raised and see the pup interact with its littermates and mother. This way the consumer can make an informed choice. Good breeders will want to also ask questions and ensure their puppy is going to a good home – but also the right home for that particular breed.<sup>410</sup>

**6.30** PETA agreed that pet shops may not be forthcoming with the details of breeders through which they source dogs, stating that 'pet shops lure customers in with cute puppies but don't give any explanations as to where the animals came from'.<sup>411</sup>

**6.31** The Animal Defenders Office claimed that the changes proposed by the Puppy Farms Bill to the regulation of pet stores would go a long way to stamp out puppy and kitten breeders who keep high numbers of breeding animals in intensive and poor conditions. It noted that other jurisdictions in Australia have implemented similar measures.<sup>412</sup>

### Impulse purchases

**6.32** Some stakeholders expressed concern that pet stores increase the likelihood of 'impulse purchases'. Animal welfare organisations such as Humane Society International and Sentient argued that a ban on selling dogs and cats in pet stores would reduce impulse buying. They reasoned that fewer impulse purchases would reduce the number of unwanted pets, thereby reducing the financial and logistical burden on shelters and rescue organisations.<sup>413</sup> Humane Society International made the case that matching pets with suitable owners will 'reduce the risk of them being surrendered soon after purchase'.<sup>414</sup>

**6.33** Ms Purcell from Oscar's Law said in evidence that the period of time between deciding to buy a pet and receiving the animal was 'an important part of the process'.<sup>415</sup> Ms Purcell told the committee that 'anyone who can supply a puppy to you the day that you contact them is absolutely someone you should not be buying a puppy from'.<sup>416</sup>

<sup>409</sup> Answers to supplementary questions, Oscar's Law, 20 June 2022, p 1.

<sup>410</sup> Answers to supplementary questions, Oscar's Law, p 1.

<sup>411</sup> Submission 17, PETA Australia, pp 4-5.

<sup>412</sup> Submission 6, Animal Defenders Office, p 6.

<sup>413</sup> Submission 75, Humane Society International, p 4; Answers to supplementary questions, Sentient, 19 May 2022, p 10.

<sup>414</sup> Submission 75, Humane Society International, p 4.

<sup>415</sup> Evidence, Ms Purcell, 23 May 2022, p 23.

<sup>416</sup> Evidence, Ms Purcell, 23 May 2022, p 23.

### Consumer complaints

- 6.34** The committee received evidence regarding consumer issues involving sales of dogs and cats through pet stores. Data provided by NSW Fair Trading listed complaints received from 1 January 2000 to 2 June 2022 that involved a pet store as the point of sale, which included 178 dog related complaints and 41 cat related complaints. The issues included:
- health issues and high vet charges, undisclosed birth defects, parasites
  - incorrect information relating to being desexed not disclosed at time of purchase
  - misleading - restricted dog breed sold not advised
  - misleading in type of breed sold (that is, advertising of purebred when in fact crossbred)
  - conditional packages sold with pets such as food, worm treatments etc
  - non supply of paperwork (that is, registration, pedigree etc)
  - consumer change of mind and requesting refund (that is, unsuitability of animal).<sup>417</sup>
- 6.35** While the committee heard numerous concerns regarding the sale of dogs and cats through pet stores, many other stakeholders pointed out that pet stores are a convenient and helpful place for consumers to meet with and discuss their concerns with experienced staff. The Australian Association of Pet Dog Breeders said that pet stores 'are an excellent point of contact' as a place where owners can be 'appropriately educated in the management of their new pet'.<sup>418</sup>
- 6.36** This perspective was shared by PIAA who believed that pet stores are more visible to the public and the inspectorate and therefore more compliant with animal welfare regulation. It stated that pet stores are 'the first point of contact to new pet owners and should be endorsed to communicate to consumers on responsible pet sourcing along with ownership'.<sup>419</sup>
- 6.37** By contrast, the committee also received evidence highlighting how pet shops can conceal breeding conditions from the public. For example, one submission highlighted that for 16 years she was involved in reporting cruelty at a puppy farm and following the case, 'All the puppies were being sold at pet shops with the consumers being totally unaware of the abhorrent conditions these poor animals were coming from and that their money was helping to perpetuate'.<sup>420</sup>
- 6.38** Oscar's Law also noted that the sale of dogs in pet shops is not supported by the community, and has been banned in many other states:

We feel strongly that a ban on the sale of puppies in pet shops is strongly supported by the community. In fact, it was one of the most popular elements of the legislation that was passed in Victoria. Prior to its passage, there was not a week that went by where we didn't receive complaints from members of the public about distressed puppies in pet shop windows. Many Victorians also believed it was already illegal and were shocked to hear it was not ... The sale of puppies in pet shops is now illegal in Victoria and Western

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<sup>417</sup> Correspondence from Ms Natasha Mann, Commissioner for Fair Trading, to Chair, 16 June 2022.

<sup>418</sup> Submission 76, Australian Association of Pet Dog Breeders, p 8.

<sup>419</sup> Submission 224, Pet Industry Association of Australia, p 3.

<sup>420</sup> Submission 222, Susie Header, p 3.

Australia. We believe it will also be an aspect of the new South Australian Labor Government's action on puppy farms.<sup>421</sup>

### **Restricting the sale of puppies and kittens**

- 6.39** Proprietors of pet stores urged the committee to consider the impact of the Puppy Farms Bill on animals, staff and consumers. Mr Gram from Room 4 Pets argued that permitting pet stores to only sell companion animals that are from rescue and rehoming organisations would negatively impact on their ability to operate:

If we cannot sell puppies and kittens through our store ... my store and every other pet store I know of, will not be able to pay the shopping centre rents. We will have no choice but to close and my eight staff will lose their jobs and me my livelihood. This will be repeated in shopping centres across the state resulting in thousands of job losses.<sup>422</sup>

- 6.40** Furthermore, in Mr Gram's opinion, a restriction on the sale of puppies and kittens from pet stores will raise prices dramatically, and consumers will find it harder to find companion animals. He claimed that as a result of the increase in demand, many consumers will turn to the unregulated black market.<sup>423</sup>
- 6.41** By contrast, PETA queried whether restricting the sale of dogs and cats in pet shops to those sourced from pounds, shelters and rescue groups would have this impact, noting that 'Many pet shops already work from this model and have proved it is still a profitable business model'.<sup>424</sup>
- 6.42** Mr Gram's advice to the committee was to 'allow pet stores to sell ethically sourced puppies but make it a requirement of pet stores to sell a certain percentage of rescue animals as well'.<sup>425</sup> This recommendation was shared by the Australian Veterinary Association who advocated that pet stores continue to sell puppies and kittens 'provided the animals are sourced from responsible breeders'. From its perspective, 'if an animal for rehoming can be adopted through a pet shop in a way that protects its health and welfare, then the same can be done for an animal bred for sale'.<sup>426</sup>

### **Unwanted pets**

- 6.43** There was some discussion during the inquiry of the specific issue of unwanted pets.
- 6.44** According to many stakeholders, the lack of oversight and information available prior to purchase leads many new owners to inadvertently adopt or purchase companion animals with health, behavioural, or socialisation issues – or that simply aren't what they wish to commit to long term. Animal Care Australia cited evidence that during COVID-19, shelters were initially

<sup>421</sup> Answers to supplementary questions, Oscar's Law, p 1.

<sup>422</sup> Submission 15, Jason Gram, p 1.

<sup>423</sup> Submission 15, Jason Gram, p 2.

<sup>424</sup> Submission 17, PETA Australia, p 7.

<sup>425</sup> Submission 15, Jason Gram, p 2.

<sup>426</sup> Submission 219, Australian Veterinary Association, p 9.

emptied 'only to have a vast number of animals returned once people realised the shelter animals were not actually suited for re-homing in the first place, or their lifestyle reverted and having a pet no longer suited their needs or requirements'.<sup>427</sup>

- 6.45** In addition, other stakeholders recognised the significant increase in supply of puppies and kittens was contributing to the rise in unwanted pets. The Animal Defenders Office observed that the oversupply of companion animals by breeders resulted in a large number of surrendered and abandoned animals and increasing the number of healthy animals being euthanised.<sup>428</sup>
- 6.46** Sentient advised the committee that the RSPCA does not rehome animals who 'do not pass their behavioural test', opting instead for euthanasia, and explained that 'behavioural issues are extremely common in dogs and are a leading cause of euthanasia. Behaviours of concern include anxiety ... reactivity and aggression towards other dogs and to people'.<sup>429</sup>
- 6.47** Euthanasia rates were of concern to Local Government NSW, who urged the NSW Government to 'act to reduce the rates of unwanted and abandoned animals'.<sup>430</sup> To do so, Local Government NSW recommended funding free desexing and education programs.

## **Animals in rescue shelters**

- 6.48** An issue linked to consumer protection and education is the presence of companion animals in shelters, largely because they are relinquished by owners.
- 6.49** Throughout the inquiry, the committee heard of the significant amount of work undertaken by not-for-profit shelters and rescue organisations to rescue, foster, and rehome relinquished, abandoned and unwanted pets.<sup>431</sup>
- 6.50** Ms Kristina Vesk from the Cat Protection Society of NSW explained that 'there is always that difficult remnant population in pounds and shelters of dogs who have been surrendered because they have behavioural issues'.<sup>432</sup>
- 6.51** As previously mentioned, the demand on rescue shelters was exacerbated during the COVID-19 pandemic as the heightened supply of companion animals led to many being surrendered or abandoned by their new owners.
- 6.52** Data compiled by NSW Fair Trading listed complaints relating to animals adopted from shelter and rescue organisations from 1 January 2000 to 2 June 2022. These included:
- misrepresentation of animal, including temperament, socialisation skills and illnesses
  - additional costs not initially disclosed such as microchipping and vaccination costs

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<sup>427</sup> Submission 5, Animal Care Australia, p 17.

<sup>428</sup> Submission 6, Animal Defenders Office, p 8.

<sup>429</sup> Answers to questions on notice, Sentient, 19 May 2022, p 3.

<sup>430</sup> Submission 21, Local Government NSW, p 5.

<sup>431</sup> See, for example, Submission 17, PETA Australia, p 6.

<sup>432</sup> Evidence, Ms Kristina Vesk, Chief Executive Officer, Cat Protection Society of NSW, 23 May 2022, p 30.



- failure to supply documentation such as registration papers and pedigree documents
- requests for reimbursement of vet bills/refunds due to illness of animals
- consumer change of mind for various reasons, including personal and medical.<sup>433</sup>

- 6.53** There was consensus amongst many stakeholders that more needs to be done to rehome animals currently in rescue organisations, and to improve breeding practices to limit the oversupply of companion animals.<sup>434</sup>
- 6.54** Nevertheless, breeders and breeder associations observed that companion animals in rescue shelters rarely originate from registered breeders. For example, Mrs Kelly Sokolinski stated in her submission that dogs bred by Australian National Kennel Council breeders are not commonly found in shelters. Some registered breeders gave evidence that they offered a lifetime rehoming guarantee. As Mrs Sokolinski wrote 'I undertake to take back any dog I have bred at any time in their life should the need arise'.<sup>435</sup>
- 6.55** Mrs Sokolinski further observed that 'almost every dog in the pound is a crossbreed and mostly bull breeds' and are thus unpopular amongst and ill-suited to families with small children.<sup>436</sup> However, the Australian Association of Pet Dog Breeders referenced a 2013 Queensland University study into the characteristics and outcomes of dogs admitted into Queensland RSPCA shelters which showed that only 47 per cent of dogs entering the shelter were Staffordshire Bull Terriers, hunting breeds and their crosses, or working sheep dogs and their crosses.<sup>437</sup>
- 6.56** Mr Gram agreed with this evidence corroborating that 'the vast majority' of the dogs that end up in rescue shelters are Staffordshire terriers, cattle dogs and their cross breeds and are 'simply not Cavoodles, Moodles, or other designer type dogs sold in pet stores'.<sup>438</sup> Furthermore, Mr Gram observed that many dogs in rescue shelters are not microchipped, which may indicate that the dogs are not coming from reputable registered breeders.<sup>439</sup>
- 6.57** A similar point of view was shared amongst cat breeders and cat organisations. NSW Cat Fanciers Association wrote that 'animals bred by responsible and ethical breeders rarely end up in the shelter system as they are not impulse purchases and breeders spend many hours talking to and educating prospective owners'.<sup>440</sup> Ms Vesk of the Cat Protection Society noted that the

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<sup>433</sup> Correspondence from Ms Natasha Mann, Commissioner for Fair Trading, to Chair, 16 June 2022, p 1.

<sup>434</sup> Evidence, Ms Michelle Grayson, Treasurer, NSW Cat Fanciers Association, 7 April 2022, p 31; Submission 21, Local Government NSW, p 5.

<sup>435</sup> Submission 151, Kelly Sokolinski, p 1.

<sup>436</sup> Submission 151, Kelly Sokolinski, p 1.

<sup>437</sup> Submission 76, Australian Association of Pet Dog Breeders, p 7, quoting Megan Hemy, Jacquie Rand, John Morton, and Mandy Paterson, 'Characteristics and Outcomes of Dogs Admitted into Queensland RSPCA Shelters' (2017), <https://doi.org/10.3390/ani7090067>

<sup>438</sup> Submission 15, Jason Gram, p 1.

<sup>439</sup> Submission 15, Jason Gram, p 1.

<sup>440</sup> Submission 9, NSW Cat Fanciers Association, p 13.

majority of cats in rescue organisations and shelters are 'moggies' (non-pedigree), and usually a result of an accidental litter.<sup>441</sup>

- 6.58** Ms Michelle Grayson from NSW Cat Fanciers Association agreed that there are too many animals in rescue shelters at risk of being euthanised, and pointed to a need 'for more detailed data so that we can all work out where these animals are coming from to be able to determine what else is required to reduce the number of animals that end up in these situations'.<sup>442</sup> The Association's submission observed that, 'There are still people who do not desex their pets, who give away the puppies and kittens to friends who then do not bother getting the pet desexed, so the cycle just perpetuates itself'.<sup>443</sup> According to the Association, 'irresponsible pet owners who make bad decisions are a root cause of a large portion of animals find themselves being in the pound/shelter/rescue system'.<sup>444</sup>
- 6.59** To alleviate the pressure on rescue shelters, the NSW Cat Fanciers Association recommended better education and information for new pet owners, including 'how to choose a pet that suits their lifestyle', and not simply selecting animals based on aesthetics and popularity.<sup>445</sup>

## Consumer law

- 6.60** There was some discussion throughout the inquiry as to whether or not consumer law is able to respond appropriately to those who have purchased a puppy or kitten that is has serious health problems, exhibits behavioural issues, or who have experienced other difficulties or disagreements relating to the purchase of a pet.

### Medical problems

- 6.61** An issue that arose in the inquiry was the difficult situation faced by purchasers of puppies who later discovered the puppy to have serious health problems requiring surgery or medical intervention. As discussed in chapter 2, numerous participants highlighted that various breeds of dogs and cats, especially those with brachycephalic features, such as pug dogs, French bulldogs or Persian cats, are bred for aesthetic reasons but frequently have inherent serious health issues including difficulty breathing.<sup>446</sup> In addition, concerns were raised about how to deal with genetic diseases and health complications that arise later in life. Participants further highlighted the serious health problems arising from unethical intensive breeding including inbreeding, malnourishment, genetic defects, along with illnesses arising from a lack of care.<sup>447</sup>
- 6.62** NSW Fair Trading advised the committee that it received 1059 complaints regarding the purchase of dogs and 192 complaints regarding the purchase of cats from 1 January 2000 to 2

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<sup>441</sup> Evidence, Ms Vesk, 23 May 2022, p 28.

<sup>442</sup> Evidence, Ms Grayson, 7 April 2022, p 29.

<sup>443</sup> Submission 9, NSW Cat Fanciers Association, p 4.

<sup>444</sup> Submission 9, NSW Cat Fanciers Association, p 7.

<sup>445</sup> Submission 9, NSW Cat Fanciers Association, p 7.

<sup>446</sup> Submission 8, Cat Protection Society of NSW, p 1; Submission 10, Tree of Compassion, p 3.

<sup>447</sup> Submission 6, Animal Defenders Office, p 7.

June 2022.<sup>448</sup> These complaints were in relation to the purchasing of dogs and cats from breeders, pet shops and adoption centres. One of the key themes identified by NSW Fair Trading in relation to the complaints concerned the matter of compensation for veterinary bills for serious health problems identified soon after obtaining the animal, as well as for undisclosed birth defects.

- 6.63** The committee heard that the purchasing of sick companion animals became an even greater problem during the early phases of the COVID-19 pandemic. The Animal Defenders Office reported that there had been an exponential increase in their caseload during that time, as a result of complaints from people who had purchased a puppy or kitten in poor health.<sup>449</sup>
- 6.64** Pet insurance may be purchased to help cover the veterinary expenses of a dog or cat. Some pet shops or breeders may provide free insurance for a particular period.<sup>450</sup> However, the committee heard of difficulties in immediately accessing the insurance as some policies have a period from transfer of ownership where the new owner cannot rely on the policy. Ms Tara Ward, Solicitor, Animal Defenders Office, told the committee:

What we are finding is that if you take possession of an animal from the breeder and it is immediately obvious that the animal is unwell, you cannot rely on that pet insurance. So once again, the new keeper is faced with huge vet bills on top of the already huge cost price of the animals themselves.<sup>451</sup>

### Limitations of the law

- 6.65** The committee heard that many breeders and some pet stores provide a lifetime rehoming guarantee for their dogs.<sup>452</sup> Animal Care Australia stressed that many responsible breeders will have a fall back plan where the animal is returned to the breeder should circumstances change or the purchaser no longer wants the animal.<sup>453</sup>
- 6.66** However, the committee also learned of situations where a puppy or kitten has serious medical problems, sometimes not long after purchase, with the new owner finding themselves with limited options. Humane Society International argued that there are two victims in these situations – the sick animal as well as the purchaser – and that unlike with other 'faulty' purchases, it is not a simple matter of returning the 'product' and receiving a refund:

Unlike other purchases, unhealthy puppies and kittens cannot simply be returned to breeders without, at the very least, psychological consequences for the animals, who quickly bond with their human companions. Most consumers also understand that sending an unhealthy puppy/kitten back to a breeder may result in the animal being denied medical care or being killed to avoid veterinary costs. There are numerous

<sup>448</sup> Correspondence from Ms Natasha Mann, Commissioner for Fair Trading, to Chair, 16 June 2022.

<sup>449</sup> Evidence, Ms Sarah Margo, Solicitor, Animal Defenders Office, 7 April 2022, p 41.

<sup>450</sup> Submission 15, Jason Gram, p 1.

<sup>451</sup> Evidence, Ms Tara Ward, Solicitor, Animal Defenders Office, 7 April 2022, p 47.

<sup>452</sup> Submission 15, Jason Gram, p 1; Submission 16, RightPaw, p 2.

<sup>453</sup> Submission 3, Animal Care Australia, p 9.

examples in the media of people who have purchased puppies who died or required thousands of dollars' worth of veterinary care.<sup>454</sup>

**6.67** A number of participants drew the committee's attention to the relative lack of legal remedies, and the inappropriateness of those that are available. The committee received evidence that animals are classified as property and considered to be a purchase of goods under consumer law.<sup>455</sup> The incongruity of consumer law and sentient beings was raised by a number of participants.<sup>456</sup> Ms Sarah Margo, Solicitor, Animal Defenders Office, illuminated the current legal deficiencies:

Given the current legal framework, the best we can usually advise the client is to consider a private civil action through Australian consumer law. The problem is that Australian consumer law is designed to standard consumer transactions and it does not accommodate issues around sentient, living beings. The challenges of accessibility and limited remedies of consumer protections are insufficient as a means of providing protection against rogue breeders.<sup>457</sup>

**6.68** Ms Shatha Hamade, Legal Counsel, Animals Australia, similarly stressed that consumer law is inappropriate for pets, stating, '[W]e also have to be mindful that essentially these animals are still being treated as property, and defective goods, really. I think that is a fundamental issue that we cannot ignore'.<sup>458</sup>

**6.69** The Animal Defenders Office noted that consumer law protects consumers by the imposition of a legislative guarantee that goods are of an acceptable quality, including that they are fit for purpose and 'free from defects'.<sup>459</sup> It argued that in relation to a puppy or kitten, this implies that it is reasonable for a purchaser to expect that a puppy or kitten is healthy at the time of purchase. However, the Animal Defenders Office underscored the limitations of this approach:

[A] uniform standard of 'acceptable quality' is difficult to attain in the case of 'goods' that are sentient animals. While there is some legal authority for what 'acceptable quality' means in this context, it is far from conclusive or comprehensive, and provides little guidance to new keepers seeking relief through the ACL [Australian Consumer Law].<sup>460</sup>

**6.70** Humane Society International observed that going to court or tribunals is often expensive and intimidating, and it can be hard to prove that an animal was not of 'acceptable quality' at the time of purchase.<sup>461</sup> The Animal Defenders Office was of a similar view, explaining the limited and onerous options available under Australian consumer law (ACL):

A breach of the acceptable quality guarantee has been found where the 'defect' in the animal is congenital or could have been prevented by the breeder. This would require significant veterinary intervention or treatment, burdensome veterinary evidence, and

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<sup>454</sup> Submission 75, Humane Society International, p 3.

<sup>455</sup> Submission 6, Animal Defenders Office, p 5.

<sup>456</sup> For example, Evidence, Ms Vesk, 23 May 2022, p 27.

<sup>457</sup> Evidence, Ms Margo, 7 April 2022, p 41.

<sup>458</sup> Evidence, Ms Shatha Hamade, Legal Counsel, Animals Australia, 23 May 2022, p 21.

<sup>459</sup> Submission 6, Animal Defenders Office, p 9.

<sup>460</sup> Submission 6, Animal Defenders Office, p 9.

<sup>461</sup> Submission 75, Humane Society International, p 3.

proof that the defect caused loss that was reasonably foreseeable. This does not account for scenarios where a puppy or kitten has been affected by the conditions in which the animal was exposed or kept prior to purchase, but which does not manifest as a congenital issue or a problem that is distinctly attributable to breeding practices – even though the condition may have been entirely preventable by higher breeding welfare standards. Distressingly for many consumers, early trauma suffered by an animal may take time to become apparent. However, there would be no breach of the acceptable quality guarantee if the ‘defect’ occurs after the animal has been purchased. If a pre-purchase defect cannot be proven on a balance of probabilities, purchasers will be thwarted in any attempt to seek redress from breeders or pet shops under the ACL.<sup>462</sup>

- 6.71 Both organisations argued that compensation often does not sufficiently cover the bills for life-long treatment or the emotional trauma of dealing with an animal who is ill and suffering.<sup>463</sup>

### Options for improvement

- 6.72 A number of inquiry participants had a variety of suggestions as to how consumer law could better accommodate the issues around the purchasing of companion animals. These options included extended liability, returnless refunds, and specially focused legal clinics.

#### *Extended liability*

- 6.73 The Australian Association of Pet Dog Breeders suggested that the liability and responsibility of breeders under the *Animal Welfare Code of Practice – Breeding Dogs and Cats* (hereafter the Breeding Code) be extended past the three day cooling off period following a sale. It argued for breeders being responsible for preventable congenital, genetic or health problems that occur in the first year of the animal's life. This extended liability, it contended, 'would provide an appropriate incentive for breeders to focus on the genetic health and suitability of their dogs'.<sup>464</sup>

- 6.74 When questioned about the suitability of extended liability for breeders, the Animal Defenders Office expressed their support for such a scheme 'where an animal suffers an illness as a result of breeding practices, including the conditions under which the animal was raised at the start of life, it should be incumbent on the breeder to be held accountable'.<sup>465</sup> However, the Animal Defenders Office also stressed an extended liability scheme in itself would be insufficient due to the inadequacies of consumer law, and would need to be in addition to such measures as those proposed by the Puppy Farms Bill.<sup>466</sup>

#### *Returnless refund*

- 6.75 Another option presented to the committee was the use of 'returnless refunds'. The Animal Defenders Office noted that this concept is increasingly being used in relation to online

<sup>462</sup> Submission 6, Animal Defenders Office, p 9.

<sup>463</sup> Submission 75, Humane Society International, p 3; Submission 6, Animal Defenders Office, p 10.

<sup>464</sup> Submission 76, Australian Association of Pet Dog Breeders, p 8.

<sup>465</sup> Answers to supplementary questions, Animal Defenders Office, 23 May 2022, p 5.

<sup>466</sup> Answers to supplementary questions, Animal Defenders Office, p 4.

shopping where shipping costs are expensive and the item is hard to resell.<sup>467</sup> It explained how returnless refunds would work in respect of pets:

Animals could be exempted from any requirement to return items to sellers when the purchaser is entitled to a refund in the case of a 'major problem'. Such an approach would be appropriate for welfare reasons, and/or where the breeder has stopped operating, and in recognition of the significant bond that can develop between humans and their animals. To achieve this, NSW fair trading law could be amended to clarify that where a consumer is entitled to a refund as a remedy under the Australian Consumer Law ... the consumer is not required to return the item to the supplier if the item being refunded is an animal (living or deceased).<sup>468</sup>

### *Anti-puppy farm legal clinic*

- 6.76 The committee heard that in 2020, the Animal Law Institute in Victoria established an anti-puppy farm legal clinic in response to the increase in the number of people buying sick companion animals online during the pandemic.<sup>469</sup> The clinic is partly funded by the Victorian Government. The Animal Defenders Office expressed its support for the establishment of a government-funded specialist legal clinic in New South Wales.<sup>470</sup> However, it noted that demand for the services of the Victorian clinic is greater than its funding. The Animal Defenders Office accordingly advocated for any clinic established in New South Wales to be adequately funded so that it can employ a sufficient number of solicitors as well as provide community outreach and legal education.<sup>471</sup>

## Consumer education

- 6.77 Numerous inquiry participants spoke of the need for consumers, breeders and the general public to be better educated in relation to the purchasing of companion animals. For Animal Care Australia, education is key, concluding that it 'will help many to avoid situations of being scammed, misguided or making bad decisions'.<sup>472</sup> It highlighted the lack of awareness among new or prospective pet owners about their responsibilities or those of breeders:

Many new dog and cat owners are oblivious to the fact they are required to register their animals with Council, or to record the microchips of their newly bred animals. Simply speak to any [Animal Welfare League] or RSPCA inspector and they will tell you that an average resident, who is not a member of a Recognised (breeding) Organisation, has no idea there is a breeding code of practice, or what their current responsibilities are under POCTAA.<sup>473</sup>

- 6.78 Many participants suggested there was a need for education regarding:
- how to choose a dog or cat that suits the purchaser's environment and lifestyle

<sup>467</sup> Answers to questions on notice, Animal Defenders Office, 23 May 2022, p 2.

<sup>468</sup> Answers to questions on notice, Animal Defenders Office, p 2.

<sup>469</sup> Submission 75, Humane Society International, p 3.

<sup>470</sup> Answers to supplementary questions, Animal Defenders Office, p 4.

<sup>471</sup> Answers to supplementary questions, Animal Defenders Office, p 4.

<sup>472</sup> Submission 3, Animal Care Australia, p 9.

<sup>473</sup> Submission 3, Animal Care Australia, p 22.

- what responsible pet ownership entails
- how to identify ethical breeders and the reasons for purchasing from them
- signs that a dog or cat is from a puppy or kitten farm.<sup>474</sup>

**6.79** Some witnesses warned that consumer education would not be enough without adequate regulation and oversight of breeders, because of the lack of information available to consumers when looking to purchase a puppy. Ms Power stated that:

As a consumer, we normally have information on the working conditions that are given to the people who provide our clothes or our food. We have the choice to buy free range, we know when something comes from a sweatshop generally and we can make an ethical choice. But I did not find it easy to do that in this case. I think the community is appalled by animal cruelty and we need harsher penalties and legislative standards to protect animals.<sup>475</sup>

**6.80** The NSW Cat Fanciers Association argued that there needs to be an easy mechanism for potential purchasers to report breeders who are not meeting their legislative requirements, in addition to ensuring that purchasers are well-informed as how to identify such breeders.<sup>476</sup>

**6.81** Many participants also stressed the importance of educating potential purchasers so they are not choosing pets for solely aesthetic or status reasons, but are mindful of the possible health implications of those features for the animal itself.<sup>477</sup>

**6.82** With regard to responsible pet ownership, the NSW Cat Fanciers Association considered it important to educate pet owners about matters including the desexing of puppies and kittens, so they do not contribute to the number of animals in pounds or shelters. In its view, it tends to be irresponsible pet owners rather than breeders who contribute to the cycle of animals in shelters.<sup>478</sup>

**6.83** The committee is aware that the Animal Welfare League operates a mobile vet truck providing vaccination, desexing and microchipping clinics in regional New South Wales to improve community take-up of these procedures and reduce euthanasia rates in shelters.<sup>479</sup>

**6.84** Participants also advised of the need to educate breeders of their legislative requirements.<sup>480</sup>

### **Unethical breeders and breeding practices**

**6.85** The committee received evidence as to a general lack of awareness of puppy farms among community members. A number of witnesses agreed that consumers are largely unaware of the

<sup>474</sup> Submission 219, Australian Veterinary Association, p 10; Submission 3, Animal Care Australia, p 9.

<sup>475</sup> Evidence, Ms Power, 23 May 2022, p 10.

<sup>476</sup> Submission 9, NSW Cat Fanciers Association, p 7.

<sup>477</sup> Submission 10, Tree of Compassion, pp 2-3; Submission 219, Australian Veterinary Association, p 4.

<sup>478</sup> Submission 9, NSW Cat Fanciers Association, p 5.

<sup>479</sup> Portfolio Committee No. 4, NSW Legislative Council, *2021 Inquiry into the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979* (2022), p 23.

<sup>480</sup> Submission 219, Australian Veterinary Association, p 10; Submission 3, Animal Care Australia, p 9.

source of puppies, including the nature of the facilities from which they originate.<sup>481</sup> The Humane Society International observed that without transparency or strong regulation 'many consumers inadvertently fuel a trade they morally oppose'.<sup>482</sup>

- 6.86** Ms Yvonne Yun, Executive Member, German Shepherd Dog Council of Australia, expressed the view that puppy farms are driven by market demand, and called for purchasers to accept responsibility for the welfare of the animals used for breeding purposes. She told the committee that purchasers 'need to know that that bitch has been bred into the ground in horrific circumstances, and that is why they get their cheaper puppy'.<sup>483</sup> Likewise, Mr Mark Slater, Chief Executive Officer, Animal Welfare League NSW, highlighted the need for the community to be educated about intensive breeding practices and what constitutes good welfare outcomes.<sup>484</sup> He advocated for 'a deep diving, broad-ranged education program for animal ownership in general'.<sup>485</sup>

### Conducting due diligence prior to purchasing

- 6.87** Throughout the inquiry, the committee learned of ways in which prospective purchasers could educate themselves about the source of the puppy or kitten. In response to a question about how to educate people to consider animal welfare when purchasing an animal, Ms Shirene Donnelly, a foster carer of dogs, told the committee that 'it starts at the ground level with children – educating children on animal care, animal welfare and love for animals'.<sup>486</sup> Animal Care Australia highlighted that educating buyers on both responsible breeding and buying practices will 'more likely result in a life-time family member and not one that sets them back or comes with poor health and no social interaction training'.<sup>487</sup> Dr Karen Hedberg, veterinarian and committee member, French Bulldog Club, explained to the committee how prospective purchasers could conduct due diligence prior to buying an animal:

For most registered breeders you can go along and actually see the parents, see where they are kept, see how puppies are raised and I would suggest that most people go and do that. I find that part of what I would call people's homework if you want to get a healthy puppy from people that are breeding properly.<sup>488</sup>

- 6.88** The Australian Veterinary Association was similarly of the view that ideally 'any prospective pet owner should visit the premises where a puppy was bred, engage with the breeder, meet the parents of the puppy, and view the environment him or herself'.<sup>489</sup> However, the committee

<sup>481</sup> Evidence, Ms Shirene Donnelly, Ms Robyn Maloney, and Ms Amy Johnson, private citizens, 23 May 2022, p 3.

<sup>482</sup> Submission 75, Humane Society International, p 4.

<sup>483</sup> Evidence, Ms Yvonne Yun, Executive member, German Shepherd Dog Council of Australia, 7 April 2022, p 17.

<sup>484</sup> Evidence, Mr Mark Slater, Chief Executive Officer, Animal Welfare League NSW, 7 April 2022, p 60.

<sup>485</sup> Evidence, Mr Slater, 7 April 2022, p 62.

<sup>486</sup> Evidence, Ms Donnelly, p 5.

<sup>487</sup> Submission 3, Animal Care Australia, p 22.

<sup>488</sup> Evidence, Dr Karen Hedberg, Veterinarian and committee member, French Bulldog Club, p 18.

<sup>489</sup> Submission 219, Australian Veterinary Association, p 10.



heard how difficult it can currently be for prospective purchasers to determine whether or not a puppy or kitten is coming from an ethical source, even when attempts are made to conduct due diligence.<sup>490</sup>

**6.89** Further, in response to questions about whether it is fair for consumers to shoulder the responsibility for understanding their responsibilities as well as investigating whether the source is a puppy farm, Ms Sarah Margo, Solicitor, Animal Defenders Office, responded by pointing to the need for greater limits on operators of puppy farms:

No consumer that I have come across intentionally wishes to purchase from a puppy or kitten farm. The fact that these operations are covert and have clever ways of operating below the line that we are unaware of is the very reason we have issues in the first place.<sup>491</sup>

### **Initiatives supported by the NSW Government**

**6.90** The NSW Government currently conducts education programs regarding pet ownership. The committee heard how the Responsible Pet Ownership Program delivered a Living Safely with Dogs program to 6,015 preschools and 7,572 primary schools, reaching 158,640 preschoolers and 755,415 school students.<sup>492</sup> The NSW Government spends about \$1.2 million each year on education programs for preschool and primary school students.<sup>493</sup>

**6.91** The NSW Government also funds approved charitable organisations for the purposes of education, providing:

- \$2 million to the RSPCA NSW in 2015 to support an education centre and program
- \$200,000 in 2016 to support a joint education campaign with the RSPCA NSW and Animal Welfare League NSW raising awareness about responsible pet purchasing and the reporting of disreputable breeders
- \$12 million in 2019 for the RSPCA NSW Adoption and Education Centre at Yagoona.<sup>494</sup>

**6.92** Ms Tara Black, Deputy Director-General, Strategy and Engagement, NSW Department of Primary Industries, told the committee that the NSW Department of Primary Industries (hereafter DPI) and Local Government NSW websites include information on purchasing puppies.<sup>495</sup> Material is available on:

- the regulation of cats and dogs, including the relevant codes
- buying or adopting a cat or dog

<sup>490</sup> Evidence, Ms Power, 23 May 2022, p 11.

<sup>491</sup> Evidence, Ms Margo, 7 April 2022, p 46.

<sup>492</sup> Evidence, Ms Ally Dench, Executive Director, Local Government, Office of Local Government, 23 May 2022, p 41.

<sup>493</sup> Answers to questions on notice, Department of Primary Industries, 20 June 2022.

<sup>494</sup> Answers to questions on notice, Department of Primary Industries.

<sup>495</sup> Evidence, Ms Tara Black, Deputy Director-General, Strategy and Engagement, NSW Department of Primary Industries, 23 May 2022, p 42.

- selling or giving away a cat or dog.<sup>496</sup>

**6.93** Nonetheless, Ms Black acknowledged the need for government to do more to actually connect with and influence prospective buyers:

What we have heard in the evidence to the hearing today, and at the last one, was that information is clearly not reaching people in the way that we would like it to. I think we have recognised that we need to do a bit more work to make sure that information is actually reaching our intended audience.<sup>497</sup>

**6.94** Ms Black further told the committee, 'We recognise that people do not know what questions to ask or what to look for when they are making those decisions about what breed to buy, where to buy it from and what to look for'.<sup>498</sup>

**6.95** Ms Black then indicated that as of June 2022, DPI had begun designing a new education campaign. It will be investing \$130,000 in 2022 in a dedicated puppy education and awareness campaign to help potential dog owners make more informed purchasing decisions as well as educate breeders about their legislative obligations.<sup>499</sup> In addition, the Office of Local Government anticipates providing a webinar for breeders by the end of 2022 as part of a series of educational webinars.<sup>500</sup>

## Committee comment

**6.96** Throughout the COVID-19 pandemic, many people in New South Wales introduced a companion animal to their home. The committee recognises the positive impact this had on the wellbeing of people, and that increased time at home for many meant they had the time and opportunity to invest in a pet. However, we are aware that with the growth in demand came a substantial increase in the price of puppies. The committee is concerned that some unethical breeders have taken advantage of this opportunity to sell puppies for a large profit that have been bred in poor conditions. We also recognise that some potential purchasers have been the unfortunate victims of online scams, having transferred large sums of money without receiving the puppy or kitten advertised. Some owners have not carefully considered the long-term suitability of their new pet, nor their ongoing significant responsibilities towards the pet. Others have found themselves in a difficult situation, financially as well as emotionally, when they discover the puppy or kitten they have purchased and bonded with has serious medical problems.

**6.97** The sale of companion animals from pet stores is an area where members of the committee have differing views, reflecting the diverse perspectives of inquiry participants. Many stakeholders expressed their concern about the sale of companion animals from pet stores. Some completely opposed the sale of animals from stores. Some supported their use to rehome dogs or cats from pounds or shelters. The committee also heard evidence from those in favour

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<sup>496</sup> Answers to questions on notice, Department of Primary Industries.

<sup>497</sup> Evidence, Ms Black, 23 May 2022, p 42.

<sup>498</sup> Evidence, Ms Black, 23 May 2022, p 42.

<sup>499</sup> Answers to questions on notice, Department of Primary Industries.

<sup>500</sup> Answers to questions on notice, Department of Primary Industries.

of the continued use of pet stores, who stressed the benefits of the government being able to more easily regulate and control these environments.

- 6.98** The committee acknowledges that conditions in some stores may not provide an ideal environment for animals, especially given the light and noise of many shops, and recognises that it may facilitate impulse buying.
- 6.99** We are also saddened to hear of the large number of unwanted animals in pounds and rescue shelters and the associated high euthanasia rates. Many breeders, their association and pet store owners drew the committee's attention to the fact that they do not have trouble rehoming dogs, with some giving evidence suggesting that they offer a lifetime rehoming guarantee. It was the view of some inquiry participants that shelter animals are 'unsuitable' for rehoming. However, the committee could not substantiate these views, as we did not have the opportunity to speak with rescue organisations. Further, the committee believes that many rescue animals are suitable for rehoming and often make loving companions. It is clear that more can be done via education to prevent the flow of animals into shelters, and by ensuring people understand the role of taking on an animal.
- 6.100** The committee heard evidence that it is easier to regulate pet stores than online sources, but that it is limited to in-store oversight, rather than the conditions in which dogs being sold were bred and raised, and whether they come from ethical sources. The committee finds that while pet shops can be inspected and scrutinised, the breeders that pet shops source from are less visible to the public. The committee also notes that many breeding organisations do not allow their members to sell through pet shops. As a result, there is a risk that pet shops can serve as smokescreens for puppy farms and unethical breeders. Pet stores may provide greater opportunity to better educate consumers on responsible ownership than online sources.
- 6.101** In light of interstate jurisdictional developments such as in Victoria and Western Australia, the committee recommends that the NSW Government move towards restricting the sale of dogs and cats in pet shops to those sourced from pounds, shelters or rescue groups.

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#### **Recommendation 14**

That the NSW Government move towards restricting the sale of dogs and cats in pet shops to those sourced from pounds, shelters or rescue groups.

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- 6.102** Based on the evidence gathered through the inquiry, it is clear to the committee that more needs to be done to protect consumers when purchasing dogs or cats. We accept that the increase in demand for companion animals throughout the COVID-19 pandemic has intensified the need for adequate consumer protections. However, we are of the view that a number of these concerns are of a long standing nature and that action is overdue.
- 6.103** It is evident to the committee that potential purchasers of dogs or cats must be better educated so as to equip them to make wise and considered choices to ensure the animal will suit their lifestyle and circumstances long term. In turn, this will help prevent the numbers of unwanted dogs and cats in shelters.

- 6.104** The committee is aware that Portfolio Committee No. 4 recommended as part of its 2021 inquiry into the approved charitable organisations under the *Prevention of Cruelty to Animals Act 1979* that the NSW Government fund the procurement of additional mobile veterinary clinics, and consider funding the ongoing costs of them, for both the RSPCA NSW and Animal Welfare League.<sup>501</sup> These mobile clinics can be used for vaccination, desexing and microchipping purposes in rural and regional areas. We fully support that committee's recommendation as a means of increasing the desexing rates of dogs and cats and dampening the number of unwanted animals ending up in pounds or shelters. We further highlight the potential value of the mobile vet clinics for lower socio-economic areas.
- 6.105** Additional education is also needed to ensure both sellers and buyers are aware of their rights and responsibilities, enabling them to avoid disputes where possible. The committee is particularly concerned that some purchasers of puppies or kittens may be unaware of the source of their animal and do not know how to identify unethical breeders or breeding practices. However, the committee also heard evidence of how difficult it is to identify an unethical breeder under the current regulatory framework, where anyone can set up a breeding business and dodgy practices are often hidden away from public view.
- 6.106** To this end, while the committee was encouraged to hear that DPI is intending to roll out another education campaign to assist people to make an informed decision when purchasing a puppy, we also recognise that consumers will continue to struggle under the current regime to identify unethical breeders. The committee has heard a great deal of evidence about the various areas requiring further education, and supports the view of the Animal Welfare League that a 'deep diving' and broad ranged education campaign targeting prospective owners across the community is necessary. The committee considers that the wealth of evidence it has received may assist the Department when developing its campaign. Given the evident need for more community education on responsible pet ownership, choosing a suitable pet and how to conduct due diligence before purchasing, the committee strongly recommends that the NSW Government conduct a thorough education campaign on these matters.

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### **Recommendation 15**

That the NSW Government implement a thorough and ongoing public education campaign on:

- responsible animal care
  - choosing a suitable dog or cat
  - how to ensure any purchase is from an ethical breeder.
- 

- 6.107** The committee has heard convincing evidence regarding some of the difficulties presented by consumer law in respect of the purchase of a sentient being. In particular, the situation faced by purchasers when it quickly becomes apparent that their new puppy or kitten has serious health issues, is difficult and complex, even more so when both the animal and purchaser have bonded in a short time. However, the committee is also aware that some health or behavioural problems may take time to appear despite stemming from the way in which the animal was bred. It is

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<sup>501</sup> Portfolio Committee No. 4, NSW Legislative Council, *2021 inquiry into the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979* (2022), recommendation 5.

apparent that government needs to act to ensure the use of consumer law is fit for purpose. The committee would welcome change in this area.

- 6.108** The committee also recommends that the NSW Government take steps to protect animals and consumers by introducing an 'extended liability' scheme for breeders, and consider funding an 'anti-puppy farm legal clinic' to assist members of the public affected by puppy farms and other unethical breeding practices.

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#### **Recommendation 16**

That the NSW Government introduce an 'extended liability' scheme whereby breeders are responsible for congenital, genetic and/or other health issues that arise in the first year of an animal's life.

#### **Recommendation 17**

That the NSW Government consider funding an 'anti-puppy farm legal clinic' to assist members of the public affected by puppy farms and other unethical breeding practices.

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- 6.109** While the committee did have the benefit of some evidence as to how online platforms and websites could be improved, we express our disappointment that we did not receive any evidence from the online platforms themselves, such as Gumtree Australia or Trading Post. This is despite requests from the committee that they present their perspective. Unfortunately this meant that we had no evidence as to what, if anything, online platforms are doing to prevent the sale of kittens and puppies from unethical breeders on their sites. Nevertheless, we state our in principle position that online platforms have ethical responsibilities in this respect.
- 6.110** The committee has heard a great deal of evidence as to how unethical breeders can take advantage of online platforms to sell companion animals. We also note that many participants informed the committee of how some sellers use false identification numbers. This is of great concern to the committee. Whilst the issue may have increased during the pandemic, again we observe that this is a longstanding issue and consider that action is required. As the oversight and regulation of online platforms and the internet is outside the jurisdiction of the NSW Government, the committee urges action in this area by the federal government. The committee recommends that the Minister for Fair Trading advocate for greater oversight and regulation of the online sale of animals and call for a review of the Australian Consumer Law to provide better protections in relation to the purchase of animals.

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#### **Recommendation 18**

That the Minister for Fair Trading advocate to federal counterparts for greater oversight and regulation of the online sale of animals and call for a review of the Australian Consumer Law to provide better protections in relation to the purchase of animals.

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## Appendix 1 Submissions

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14	Confidential
15	Jason Gram
16	RightPaw
17	PETA Australia
18	FOUR PAWS Australia
19	Noviana Surya
20	Confidential
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<b>No.</b>	<b>Author</b>
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848	Confidential
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866	Confidential
867	Confidential

<b>No.</b>	<b>Author</b>
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877	Confidential
878	Confidential
879	Confidential
880	Confidential
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882	Confidential
883	Confidential
884	Confidential
885	Confidential
886	Confidential
887	Confidential
888	Confidential
889	Confidential
890	Confidential
891	Confidential
892	Confidential
893	Confidential
894	Confidential
895	Confidential
896	Confidential
897	Confidential
898	Confidential
899	Confidential
900	Confidential
901	Sarah Rahbar
902	Taurie Kinoshita



<b>No.</b>	<b>Author</b>
903	Nicola Siemers
904	Trish Durlacher
905	Jana Harker
906	Caspar Nolan-Evans
907	Vandra Mellers
908	Jamee Hale
909	Vivien Munoz
910	Tony Parfitt
911	Kajra Nigam
912	Dianne Schahinger
913	Chris Tumolo
914	Helton Ribeiro
915	Cathy Roberts
916	Hugh Gent
917	Peter Fenton
918	Name suppressed
919	Name suppressed
920	Name suppressed
921	Name suppressed
922	Name suppressed
923	Name suppressed
924	Name suppressed
925	Bathurst Regional Council

## Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
<b>Thursday 7 April 2022</b> <b>Jubilee Room</b> <b>Parliament House, Sydney</b>	Dr Kate Schoeffel	Acting President, Australian Association of Pet Dog Breeders Inc
	Ms Leanne Cole	Management Committee Member, Australian Association of Pet Dog Breeders Inc
	Mrs Lyn Brand	President, Dogs NSW
	Ms Deirdre Crofts	Animal Welfare and Community Liaison Officer, Dogs NSW
	Ms Julie Nelson	Managing Director, Master Dog Breeders and Associates
	Dr Imogen Tomlin-Game	Chief Veterinary Officer, RightPaw
	Mr Nathan Olivieri	Chief Executive Officer, RightPaw
	Dr Karen Hedberg	Committee member, French Bulldog Club
	Ms Yvonne Yun	National Review Editor, German Shepherd Dog Council of Australia
	Mr John Carr	Dog breeder
	Mr Michael Donnelly	President, Animal Care Australia
	Ms Kylie Gilbert	Dog Representative, Animal Care Australia
	Mr Barry Codling	President, Pet Industry Association of Australia
	Mr John Grima	Member, Pet Industry Association of Australia and owner, Kellyville Pets
	Mr Jason Gram	Proprietor, Room 4 Pets
	Ms Nemeshia Brown	Shop manager, Room 4 Pets
Ms Michelle Grayson	Treasurer, NSW Cat Fanciers Association	
Dr Rosemary Elliott	President, Sentient	

Date	Name	Position and Organisation
	Dr Katherine van Ekert	Vice President, Sentient
	Ms Tara Ward	Solicitor, Animal Defenders Office
	Ms Sarah Margo	Solicitor, Animal Defenders Office
	Ms Joanna Randall	International Head of Companion Animal Campaigns, Four Paws
	Dr Liz Arnott	Chief Veterinarian, RSPCA NSW
	Ms Kathryn Jurd	General Counsel, RSPCA NSW
	Mr Scott Meyers	Chief Inspector, RSPCA NSW
	Mr Mark Slater	Chief Executive Officer, Animal Welfare League NSW
	Mr Matthew Godwin	Chief Inspector, Animal Welfare League NSW
<b>Monday 23 May 2022</b> <b>Room 814-815</b> <b>Parliament House, Sydney</b>	Ms Amy Johnson <i>(via videoconference)</i>	Individual
	Ms Robyn Maloney	Individual
	Ms Shirene Donnelly	Individual
	Ms Emily Power	Individual
	Ms Grace Gate	Individual
	Ms Georgie Purcell	President, Oscar's Law
	Ms Shatha Hamade <i>(via videoconference)</i>	Legal Counsel, Animals Australia
	Ms Kristina Vesk	Chief Executive Officer, Cat Protection Society of NSW
	Mr Rod Croft <i>(via videoconference)</i>	Director, Planning and Environment, Murray River Council
	Mr Neil Southorn <i>(via videoconference)</i>	Director, Environmental, Planning & Building Services, Bathurst Regional Council
Ms Tara Black	Deputy Director-General, Strategy and Engagement, NSW Department of Primary Industries	

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<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
	Ms Suzanne Robinson	Director, Animal Welfare, NSW Department of Primary Industries
	Dr Kim Filmer	Chief Animal Welfare Officer, NSW Department of Primary Industries
	Ms Ally Dench	Executive Director, Local Government, Office of Local Government
	Ms Karin Bishop	Director, Sector Performance and Intervention, Office of Local Government

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## Appendix 3 Minutes

### Minutes no. 1

Thursday 16 December 2021

Select Committee on Puppy Farming in New South Wales

Room 1136, Parliament House, Sydney at 9.30 am

#### 1. Members present

Mr Veitch, *Chair*

Ms Hurst, *Deputy Chair*

Mr Amato

Mr Banasiak (via teleconference)

Ms Boyd

Ms Cusack (via videoconference)

Mr Franklin

Mr Searle

#### 2. Tabling of resolution establishing the committee

The Chair tabled the resolution of the House establishing the committee, which reads as follows:

- (1) That a select committee be established to inquire into and report on puppy farming in New South Wales, and in particular:
  - (a) the provision of the Companion Animals Amendment (Puppy Farms) Bill 2021,
  - (b) the animal protection issues associated with puppy farming,
  - (c) the consumer protection issues associated with the sale of dogs from puppy farms online and in pet shops,
  - (d) the adequacy of the current legislative and enforcement framework, including the Animal Welfare Code of Practice – Breeding of Dogs and Cats,
  - (e) the extent to which the recommendations of the 2015 Joint Select Committee on Companion Animal Breeding Practices in NSW have been implemented by the NSW Government,
  - (f) the impact of the NSW Government Consultation Paper 'Licensing and regulation of cat and dog breeders',
  - (g) the impact and effectiveness of the NSW Government 'Puppy Factory Taskforce' announced on 23 October 2020,
  - (h) the impact and effectiveness the Domestic Animals Amendment (Puppy Farm and Pet Shops) Act 2017 (Vic) on puppy farming in Victoria, and the consequences for the puppy farming industry in NSW,
  - (i) the challenges faced by local councils in respect to development applications for puppy farms,
  - (j) legislative and other measures that could be implemented to stop or reduce puppy farming in NSW, and
  - (k) any other related matter.
- (2) That, notwithstanding anything to the contrary in the standing orders, the committee consist of eight members comprising:
  - (a) three government members,
  - (b) two opposition members, and

- (c) three crossbench members, including Ms Hurst and Ms Boyd.
- (3) That the Chair of the committee be Mr Veitch and the Deputy Chair be Ms Hurst.
- (4) That, unless the committee decides otherwise:
  - (a) submissions to inquiries are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration,
  - (b) the Chair's proposed witness list is to be circulated to provide members with an opportunity to amend the list, with the witness list agreed to by email, unless a member requests the Chair to convene a meeting to resolve any disagreement,
  - (c) the sequence of questions to be asked at hearings is to alternate between government, opposition and crossbench members, in order determined by the committee, with equal time allocated to each,
  - (d) transcripts of evidence taken at public hearings are to be published,
  - (e) supplementary questions are to be lodged with the Committee Clerk within two days, excluding Saturday and Sunday, following the receipt of the hearing transcript, with witnesses requested to return answers to questions on notice and supplementary questions within 21 calendar days of the date on which questions are forwarded to the witness, and
  - (f) answers to questions on notice and supplementary questions are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration.

### **3. Conduct of committee proceedings – media**

Resolved, on the motion of Mr Franklin: That unless the committee decides otherwise, the following procedures are to apply for the life of the committee:

- the committee authorise the filming, broadcasting, webcasting and still photography of its public proceedings, in accordance with the resolution of the Legislative Council of 18 October 2007
- the committee webcast its public proceedings via the Parliament's website, where technically possible
- the committee record the hearings, and the recordings be placed on the inquiry webpage as soon as practicable after the hearings
- the committee adopt the interim guidelines on the use of social media and electronic devices for committee proceedings, as developed by the Chair's Committee in May 2013
- media statements on behalf of the committee be made only by the Chair.

### **4. Conduct of the inquiry into puppy farming in New South Wales**

#### **4.1 Proposed timeline**

Resolved, on the motion of Ms Boyd: That the committee adopt the following timeline for the administration of the inquiry:

- 27 January 2022 – opening date for submissions and online questionnaire
- 6 March 2022 – closing date for submissions and online questionnaire
- 6 and 7 April 2022 – regional hearings and site visits, possibly to Albury and Armidale
- 27 April 2022 – hearing
- 28 April 2022 – hearing
- 27 June 2022 – report deliberative.

#### 4.2 Stakeholder list

Resolved, on the motion of Ms Hurst: That in late January the secretariat email members with a list of stakeholders to be invited to make written submissions, and that members have two days from the email being circulated to amend the list or nominate additional stakeholders.

#### 4.3 Online questionnaire

Resolved, on the motion of Ms Boyd: That the committee conduct an online questionnaire to capture individuals' views, with the following questions and preamble, as amended.

On 27 January 2022, a Select Committee in the Upper House of NSW Parliament commenced an inquiry on puppy farming in New South Wales.

The inquiry is to consider the provisions of the Companion Animals Amendment (Puppy Farms) Bill 2021, the animal protection issues associated with puppy farming, the consumer protection issues associated with the sale of dogs from puppy farms online and in pet stores, along with related policy issues.

Further information about the inquiry, including the terms of reference, can be found on the committee's website.

As part of the inquiry, the committee is seeking public comment on the bill through the following questions. Responses are due by 6 March 2022.

Responses may be used in the committee's report.

Names and contact details of respondents will not be published.

The questionnaire will take approximately 5 minutes to complete.

(1) Please enter your contact details.

Name:

Email address:

Postcode:

(2) Are you a resident of NSW? Select one of these options:

(a) Yes

(b) No

(3) Do you have any comments on the current framework regulating dog and cat breeders in NSW, including but not limited to:

Prevention of Cruelty to Animals Act 1979 (NSW),

Prevention of Cruelty to Animals Regulations 2012 (NSW),

NSW Animal Welfare Code of Practice: Breeding Dogs and Cats? (max 300 words)

(4) Would you like to see laws to stop puppy farming in NSW?

(a) Yes

(b) No

If yes, what should laws to ban puppy farming look like? (max 300 words)

If no, please explain why? (max 300 words)

(5) The Companion Animals Amendment (Puppy Farms) Bill 2021 states that its objects are to amend the *Companion Animals Act 1998* to:

(a) Regulate the conduct of businesses breeding companion animals and other companion animal businesses, and

(b) Provide enforcement powers for the purposes of regulating the conduct of companion animal businesses.

Based on your own understanding and the information above, do you have any comments on the Companion Animals Amendment (Puppy Farms) Bill 2021? (max 300 words)

- (6) Do you have any comments in relation to the animal protection issues associated with puppy farming? (max 300 words)
- (7) Do you have any comments in relation to the consumer protection issues associated with the sale of dogs from puppy farms online and in pet shops? (max 300 words)
- (8) Do you have any other comments? (max 300 words)

Resolved, on the motion of Mr Searle: That the committee not accept pro formas.

#### **4.4 Questionnaire report**

Resolved, on the motion of Mr Amato: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- only responses from NSW participants will be analysed in the report
- the committee authorises the secretariat to publish the questionnaire report on the inquiry website unless any member raises an objection to publication via email
- individual responses be kept confidential on tabling.

#### **4.5 Advertising**

The committee noted that all inquiries are to be advertised via Twitter, Facebook, stakeholder emails and a media release distributed to all media outlets in New South Wales.

### **5. Adjournment**

The committee adjourned at 9.47 am, until Wednesday 6 April 2022 (regional hearing and site visit).

Merrin Thompson and Jessie Halligan  
**Committee Clerks**

### **Minutes no. 2**

Tuesday 15 March 2022

Select Committee on Puppy Farming in New South Wales

Via videoconference at 1.16 pm

#### **1. Members present**

Mr Veitch, *Chair*

Ms Hurst, *Deputy Chair*

Mr Amato

Mr Banasiak

Ms Boyd

Ms Cusack

Mr Fang

Mr Searle

#### **2. Inquiry into puppy farming in New South Wales**

##### **2.1 Public submissions**

Resolved, on the motion of Mr Fang: That the committee authorise the publication of submission nos. Submissions 1-10, 12, 13, 15-19, 21-22, 26-28.

##### **2.2 Partially confidential submissions**

Resolved, on the motion of Mr Fang: That the committee authorise the publication of submission nos. 11, 23-24, 29-30 with the exception of identifying and/or sensitive information which are to remain confidential, as per the request of the author.



**2.3 Confidential submissions**

Resolved, on the motion of Mr Fang: That the committee keep submission nos 14 and 20 confidential, as per the request of the author, as they contain identifying and/or sensitive information.

**2.4 Committee activities**

Resolved, on the motion of Ms Cusack: That the committee:

- use 7 April 2022, originally intended for a regional site visit/hearing, for the first hearing
- cancel 6 April 2022 as an activity date
- use 27 and 28 April 2022, originally intended for hearings, for regional site visits/hearings, with the secretariat and chair to progress planning, with members providing specific ideas to the secretariat
- then hold a meeting via videoconference, if need be, to consider a second hearing
- cancel the original report deliberative date of 27 June 2022, with the secretariat to canvass alternative dates in first or second week of August.

**3. Adjournment**

The committee adjourned at 1.38 pm, Thursday 7 April 2022 (public hearing).

Merrin Thompson  
Committee Clerk

**Minutes no. 3**

Thursday 7 April 2022

Select Committee on Puppy Farming in New South Wales

Jubilee Room, Parliament House, Sydney at 9.16 am

**1. Members present**

Mr Veitch, *Chair*

Ms Hurst, *Deputy Chair*

Mr Banasiak (until 4.00 pm)

Ms Boyd (from 9.17 am until 12.38 pm, then from 2.10 pm until 3.20 pm, then from 4.08 pm)

Ms Cusack (via videoconference from 9.48 am until 12.38 pm)

Mr Fang (via videoconference from 9.19 am)

Mr Graham (substituting for Mr Searle via videoconference, until 12.38 pm)

Mr Searle (from 2.00 pm)

**2. Apologies**

Mr Amato

**3. Previous minutes**

Resolved, on the motion of Mr Banasiak: That draft minutes no. 2 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 30 March 2022 – Email from Ms Nicola Beynon, Head of Campaigns, Humane Society International to secretariat, declining invitation to give evidence to committee
- 29 March 2022 – Email from Ms Liz Gemes, Senior Advocacy Officer, Australian Veterinary Association to secretariat, declining invitation to give evidence to committee
- 29 March 2022 – Email from Mr John Grima, Managing Director, Kellyville Pets to Chair/secretariat, inviting the committee to tour his facilities at Kellyville Pets and Rockley Valley Park at Bathurst

- 25 March 2022 – Email from Ms Rochelle Flood, Campaign Manager, World Animal Protection to secretariat, declining invitation to give evidence to committee.

## 5. Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 25, 32-33, 34, 25-43, 49-50, 53, 59, 64, 66, 71, 72-76, 77-79, 81, 83-84, 87, 90, 93, 97, 99-100, 102, 104, 107-109, 112-114, 116-121, 123-124, 126, 128-129, 132-134, 136, 139-144, 146, 150-151, 153, 155, 200, 219, 220, and 223-224.

Resolved, on the motion of Ms Hurst: That the committee authorise the publication of submission nos. 12, 159-165, 167, 171, 178, 181-182, 190, 192, 194-195, 197-198, 204- 206, 209, 211-213, 217.

Resolved, on the motion of Mr Banasiak: That the committee authorise the publication of the supplementary submission 4a.

## 6. Partially confidential submissions

The committee noted the following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 31, 44-48, 51-52, 54-58, 60-63, 65, 68-70, 82, 85-86, 88-89, 91-92, 94-96, 98, 101, 103, 105-106, 110-111, 122, 125, 127, 130-131, 135, 137-138, 145, 147-148, 152, 154, and 156.

Resolved, on the motion of Mr Banasiak: That the committee keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos 31, 44-48, 51-52, 54-58, 60-63, 65, 68-70, 82, 85-86, 88-89, 91-92, 94-96, 98, 101, 103, 105-106, 110-111, 122, 125, 127, 130-131, 135, 137-138, 145, 147-148, 152, 154, and 156.

Resolved, on the motion of Ms Boyd: That the committee authorise the publication of submission nos. 149, 158, 169-170, 172-176, 179-180, 183-189, 191, 193, 196, 199, 202-203, 208, 210, 214-216, with the exception of identifying and/or sensitive information which are to remain confidential, as per the request of the author.

## 7. Confidential submissions

Resolved, on the motion of Mr Banasiak: That the committee keep submission nos 67, 80, 168, 177 and 201 confidential, as per the request of the author, as they contain identifying and/or sensitive information.

## 8. Public hearing

### 8.1 Allocation of questions

Resolved, on the motion of Mr Fang: That the allocation of questioning be left in the hands of the Chair.

### 8.2 Public hearing

The committee proceeded to take evidence in public.

Witnesses were admitted to the hearing room and via video link.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders Inc
- Ms Leanne Cole, Management Committee Member, Australian Association of Pet Dog Breeders
- Mrs Lyn Brand, President, Dogs NSW
- Ms Deirdre Crofts, Animal Welfare and Community Liaison Officer, Dogs NSW
- Ms Julie Nelson, Managing Director, Master Dog Breeders and Associates
- Dr Imogen Tomlin-Game, Chief Veterinary Officer, RightPaw
- Mr Nathan Olivieri, Chief Executive Officer, RightPaw.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Karen Hedberg, Committee member, French Bulldog Club
- Ms Yvonne Yun, National Review Editor, German Shepherd Dog Council of Australia
- Mr John Carr, Dog breeder

Mr Carr tendered the following document:

- Report, 'Long-Term Health Risks and Benefits Associated with Spay/Neuter in Dogs' by Laura J Sanborn MS, dated 14 May 2007.

Ms Yun tendered the following document:

- Code of Ethics, Dogs NSW Regulations Part XIII Code of Ethics, dated December 2018
- Four photographs of signs advertising pets for sale.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Michael Donnelly, President, Animal Care Australia
- Ms Kylie Gilbert, Dog Representative, Animal Care Australia
- Mr Barry Codling, President, Pet Industry Association of Australia
- Mr John Grima, Member, Pet Industry Association of Australia and owner, Kellyville Pets
- Mr Jason Gram, Proprietor, Room 4 Pets
- Ms Nemeshia Brown, Shop manager, Room 4 Pets.

Mr Donnelly tendered the following document:

- Survey Results, 'ACA Commercial Dog and Cat Breeding Survey', dated 2 April 2022.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Michelle Grayson, Treasurer, NSW Cat Fanciers Association.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Dr Rosemary Elliott, President, Sentient
- Dr Katherine van Ekert, Vice President, Sentient.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Tara Ward, Solicitor, Animal Defenders Office
- Ms Sarah Margo, Solicitor, Animal Defenders Office
- Ms Joanna Randall, International Head of Companion Animal Campaigns, Four Paws.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Liz Arnott, Chief Veterinarian, RSPCA NSW
- Ms Kathryn Jurd, General Counsel, RSPCA NSW
- Mr Scott Meyers, Chief Inspector, RSPCA NSW
- Mr Mark Slater, Chief Executive Officer, Animal Welfare League NSW
- Mr Matthew Godwin, Chief Inspector, Animal Welfare League NSW.

The evidence concluded and the witnesses withdrew.

The hearing concluded at 5.05 pm.

### 8.3 Tendered documents

Resolved, on the motion of Mr Searle: That the committee accept and publish the following documents tendered during the public hearing:

- Report, 'Long-Term Health Risks and Benefits Associated with Spay/Neuter in Dogs' by Laura J Sanborn M.S., dated 14 May 2007, tendered by Mr Carr.
- Code of Ethics, Dogs NSW Regulations Part XIII Code of Ethics, dated December 2018, tendered by Ms Yun.
- Photographs, Four photographs of signs advertising pets, no date, tendered by Ms Yun.
- Survey Results, 'ACA Commercial Dog and Cat Breeding Survey', dated 2 April 2022, tendered by Mr Donnelly.

#### 9. Other business

Resolved, on the motion of Mr Searle: That committee to extend the half day hearing on 23 May 2022 to a full day hearing, with representatives from Berrigan Shire Council and Murray River Council invited to appear via WebEx, along with any submission authors who indicated that they had purchased a puppy from an unethical breeder.

Resolved, on the motion of Mr Searle: That the committee accept Mr John Grima's invitation to tour his breeding facilities at Rockley Valley Park in Bathurst, subject to being able to attend on 27 or 28 April 2022.

#### 10. Adjournment

The committee adjourned at 5.17 pm. *Sine die*.

Talina Drabsch  
**Committee Clerk**

#### Minutes no. 4

Wednesday 27 April 2022

Select Committee on Puppy Farming in New South Wales

Rockley Valley Park, Fosters Valley at 12.18 pm

#### 1. Members present

Mr Veitch, *Chair*  
Ms Hurst, *Deputy Chair*  
Mr Banasiak  
Ms Boyd

#### 2. Apologies

Mr Amato  
Ms Cusack  
Mr Fang  
Mr Searle

#### 3. Site visit to Rockley Valley Park breeding facility

The committee toured Rockley Valley Park breeding facility, accompanied by Mr John Grima, owner of Rockley Valley Park, and Ms Lani Welling, kennel manager, Rockley Valley Park.

#### 4. Previous minutes

Resolved, on the motion of Ms Boyd: That draft minutes no. 3 be confirmed.

#### 5. Public submissions

Resolved, on the motion of Ms Boyd: That the committee authorise the publication of submission nos. 207 and 218.

**6. Partially confidential submissions**

Resolved, on the motion of Ms Hurst: That the committee authorise the publication of submission nos. 157 and 166, with the exception of identifying and/or sensitive information which are to remain confidential, as per the request of the author.

**7. Adjournment**

The committee adjourned at 2.28 pm, until Monday 23 May 2022.

Talina Drabsch

**Committee Clerk**

**Minutes no. 5**

Monday 23 May 2022

Select Committee on Puppy Farming in New South Wales

Room 814/815, Parliament House, Sydney at 9.34 am

**1. Members present**

Mr Veitch, *Chair*

Ms Hurst, *Deputy Chair*

Mr Amato (via videoconference)

Mr Banasiak

Ms Boyd (until 3.30 pm)

Ms Cusack (via videoconference until 11.15 am)

Mr Fang

Mr Searle (until 3.21 pm)

**2. Previous minutes**

Resolved, on the motion of Mr Banasiak: That draft minutes no. 4 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 11 May 2022 – Email from Mr Greg Trew, Police and Government Liaison, Gumtree Australia to secretariat, declining witness invitation
- 11 May 2022 – Email from Dr Imogen Tomlin-Game, Chief Veterinary Officer, RightPaw, providing code of practice
- 12 May 2022 – Letter from Mr Sean Lynch, President, German Shepherd Dog Council of Australia, providing code of practice
- 13 May 2022 – Letter from Ms Liz Davidson, Vice President, The French Bulldog Club, providing code of practice
- 17 May 2022 – Email from Ms Julie Nelson, Managing Director, Master Dog Breeders and Associates, providing code of practice
- 17 May 2022 – Email from Ms Linda Chamarette, Events Manager, Pet Industry Association Australia, providing code of practice

***Sent***

- 5 May 2022 – Letter from Chair to Mr John Grima, Owner, Rockley Valley Park, thanking him for site visit on 27 April 2022
- 10 May 2022 – Letter from Chair to Master Dog Breeders and Associates, requesting code of practice
- 10 May 2022 – Letter from Chair to Dogs New South Wales, requesting code of practice

- 10 May 2022 – Letter from Chair to German Shepherd Dog Council of Australia, requesting code of practice
- 10 May 2022 – Letter from Chair to French Bulldog Club, requesting code of practice
- 10 May 2022 – Letter from Chair to RightPaw, requesting code of practice
- 10 May 2022 – Letter from Chair to NSW Cat Fanciers Association Incorporated, requesting code of practice
- 10 May 2022 – Letter from Chair to Pet Industry Association of Australia, requesting code of practice,
- 10 May 2022 – Letter from Chair to Australian Association of Pet Dog Breeders, requesting code of practice
- 10 May 2022 – Letter from Chair to Animal Care Australia, requesting code of practice.

#### **4. Short submissions**

The committee noted that it earlier agreed via email to the following approach to processing short submissions, in light of the very significant volume of over 700 received, to enable significant efficiencies for the secretariat while maintaining the integrity of how submissions are treated:

- All submissions from individuals two paragraphs or less in length will be channelled into one single document to be published on the inquiry website.
- Each will still have an individual submission number, and will be published with the author's name or as name suppressed, according to the author's request.
- Each will be reviewed by the secretariat for adverse mention and sensitive/identifying information, in accordance with practice.
- All other submissions – that is, those from organisations and more substantive individual submissions – will be processed and published as normal.

#### **5. Public submissions**

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 222, 225 to 284, 286 to 368, 370 to 593, 901 to 917.

Resolved, on the motion of Mr Banasiak: That the committee authorise the publication of submission no. 925.

#### **6. Partially confidential submissions**

Resolved, on the motion of Ms Hurst: That the committee keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos. 115, 369, 594 to 669, 671 to 805, 807 to 847, 918 to 924.

Resolved, on the motion of Ms Hurst: That the committee keep the following information confidential, as per the recommendation of the secretariat: names and/or identifying and sensitive information in submission no 806.

Resolved, on the motion of Ms Hurst: That the committee authorise the publication of submission nos. 285, with the exception of identifying and/or sensitive information which are to remain confidential, as per the request of the author.

Resolved, on the motion of Ms Hurst: That the committee authorise the publication of submission nos. 12a, with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat

Resolved, on the motion of Ms Hurst: That the committee authorise the publication of submission nos. 221, with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

#### **7. Confidential submissions**

Resolved, on the motion of Mr Fang: That the committee keep submission nos 848 to 900 confidential, as per the request of the author.

#### 8. **Murray River Council documents**

Resolved, on the motion of Mr Searle: That the committee keep the legal advices provided by Murray River Council confidential.

#### 9. **Online questionnaire**

Resolved, on the motion of Mr Fang: That the committee authorise the publication of the online questionnaire report.

#### 10. **Public hearing**

##### 10.1 **Public hearing**

The committee proceeded to take evidence in public.

Witnesses were admitted to the hearing room and via video link.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Amy Johnson, Individual (via videoconference)
- Ms Robyn Maloney, Individual
- Ms Shirene Donnelly, Individual

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Emily Power, Individual
- Ms Grace Gate, Individual

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Georgie Purcell, President, Oscar's Law
- Ms Shatha Hamade, Legal Counsel, Animals Australia (via videoconference)

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Kristina Vesk, Chief Executive Officer, Cat Protection Society of NSW

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Rod Croft, Director Planning and Environment, Murray River Council (via videoconference)
- Mr Neil Southorn, Director Environmental, Planning & Building Services, Bathurst Regional Council (via videoconference)

Mr Croft tendered the following document:

- Murray River Council 'Companion Animal Breeding Policy', dated 26 October 2021.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Tara Black, Deputy Director, General Strategy and Engagement, NSW Department of Primary Industries
- Ms Suzanne Robinson, Director, Animal Welfare, NSW Department of Primary Industries
- Dr Kim Filmer, Chief Animal Welfare Officer, NSW Department of Primary Industries

- Ms Ally Dench, Executive Director, Local Government, Office of Local Government
- Ms Karin Bishop, Director, Sector Performance and Intervention, Office of Local Government.

Ms Hurst tabled the following document:

- Letter 'Companion Animals Bill' Local Government NSW letter to Ms Hurst, dated 12 November 2021

The evidence concluded and the witnesses withdrew.

The hearing concluded at 3.41 pm.

### **10.2 Tendered documents**

Resolved, on the motion of Mr Banasiak: That the committee accept and publish the following documents tendered during the public hearing:

- Murray River Council 'Companion Animal Breeding Policy', dated 26 October 2021, tendered by Mr Croft
- Letter from Local Government NSW to Ms Hurst on 'Companion Animals Bill', dated 12 November 2021.

Resolved, on the motion of Ms Hurst: That the committee accept and keep confidential two legal advice documents provided by Murray River Council.

## **11. Other business**

Resolved, on the motion of Mr Fang: That the committee write to Local Government NSW to seek clarification as to their true position based on the 'Companion Animals Bill' letter received by Ms Hurst dated 12 November 2021, their submission no. 21 to the inquiry, and the transcript from the Public Hearing Monday 23 May 2022.

## **12. Adjournment**

The committee adjourned at 3.52 pm until Monday 15 August 2022, Room 1254, Parliament House (report deliberative).

Talina Drabsch  
**Committee Clerk**

## **Minutes no. 6**

Thursday 23 June 2022

Select Committee on Puppy Farming in New South Wales

Room 814/815, Parliament House, Sydney at 2.14 pm

### **1. Members present**

Mr Veitch, *Chair*

Ms Hurst, *Deputy Chair*

Mr Amato (from 2.17 pm)

Mr Banasiak

Ms Boyd (from 2.16 pm)

Ms Cusack (from 2.18 pm)

Mr Fang

Mr Searle (from 2.17 pm)

### **2. Previous minutes**

Resolved, on the motion of Mr Banasiak: That draft minutes no. 5 be confirmed.



### 3. Correspondence

The committee noted the following items of correspondence:

#### *Received*

- 9 May 2022 – Email from Ms Susy Cenedese to secretariat, declining witness invitation
- 10 May 2022 – Email from Ms Corrie Ploeg to secretariat, declining witness invitation
- 11 May 2022 – Email from Mr Sam Coupland, Mayor, Armidale Regional Council, to secretariat, declining witness invitation
- 17 May 2022 – Email from Ms Linda Chamarette, Events Manager, Pet Industry Association to secretariat, providing code of practice
- 19 May 2022 – Email from Ms Michelle Grayson, NSW Cat Fanciers' Association to secretariat, providing code of ethics
- 19 May 2022 – Letter from Mr Michael Donnelly, President, Animal Care Australia, to secretariat, providing code of ethics
- 19 May 2022 – Email from Mr John Grima, Pet Industry Association, to secretariat, providing code of practice
- 20 May 2022 – Email from Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, to secretariat, providing code of practice
- 23 May 2022 – Email from Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, to secretariat, regarding evidence of Ms Georgie Purcell, President, Oscar's Law
- 31 May 2022 – Email from Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, providing clarification of comments in relation to evidence of Ms Georgie Purcell, President, Oscar's Law
- 14 June 2022 – Letter from Ms Darriac Turley, President, Local Government NSW to Chair, clarifying position of LGNSW
- 15 June 2022 – Letter from Ms Natasha Mann, Commissioner, Fair Trading NSW to Chair, providing data on number of complaints received
- 20 June 2022 – Email from Ms Lisa Anne Ayres, General Manager, Australian Competition and Consumer Commission to committee, responding to request for data.

#### *Sent*

- 26 May 2022 – Email from secretariat to Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, requesting clarification of comments in relation to evidence by Oscar's Law
- 30 May 2022 – Letter from Chair to Ms Natasha Mann, Commissioner, Fair Trading NSW, requesting data on number of complaints received
- 31 May 2022 – Letter from Chair to Ms Darriac Turley, President, Local Government NSW, requesting clarification of position of LGNSW on Companion Animals Amendment (Puppy Farms) Bill 2021
- 31 May 2022 – Letter from Chair to Mr Scott Gregson, Chief Executive Officer, Australian Competition and Consumer Commission, requesting data on number of complaints received.

Resolved, on the motion of Mr Banasiak, that the committee authorise the publication of the following correspondence:

- Letter from Ms Darriac Turley, President, Local Government NSW to Chair, clarifying position of LGNSW on Companion Animals Amendment (Puppy Farms) Bill 2021
- Letter from Ms Natasha Mann, Commissioner, Fair Trading NSW to Chair, providing data on number of complaints received
- Letter from Ms Lisa Anne Ayres, General Manager, Australian Competition and Consumer Commission to committee, responding to request for data.

### 4. Draft correspondence to Ms Georgie Purcell, Oscar's Law

Resolved, on the motion of Mr Banasiak, that the draft correspondence from the Chair to Ms Georgie Purcell, President, Oscar's Law, requesting a response to issues identified in correspondence from Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, be sent.

Resolved, on the motion of Mr Banasiak, that the committee consider the publication status of the correspondence from Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders to secretariat, regarding the evidence of Ms Georgie Purcell, President, Oscar's Law, dated 23 May 2022 and 31 May 2022, together with the response sought from Ms Georgie Purcell, President, Oscar's Law, once the response is received.

**5. Public submissions**

The committee noted that it agreed via email to publish submission 224a.

**6. Submission 5a – Animal Care Australia**

Resolved, on the motion of Ms Cusack, that the supplementary submission from Animal Care Australia be kept confidential.

**7. Answers to questions on notice and supplementary questions**

Resolved, on the motion of Mr Amato, that the committee authorise the publication of the following answers to questions on notice and supplementary questions received from:

- Mr Rod Croft, Director, Planning and Environment, Murray River Council, received 2 June 2022
- Ms Shirene Donnelly, received 15 June 2022
- Ms Robyn Maloney, received 16 June 2022
- Ms Amy Johnson, received 19 June 2022
- Ms Georgie Purcell, President, Oscar's Law, received 20 June 2022
- Office of Local Government, received 20 June 2022
- Department of Primary Industries, received 20 June 2022.

Resolved, on the motion of Ms Hurst, that the committee authorise the publication of the answers to supplementary questions from Ms Georgie Purcell, President, Oscar's Law, with the exception of the response to question seven, which is to remain confidential, as per the request of the author.

**8. Adjournment**

The committee adjourned at 2.21 pm until Monday 15 August 2022, Room 1254, Parliament House (report deliberative).

Talina Drabsch

**Committee Clerk**

**Draft minutes no. 7**

Monday 15 August 2022

Select Committee on Puppy Farming in New South Wales

Room 814/815, Parliament House, Sydney at 9.36 am

**1. Members present**

Mr Veitch, *Chair*

Ms Hurst, *Deputy Chair*

Mr Amato (via videoconference)

Mr Barrett (via videoconference, substituting for Mr Fang)

Ms Boyd

Mr Mallard (via videoconference)

Mr Moselmane (substituting for Mr Searle until 10.20 am)

Mr Searle (from 10.20 am)

**2. Apologies**

Mr Banasiak

**3. Previous minutes**

Resolved, on the motion of Ms Hurst: That draft minutes no. 6 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 7 July 2022 – Letter from Ms Georgie Purcell, President, Oscar's Law to Chair, responding to matters raised in correspondence from Dr Kate Schoeffel.

***Sent***

- 24 June 2022 – Letter from Chair to Ms Georgie Purcell, President, Oscar's Law, seeking a response to Ms Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders.

Resolved, on the motion of Ms Boyd:

- That the correspondence from Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders to secretariat, regarding the evidence of Ms Georgie Purcell, President, Oscar's Law, dated 23 May 2022 and 31 May 2022, be published but not uploaded to the website
- That the correspondence from Ms Georgie Purcell, President, Oscar's Law, responding to matters raised in correspondence from Dr Kate Schoeffel, dated 7 July 2022, be published not uploaded to the website.

**5. Consideration of Chair's draft report**

The Chair submitted his draft report entitled *Puppy farming in New South Wales*, which, having been previously circulated, was taken as being read.

**Chapter 1**

Resolved, on the motion of Ms Hurst: That paragraph 1.3 be amended by

- a) inserting 'seek to' before 'define a puppy farm'
- b) omitting 'Female dogs are forced to pump out litter after litter in small, barren pens until their bodies can no longer cope. Because of the lack of exercise and the pressure on their bodies to produce repeat litters, many dogs develop serious, painful health conditions. Many puppies born in these farms also suffer from behavioural and medical issues as a result of the terrible conditions.'

Resolved, on the motion of Ms Hurst: That paragraph 1.13 be amended by omitting 'was updated' and inserting instead 'received some minor updates'.

Resolved, on the motion of Ms Hurst: That paragraph 1.20 be amended by inserting at the end: 'However, membership of a breeder organisation is not compulsory to be a dog or cat breeder in New South Wales, and these organisations do not have any enforcement powers under the law'.

Resolved, on the motion of Ms Hurst: That paragraph 1.39 be amended by inserting at the end: 'The Code also contains requirements around staffing ratios, exercise, enrichment, socialisation, handling, veterinary checks, and retirement of animals'.

**Chapter 2**

Resolved, on the motion of Ms Hurst: That paragraph 2.2 be amended by omitting 'animal welfare concerns are not exclusive to large-scale breeders, some of whom care for animals to a good standard. Conversely, smaller breeders, often referred to as 'backyard breeders', may also fail to adequately care for their animals' and inserting instead 'animal welfare issues can arise in both small and large breeding facilities'.

Resolved, on the motion of Ms Hurst: That paragraph 2.9 be amended by inserting 'By contrast, many animal protection groups argued that the cap on numbers was critical, because there is no way to provide

an animal a 'life worth living' in a large-scale facility [FOOTNOTE: Evidence, Ms Rosemary Elliot, 7 April 2022, p 34] after 'large scale breeding facilities'.

Resolved, on the motion of Ms Hurst: That paragraph 2.10 be amended by:

- a) omitting 'appreciated the opportunity to visit' and inserting instead 'visited'
- b) omitting 'to speak' and inserting instead 'spoke'
- c) omitting 'This facility identifies as best practice in its physical care of breeding dogs, but also in providing for their social and psychological health' before 'The facility is approved to house up to 60 breeding dogs, but as noted in their submission, Rockley Valley Park operates a "dog guardian program" where the majority of breeding dogs live in family homes under "transparent" breeding arrangements'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 2.22:

'Sentient raised similar concerns, stating that:

The current approach of breeding companion animals for appearance rather than health and temperament, along with the demand for brachycephalic or flat-faced dogs and cats, is responsible for animal suffering that is entirely preventable and should be banned in animal welfare legislation. These animals suffer gross physical deformities that make everyday life unbearably stressful. The current breed standards need complete revision' [FOOTNOTE: Evidence, Sentient, 7 April 2022, p 34.]

Ms Boyd moved: That the following new findings be inserted after paragraph 2.35:

**'Finding X**

That all other factors being equal, there is an inverse relationship between numbers of animals at intensive breeding facilities and the ability to guarantee positive welfare outcomes for animals. Accordingly, limits must be placed on the numbers of dogs that can be housed at a breeding facility.

**Finding X**

That without imposing staffing ratios and socialisation requirements, it is impossible to meet positive welfare outcomes for all animals housed in industrial-scale breeding facilities.'

Question put and passed.

Resolved, on the motion of Ms Hurst: That the following new section be inserted after paragraph 2.35:

**'Community concerns**

The committee received significant evidence from members of the public indicating their concerns in relation to the current state of regulation around breeding in New South Wales and puppy farming. Reflecting these concerns, one witness summarised that 'If people are serious about buying a member of the family—purchasing a pet— they should go to a reputable and licensed breeder. That is it. No pet shops, no puppy farming. They should be closed down—not next week or next year but as soon as possible—to stop the cruelty' [FOOTNOTE: Evidence, Ms Grace Gate, Individual, 23 May 2022, p 12.]

In response to the online questionnaire issued by this committee, which received 6,088 responses, the vast number of respondents (over 86 per cent) indicated that they would like to see laws to stop puppy farming.'

**Chapter 3**

Resolved, on the motion of Ms Hurst: That paragraph 3.1 be amended by:

- a) inserting 'seek to' before 'define "puppy farms"'
- b) inserting ', while others thought it was necessary [FOOTNOTE: Evidence, Ms Tara Ward, Solicitor, Animal Defenders Office, 7 April 2022, p 48]' after 'Some inquiry participants contended that the bill should include a definition'.

c) omitting 'However' and inserting instead 'Further'.

Resolved, on the motion of Ms Hurst: That paragraph 3.7 be amended by inserting at the end: 'Under the Puppy Farm Bill, microbreeders would still be required to comply with the Breeding Code and would be subject to the source number and traceability regime outlined at paragraph 3.37 to 3.42. Microbreeders may be denied a source number (and therefore will be unable to advertise an animal for sale) if they lack 'sufficient qualifications or experience in caring for companion animals' – see Section 61U'.

Resolved, on the motion of Ms Hurst: That paragraph 3.8 be amended by omitting 'the legislative' and inserting instead 'some legislative'.

Resolved, on the motion of Ms Hurst: That the following new paragraphs be inserted after paragraph 3.9:

'Animal protection organisations were supportive of a cap. For example, the Cat Protection Society stated:

Total numbers do matter. We are talking about companion animals. They need to live in homes in family structures, not institutions. Even the best institutional care is not the same as a home. No cat or dog thrives in a shelter, pound, boarding or quarantine facility. These provide short-term shelter only. Animals need homes to thrive. [FOOTNOTE: Evidence, Ms Kristina Vesk, Chief Executive Officer, Cat Protection Society, 23 May 2022, p 27.]

The Animal Defenders Office agreed, noting that:

'The community expects that dogs and cats should be afforded the highest levels of legal and regulatory protection. When we discuss the regulations and legal system today, we have to remember that anything short of best standard is failing these animals. This means that any business with a high number of breeding mothers and litter outputs must be considered through a strict lens and the question should be what kind of businesses can provide the level of individual care and attention expected of animals bred to be family members.' [FOOTNOTE: Evidence, Ms Sarah Margo, Solicitor, Animal Defenders Office, 7 April 2022, p 42.]

Resolved, on the motion of Ms Hurst: That paragraph 3.17 be amended by inserting the following new sentences after "The number of animals at which a cap be set was also a matter of debate:

'Oscar's Law stated that they were "... in strong support of a cap on 10. We would not want to see it any more than that. That was where we were meant to land in Victoria and we do think that it is the best model without amendment" [FOOTNOTE: Evidence, Ms Georgie Purcell, President, Oscar's Law, 23 May 2022, p 10.]

Sentient agreed, noting that "the more animals the more stressful it is in general and the harder it is for people to look after them and to provide sufficient enrichment. Ten seems like a reasonable number. Obviously, this is all highly subjective but we feel pretty confident that 10 provides the ability for a typical family, like one primary, two primary carers to look after a dog with a ratio of one human to five dogs'. [FOOTNOTE: Evidence, Dr Katherine van Ekert, Vice President, 7 April 2022, p 36.]

Resolved, on the motion of Ms Hurst: That paragraph 3.22. be amended by omitting 'it is' and inserting instead 'they are'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 3.26:

'It is noted that many breeder organisations impose a litter cap on their members. For example, the Australian Association of Pet Dog Breeders advised they had cap of five litters and Dogs NSW indicated they have a cap of six litters. The Victorian Code of Practice also imposes a cap of five litters over a lifetime.' [FOOTNOTE: Evidence, Dr Kate Schoeffel, Acting President, Australian Association of Pet Dog Breeders, 7 April 2022, p 7.]

Resolved, on the motion of Ms Hurst: That paragraph 3.30 be amended by inserting at the end: 'The bill also makes provision for councils to set a fixed fee for registrations and renewals'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 3.33:

'Oscar's Law noted that 'There are a number of puppy farmers operating right now in New South Wales who have been charged and convicted of animal cruelty and do continue to operate.' They discussed the case of a NSW breeder who was convicted of 18 counts of animal cruelty, however, they were still allowed to keep 105 dogs. Oscar's Law noted that, by contrast, in Victoria 'anyone who is convicted of animal cruelty cannot run a domestic animal business.' [FOOTNOTE: Evidence, Ms Purcell, 23 May 2022, pp 18-19.]

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 3.43:

'RSPCA NSW also noted the importance of staffing ratios, stating that 'careful surveillance from adequate numbers of staff is necessary to ensure disease and injury is not overlooked among the large number of animals.' [FOOTNOTE: Submission 3, RSPCA NSW, p 9.]

Resolved, on the motion of Ms Hurst: That paragraph 3.52 be amended by inserting at the end: 'and Sentient, who noted that under the current regulatory framework, there is 'no mandate for routine veterinary care for breeding animals or their offspring'. [FOOTNOTE: Submission 200, Sentient, pp 3-4.]

Resolved, on the motion of Ms Hurst: That paragraph 3.57 be amended by omitting at the end: 'This view was shared by animal welfare organisations, including Animals Australia, who stated that providing breeding dogs with an enriched family-oriented domestic environment was a better option as it provided each animal with greater care and attention'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 3.59:

'Oscar's Law agreed and observed that:

When it comes to guardianship laws, we are really happy to see that included in this bill. The reason for that being, we get so many complaints from people who take on those guardian animals not realising the arrangement that they have entered into and that they are bound by that contract. It is very, very distressing for people who semi-own those animals to then have to return them to a puppy farm for breeding and whelping'. [FOOTNOTE: Evidence, Ms Purcell, 23 May 2022, p 20.]

Resolved, on the motion of Ms Hurst: That paragraph 3.66 be amended by omitting 'the arrangement ultimately causes significant distress to the new keepers of the animals' as the travel times and distances between the family and breeder and the length of time apart 'can be stressful for both the animals and keepers' and inserting instead:

'The Animal Defenders Office receives requests for assistance from people who have 'purchased' a puppy but their possession of the animal is subject to a breeding arrangement. This arrangement ultimately causes significant distress to the new keepers of the animals. If the animal is a female she can be away from her new family for a relatively long time while being used for breeding. The travel times and distances between the breeders and the animal's new family can be lengthy, and having to make the trip multiple times can be stressful for both the animal and keepers. There are also situations where the animal has behavioural or medical issues which according to expert veterinary advice would be best addressed by desexing the animal.' [FOOTNOTE: Submission 6, Animal Defenders Office, Pg 2-3.]

Resolved, on the motion of Ms Hurst: That paragraph 3.68 be amended by omitting 'This contrasted with evidence by Ms Deirdre Crofts, Animal Welfare and Community Liaison Officer, Dogs NSW, who stressed that the legal owner of the microchip is the person who owns the dog, and that disputes about what happens with the dog are rare' and inserting instead:

'The Animal Defenders Office agreed that 'breeding arrangements' raised complex legal issues:

It is certainly an area that needs regulating because these issues do arise and legally it is a very strange situation where, for all intents and purposes, a title is being transferred and yet it is not. The keepers of the animals end up in quite a difficult situation with no recourse other than breach of contract. There are all sorts of ethical issues associated with it.' [FOOTNOTE: Evidence, Ms Ward, 7 April 2022, p 45.]

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 3.71:

'Oscar's Law agreed, noting that:

Good breeders will not allow their puppies to be sold in pet shops and for registered breeders, it is already against their code of practice. This means that only backyard breeders and puppy farmers sell in pet shops.' [FOOTNOTE: Answers to supplementary questions, Oscar's Law, received 27 June 2022, pp 1-2.]

Resolved, on the motion of Ms Hurst: That paragraph 3.75 be amended by:

- a) omitting 'much more difficult to determine whether someone selling online is an' before 'ethical or genuine breeder' and inserting instead 'difficult to determine whether someone selling online or in a pet shop is sourcing animals from an'
- b) omitting 'in the same way' after 'resources available to monitor them'.

Resolved, on the motion of Ms Hurst: That the following new paragraphs be inserted after paragraph 3.80:

'By contrast, animal protection organisations such as Animals Australia supported the "greater enforcement powers, including for council and authorised officers' proposed in the Puppy Farm Bill". [FOOTNOTE: Evidence, Ms Hamade, 23 May 2022, p 17.] Oscar's Law noted that in Victoria, they "have not had any issues or complaints from councils about implementing the legislation", noting that Councils already have responsibilities in relation to the enforcement of companion animal issues and "it is not a really big change in that aspect". [FOOTNOTE: Evidence, Ms Purcell, 23 May 2022, p 22.]

LGNSW was also supportive in principle. They noted that "the Bill makes provision for councils to set a fixed fee for registrations and renewals", but that additional resourcing would be required in order to support Councils with their additional responsibilities." [FOOTNOTE: Correspondence from Cr Darriea Turley, President, Local Government NSW, to Chair, 15 June 2022.]

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 3.90:

'By contrast, Oscar's Law highlighted that these concerns raised by breeders were not borne out in respect to the Victorian legislation, which the Puppy Farm Bill is modelled off. They stated:

Similar claims were made when it came to the Victorian legislation, and our bill also ended up in an inquiry. These claims are made out of—I guess they come from fear from puppy farmers, and they take people on a scare campaign to make them think that smaller breeders and micro breeders are going to be impacted as well. This legislation is modelled very similar to Victoria's, which we have proven has not had that impact. I guess my message to smaller registered breeders would be that this legislation actually improves what they are doing, creates more accountability and fixes any concerns that the puppies they are breeding might be coming from an unethical place, and it makes the industry as a whole a better place to operate in.' [FOOTNOTE: Evidence, Ms Purcell, 23 May 2022, p 19.]

Ms Hurst moved: That paragraph 3.91 be amended by inserting the following new paragraph after 'In contrast,':

'animal protection groups universally indicated they strongly supporting the Bill. For example, Animals Australia stated:

Animals Australia strongly supports the bill's primary aims and particulars, which are to address the serious animal welfare issues and the consumer detriment issues which arise through puppy farming and private breeding of dogs and cats, including pet shop and online sales of these vulnerable animals. We are pleased and supportive that the bill is modelled on the Victorian model in this regard, as we have held concerns about the movement of Victorian puppy farmers into New South Wales to escape the new Victorian puppy farm laws. A consistent cross-jurisdictional approach is overdue and urgently required. [FOOTNOTE: Evidence, Ms Hamade, 23 May 2022, p 17.]

Question put and passed.

Resolved, on the motion of Ms Hurst: That paragraph 3.94 be omitted: Animal Care Australia expressed a similar view.' and that the following new paragraph be inserted instead:

'By contrast, Oscar's Law emphasised that there was no shortage of puppies in Victoria, and that the number of registered litters from small breeders had actually increased since their puppy farm legislation commenced:

There definitely is not an issue in terms of the supply of puppies...registered breeders and small breeders have actually produced more litters since the legislation came into effect. So, no, there is not going to be some sort of puppy shortage crisis if New South Wales outlaws puppy farms. It will just mean that the puppies being bred and raised in the State will be bred and raised in a more ethical way.' [FOOTNOTE: Evidence, Ms Purcell, 23 May 2022, p 22.]

Resolved, on the motion of Ms Hurst: That the heading before paragraph 3.95 be amended by omitting 'Targeting' and inserting instead 'Scope of Bill'.

Ms Hurst moved: That paragraph 3.100 be amended by inserting the following after 'A number of inquiry participants reported that the tightening of requirements around breeding dogs and cats in Victoria has led to the relocation of some large scale breeders to New South Wales, with border communities thought to be particularly affected':

'Oscar's Law observed that:

As we knock out puppy farming State by State, it is creating a crisis for New South Wales that must be immediately addressed. While a number of puppy farmers have chosen to shut down completely as a result of legislation in each State, a significant number have also made the decision to relocate to New South Wales, which has the weakest laws in the country when it comes to puppy farming. Our successes in other States have resulted in this state becoming the puppy farming capital and it will only continue to worsen. [FOOTNOTE: Evidence, Ms Purcell, 23 May 2022, p 17.]

Murray River Council, located near the border of NSW and Victoria, confirmed they had experienced a 500 per cent increase in development applications for large-scale dog breeding facilities.' [FOOTNOTE: Evidence, Mr Croft, 23 May 2022, p 34.]

Question put and passed.

Resolved, on the motion of Ms Hurst: That paragraph 3.101 be amended by omitting 'and some of the unintended consequences, warning that a similar situation may develop in New South Wales should the bill pass' and inserting instead 'Some inquiry participants felt the Victorian legislation had unintended consequences which could also arise in New South Wales'.

Resolved, on the motion of Ms Boyd: That paragraph 3.107 be amended by omitting ', and at what numbers they should be capped, if any' and inserting instead '(and in particular, whether a cap of 10 fertile female breeding dogs as specified in the bill would be appropriate)'.

Resolved, on the motion of Ms Hurst: That paragraph 3.108 be amended by:

- a) omitting 'effectively targets hidden, unethical puppy farmers, or whether it will mostly impact breeders who are already regulated' and inserting instead 'would be effective, with breeding organisations concerned with the impact on their businesses, while animal protection organisations highlighted the benefits it would have in stopping large scale puppy farming'
- b) omitting 'while' before 'certain participants felt strongly'
- c) inserting 'while' before 'others were concerned that'
- d) omitting 'as the industry potentially becomes more profitable should the supply of puppies diminish' at the end.

Resolved, on the motion of Ms Hurst: That paragraph 3.111 be amended by omitting 'have sympathy for' and inserting instead 'support'.



Ms Hurst moved: That the following new committee comment and recommendation be inserted after paragraph 3.111:

**'Committee comment**

In light of progress in other states, community concerns and the serious animal welfare issues raised in this inquiry, it is clear that action must be taken to address puppy and kitten farming in NSW. Therefore, the committee recommends that if the Companion Animals Amendment (Puppy Farms) Bill 2021 does not pass, the NSW Government should take urgent action on puppy and kitten farms.

**Recommendation X**

That, if the Companion Animals Amendment (Puppy Farms) Bill 2021 does not pass, the NSW Government urgently introduce legislation on puppy and kitten farming in NSW.'

Question put and passed.

Resolved, on the motion of Ms Hurst: That paragraph 3.112 be amended by omitting 'Beyond the issue of the bill itself, two particular' and inserting instead 'Several'.

Resolved, on the motion of Ms Hurst: That paragraph 3.113 be amended by:

- a) inserting 'that have been convicted of animal cruelty offences in New South Wales, or from persons' after 'to refuse development applications from persons'
- b) inserting 'in New South Wales, as well as' after 'that recognise animal cruelty convictions'.

Resolved, on the motion of Ms Hurst: That Recommendation 2 be amended by inserting ', with a view to ensuring that the best interests of the animals are paramount in any arrangement' at the end.

Ms Hurst moved: That the following new committee comment be inserted before paragraph 3.116:

'The committee notes that, while consensus could not be reached in relation to specific numbers, there was significant evidence presented about the need for a cap on the number of breeding dogs and cats, lifetime litter limits, and staffing ratios. The committee therefore recommends that, in consultation with key stakeholders, the NSW Government take action to introduce these measures.'

Question put and passed.

Ms Hurst moved: That the following new recommendation be inserted before paragraph 3.116:

**'Recommendation X**

That the NSW Government closely consider evidence before this inquiry and introduce:

- a cap on the number of female breeding animals that a proprietor of a companion animal breeding business may have
- lifetime litter limits for cats and dogs used for breeding
- staff to animal ratios for companion animal breeding businesses.

Question put and passed.

**Chapter 4**

Resolved, on the motion of Ms Hurst: That paragraph 4.6 be amended by omitting: 'The RSPCA NSW observed that 'compliance with POCTAA and the code for breeding dogs and cats in New South Wales alone is not synonymous with good welfare' and inserting instead:

'However, the RSPCA argued that the focus of this inquiry should not just be on 'the cruelty that exists in these noncompliant and neglectful breeding obligations, this does little to inform decisions about what regulatory changes are likely to be effective to ensure ethical, responsible breeding activity and high welfare standards. The issues that require closer examination are, firstly, whether compliance with the current laws and codes related to breeding are sufficient to achieve acceptable animal welfare and, secondly, whether large-scale breeding establishments carry an unacceptable risk to either compliance or to good welfare'. It

was ultimately RSPCA NSW's submission that 'compliance with POCTAA and the code for breeding of dogs and cats in New South Wales alone is not synonymous with good welfare'. [FOOTNOTE: Evidence, Dr Liz Arnott, Chief Veterinarian, RSPCA NSW, 7 April 2022, p 53.]

Resolved, on the motion of Ms Hurst: That paragraph 4.13 be amended by omitting 'went so far as to argue' and inserting instead 'argued'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 4.14:

'Breeding organisations also expressed particular concern about the exercise requirements. For example, the Association of Pet Dog Breeders stated that:

Only revisions to the Breeding Code, addressing management practices and appropriate areas available for exercise, would be able to ensure that all dogs have access to free running exercise, where they can express normal social behaviour, for most of their day.' [FOOTNOTE: Submission 76, Australian Association of Pet Dog Breeders, p 15.]

Resolved, on the motion of Ms Hurst: That paragraph 4.19 be amended by omitting 'are subject to disciplinary action, which may include disqualification of membership and breeding rights' and inserting instead 'may be disqualified from the organisation'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 4.20:

'However, as Mr Grima noted, 'At the end of the day, associations can only cancel a membership. They cannot actually prosecute and they cannot actually make anybody do anything. They can only cancel those memberships.'

[FOOTNOTE: Evidence, Mr Grima, Member, Pet Industry Association of Australia and Owner, Kellyville Pets, 7 April, Pg 24.]

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 4.24:

'Oscar's Law agreed, stating that in New South Wales, 'There is no system to track animal movements like there is in Victoria, so we just do not know how many puppies are being bred and sold in the State' [FOOTNOTE: Evidence, Ms Georgie Purcell, President, Oscar's Law, 23 May, Pg 19.]. Oscar's Law went on to explain that:

No animal can be sold in Victoria without being registered on the Pet Exchange Register. So if there is a high amount of animals being sold in a certain area, we can now get that data. Councils can look into whether that breeder is registered, whether they are following the laws and whether they are doing the right thing. So even though some people might choose to not follow the law, now we are actually able to track them down in a way'.

Resolved, on the motion of Ms Hurst: That:

a) the following new paragraph be inserted after paragraph 4.29:

'The Animal Defenders Office observed that:

'Like most, if not all, intensive animal industries, puppy and kitten farms operate far from the public gaze, behind closed doors and often in remote areas. This aspect of puppy and kitten farms can make enforcement action difficult. These enterprises also present further difficulties when it comes to enforcement because they can operate from within or adjacent to people's homes, blurring the line between residential and commercial premises. The power to enter residential premises under animal welfare laws in NSW is much more limited compared to public or even commercial land.' [FOOTNOTE: Submission 6, Animal Defenders Office, p 10]

b) that paragraph 4.30 be amended by inserting 'also' after 'Animal Defenders Office'.

Resolved, on the motion of Ms Hurst: That paragraph 4.63 be amended by omitting '- all of which are covered by the minimum daily exercise time of 20 minutes, for instance - and as well as commercial versus

hobby breeder' and inserting instead 'all of which are covered by minimum enclosure requirements based on height, rather than the requirements of individual breeds, for instance'.

Resolved, on the motion of Ms Hurst: That paragraph 4.65 be amended by inserting:

- a) 'the RSPCA and' after 'Stakeholders including'
- b) '4.14 and' before '4.17'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 4.65:

'However, given the animal welfare reform process may take some time, we encourage the Government to commence the review of the Breeding Code as soon as possible in light of the issues raised in this Inquiry. We also recommend that this review look at the Victorian *Code of practice for the operation of breeding and rearing businesses* as a good example of a modern breeding code.'

Ms Hurst moved: That Recommendation 3 be amended by:

- a) omitting 'That in reviewing' and inserting instead 'The NSW Government urgently conduct a review of'
- b) omitting ', the Department of Primary Industries' and inserting instead ', and in doing so;'

Question put and passed.

Resolved, on the motion of Ms Hurst: That Recommendation 3 be amended by omitting 'differing breed requirements, along with commercial and hobby breeders' and inserting instead 'the varying requirements of the differing breeds'.

Resolved, on the motion of Ms Hurst: That Recommendation 3 be amended by:

- a) inserting ', space requirements, exercise and enrichment requirements' after 'mental wellbeing'
- b) inserting the following bullet points at the end of the recommendation:
  - 'ensure competency standards for people caring for breeding animals
  - ensure routine veterinary checks and health care plans are mandatory
  - address the breeding of heritable defects'.

Ms Hurst moved:

- a) that paragraph 4.69 be amended by inserting 'Funding for rescue groups is also needed to ensure they can continue to perform their important function of rehoming cats and dogs.' after 'framework is more effective'
- b) that Recommendation 4 be amended by omitting 'for the enforcement of animal welfare laws, commencing from the 2023-24 financial year' and inserting instead 'and ensure this funding covers the costs of the compliance and enforcement operations of these organisations, without reliance on charitable donations'.

Question put and passed.

Ms Hurst moved: That the following new recommendation be inserted after Recommendation 4:

**'Recommendation X**

That the NSW Government establish a grants program to provide funding to animal rescue organisations'.

Question put:

The committee divided.

Ayes: Ms Hurst, Ms Boyd.

Noes: Mr Amato, Mr Barrett, Mr Mallard, Mr Searle.

Question resolved in the negative.

Mr Searle moved: That the following new recommendation be inserted after Recommendation 4:

**'Recommendation X**

That the NSW Government consider providing funding to animal rescue organisations.'

Question put and passed.

Resolved, on the motion of Ms Hurst:

- a) that paragraph 4.74 be amended by omitting 'an aggravated animal cruelty offence or multiple animal cruelty offences and recommends that this be rectified to' and inserting instead 'animal cruelty, meaning that people convicted of animal cruelty offences are still able to legally breed dogs and cats in NSW. The Committee therefore recommends that the NSW Government introduce legislation to ban anyone convicted of animal cruelty offences from being involved in breeding a dog or cat, create a presumption in favour of a court making a disqualification order following conviction of any animal cruelty offence, and require a court to impose a disqualification order where a person has been convicted of an aggravated animal cruelty offence, multiple cruelty offences, or convicted of previous animal cruelty offences. This will'
- b) that Recommendation 6 be amended by omitting 'amend section 31 of the Prevention of Cruelty to Animals Act 1979 to require a court to impose a disqualification order where a person has been convicted of an aggravated animal cruelty offence, or multiple animal cruelty offences, and the court is satisfied that the person is likely to commit another animal cruelty offence should the person be in charge of an animal' and inserting instead 'ban anyone convicted of animal cruelty offences from being involved in breeding a dog or cat, create a presumption in favour of a court making a disqualification order following conviction of any animal cruelty offence, and require a court to impose a disqualification order where a person has been convicted of an aggravated animal cruelty offence, multiple cruelty offences, or convicted of previous animal cruelty offences'.

## Chapter 5

Resolved, on the motion of Ms Hurst: That paragraph 5.2 be amended by omitting 'a key' and inserting instead 'as one way'.

Resolved, on the motion of Ms Hurst:

- a) that the following new paragraph be inserted after paragraph 5.29:

‘By contrast, Oscar’s Law gave evidence that their licensing and registration system in Victoria was effective, even if some unethical breeders tried to avoid complying with the law:

Even though some people might choose to not follow the law, now we are actually able to track them down in a way. There was this argument with the legislation that it would force puppy farmers underground. It has done the complete opposite; it has brought them to our attention, which was exactly the purpose of the legislation.’ [FOOTNOTE: Evidence, Ms Georgie Purcell, President, Oscar's Law, 23 May, p 20]
- b) that the following new paragraph be inserted after paragraph 5.38:

‘Some stakeholders raised concerns around the oversight limitations of breeding organisations, noting that membership within an organisation did not necessarily mean there was adequate oversight or enforcement. For example, the RSPCA noted that the role of breeding organisations in the Victorian regulatory regime was a weakness, stating that ‘the degree to which monitoring, and enforcement of the breeder organisational codes occurs is not apparent and is not equivalent to enforcement agency activity.’ [FOOTNOTE: Submission 3, RSPCA NSW, p 11] Oscar’s Law also raised concerns that ‘a number of the cruelty cases or unethical breeding cases exposed in Victoria, and also around Australia, have been registered breeders with a kennel club.’ [FOOTNOTE: Evidence, Ms Purcell, 23 May 2022, p 19]

Resolved, on the motion of Mr Searle: That paragraph 5.49 be amended by inserting 'The committee understands this reflects the poor resourcing of this function by government over a long period of time. The issue of proper resourcing needs to be addressed if the NSW Pet Registry is to work as intended and gain and maintain the confidence of the community' after 'the NSW Pet Registry.'

Resolved, on the motion of Mr Searle: That paragraph 5.50 be amended by inserting:

- a) 'As set out above, the NSW Government must ensure there is a proper level of resourcing, including for digital transformation, for this function or it will not work properly' after 'fit for purpose'
- b) 'and properly resourced' after 'well-functioning'.

Resolved, on the motion of Ms Hurst: That paragraph 5.50 be amended by:

- a) omitting 'As a necessary step, we urge the Office of Local Government to consult with stakeholders as to what a new pet registry should include so as to ensure it is truly effective in enabling traceability of companion animals and their breeders in New South Wales.'
- b) omitting 'is a key element to better preventing and addressing' and inserting instead 'could assist in tracking down cruelty at'
- c) inserting at the end of the paragraph 'The Committee believes that it is important for the Pet Registry to interact effectively with online sites such as Gumtree and the Trading Post, to assist both enforcement agencies and the public in easily identifying unethical breeders'.

Resolved, on the motion of Ms Hurst: That Recommendation 7 be amended by:

- a) inserting 'acts promptly to' after 'Local Government'
- b) inserting 'and ensures proper traceability of animals and breeders to assist both the public and enforcement agencies to identify unethical breeders' after 'all cats and dogs'.

Ms Hurst moved: That Recommendation 8 be omitted and the following recommendation inserted instead:

**'Recommendation X**

The NSW Government work to ensure interoperability between the NSW Pet Registry and online sites such as Gumtree and the Trading Post, to reduce the ability of unethical breeders to sell online.'

Question put and passed.

Resolved, on the motion of Ms Hurst: That paragraph 5.52 be amended by omitting 'The committee sympathises with a number of these views. We recognise' and inserting instead 'The committee recognises'.

Resolved, on the motion of Ms Hurst: That paragraph 5.57 be amended by inserting 'regular' before 'auditing and enforcement of a licensing scheme'.

Ms Hurst moved: That Recommendation 9 be amended by inserting 'that contains robust licensing conditions for breeders' after 'New South Wales'.

Question put and passed.

Resolved, on the motion of Ms Hurst: That Recommendation 10 be amended by inserting 'including but not limited to rescue organisations, animal protection organisations, enforcement agencies and breeders,' after 'with key stakeholders'.

**Chapter 6**

Resolved, on the motion of Ms Hurst: That the introduction of chapter 6 be amended by:

- a) omitting 'how' and inserting instead 'if'
- b) omitting 'much'
- c) inserting 'but also heard evidence regarding the difficulties faced by consumers in trying to identify puppy farms and unethical breeders.' after 'facilities'.

Resolved, on the motion of Ms Hurst: That paragraph 6.9 be amended by omitting 'during the pandemic' after 'Ms Emily Power explained that'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 6.13:

'Ms Power explained how difficult it was, despite her best efforts, to verify whether she was purchasing from an 'ethical breeder':

I ended up buying my dog through Gumtree or the Trading Post. I rang a few of the owners to find out "How many dogs do you have?" and asked a few questions. They were a bit cagey. They did not really want to give me their address until they were sure that I wanted to come and inspect the puppy. When I did get the address, I would look it up on Google Earth and try to home in and have a look—was there grass in the backyard, and that sort of thing... You sort of think a family breeding dogs, it must be so lovely, they are in a lovely environment. But you do not actually know because you cannot go in their backyard; you go to their front door. They show you photos of the puppies on a little blanket. It looks nice and cosy. But, as a consumer, you have no way of ensuring that it is a good environment.' [FOOTNOTE: Evidence, Ms Power, 23 May 2022, p 12]

Resolved, on the motion of Ms Hurst: That paragraph 6.27 be amended by omitting 'who view pet shops as "simply a retail outlet for puppy farmers"' and inserting instead 'who stated that:

A ban on the sale of animals in pet shops will not stop puppy farming, but it is important as puppy farmers hide behind the pet shop window and it removes one of their easiest ways to deceive the public. Pet shops are simply retail outlets for puppy farmers' [FOOTNOTE: Answers to supplementary questions, Oscar's Law, 20 June 2022, p 1]

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 6.27:

PETA agreed that pet shops may not be forthcoming with the details of breeders through which they source dogs, stating that 'pet shops lure customers in with cute puppies but don't give any explanations as to where the animals came from.' [FOOTNOTE: Submission 17, PETA Australia, pp 4-5]

Resolved, on the motion of Ms Hurst:

a) that the following new paragraphs be inserted after 6.33:

'By contrast, the committee also received evidence highlighting how pet shops can conceal breeding conditions from the public. For example, one submission highlighted that for 16 years she was involved in reporting cruelty at a puppy farm and following the case, 'All the puppies were being sold at Pet Shops with the consumers being totally unaware of the abhorrent conditions these poor animals were coming from and that their money was helping to perpetuate.' [FOOTNOTE: Submission 222, Susie Header, p 3]

Oscar's Law also noted that the sale of dogs in pet shops is not supported by the community, and has been banned in many other states:

We feel strongly that a ban on the sale of puppies in pet shops is strongly supported by the community. In fact, it was one of the most popular elements of the legislation that was passed in Victoria. Prior to its passage, there was not a week that went by where we didn't receive complaints from members of the public about distressed puppies in pet shop windows. Many Victorians also believed it was already illegal and were shocked to hear it was not... The sale of puppies in pet shops is now illegal in Victoria and Western Australia. We believe it will also be an aspect of the new South Australian Labor Government's action on puppy farms.' [FOOTNOTE: Answers to supplementary questions, Oscar's Law, p 1].

b) that the following new paragraph be inserted after paragraph 6.35:

'By contrast, PETA queried whether restricting the sale of dogs and cats in pet shops to those sourced from pounds, shelters and rescue groups would have this impact, noting that 'Many pet shops already

work from this model and have proved it is still a profitable business model" [FOOTNOTE: Submission 17, PETA Australia, p 7]

Resolved, on the motion of Ms Hurst: That paragraph 6.39 be amended by inserting 'by breeders' after 'oversupply of companion animals'.

Resolved, on the motion of Ms Hurst: That paragraph 6.45 be amended by omitting 'In addition, many animals were placed in shelters as a result of behaviour and socialisation problems'.

Resolved, on the motion of Ms Hurst: That paragraph 6.47 be amended by omitting 'number of unwanted accidental litters ending up in rescue shelters' and inserting instead 'oversupply of companion animals'.

Resolved, on the motion of Ms Hurst: That paragraph 6.48 be amended by omitting 'Part of the reason is that dogs bred by registered breeders usually have' and inserting instead 'Some registered breeders gave evidence that they offered'.

Resolved, on the motion of Ms Hurst: That paragraph 6.49 be amended by inserting:

- a) 'However,' before 'The Australian'
- b) 'only' before '47 per cent'.

Resolved, on the motion of Ms Hurst: That paragraph 6.68 be amended by:

- a) inserting 'Where an animal suffers an illness as a result of breeding practices, including the conditions under which the animal was raised at the start of life, it should be incumbent on the breeder to be held accountable.' [FOOTNOTE: Answers to supplementary questions, Animal Defenders Office, 23 May 2022, p 5] after 'support for such a scheme'
- b) omitting ', but nonetheless stressed that in itself it' and inserting instead 'However, the Animal Defenders Office also stressed an extended liability scheme in itself'.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after 6.72:

'Some witnesses warned that consumer education would not be enough without adequate regulation and oversight of breeders, because of the lack of information available to consumers when looking to purchase a puppy. Ms Power stated that:

As a consumer, we normally have information on the working conditions that are given to the people who provide our clothes or our food. We have the choice to buy free range, we know when something comes from a sweatshop generally and we can make an ethical choice. But I did not find it easy to do that in this case. I think the community is appalled by animal cruelty and we need harsher penalties and legislative standards to protect animals.' [FOOTNOTE: Evidence, Ms Power, 23 May 2022, p 10]

Resolved, on the motion of Ms Hurst: That paragraph 6.90 be amended by omitting 'while others' and inserting instead '. Some'.

Resolved, on the motion of Ms Hurst: That paragraph 6.92 be omitted:

'We are also saddened to hear of the large number of unwanted animals in pounds and rescue shelters and the associated high euthanasia rates. The committee heard much evidence that while not representative of all the animals in shelters, a large proportion are Staffordshire, bull terrier and cattle dog crosses. Many breeders, their associations, and pet store owners, drew the committee's attention to the fact that they do not have trouble rehoming dogs that were purchased from them, shown by many offering a lifetime rehoming guarantee. While it is ideal that each of the animals in shelters finds a loving home, we accept that many of these animals are often viewed as unsuitable for families and are not a simple replacement for those animals available in pet stores. It is also clear that more can be done via education to prevent the flow of animals into shelters.'

and the following new paragraph inserted instead:

'We are also saddened to hear of the large number of unwanted animals in pounds and rescue shelters and the associated high euthanasia rates. Many breeders, their association and pet store owners drew the committee's attention to the fact that they do not have troubling rehoming dogs, with some giving evidence suggesting that they offer a lifetime rehoming guarantee. It was the view of some inquiry participants that shelter animals are 'unsuitable' for rehoming. However, the committee could not substantiate these views, as we did not have the opportunity to speak with rescue organisations. Further, the committee believes that many rescue animals are suitable for rehoming and often make loving companions. It is clear that more can be done via education to prevent the flow of animals into shelters, and by ensuring people understand the role of taking on an animal.'

Resolved, on the motion of Ms Hurst: That paragraph 6.93 be omitted:

'The committee heard evidence that it is easier to regulate pet stores than online sources. We see the merit in the argument that banning the sale of puppies in pet stores risks an escalation of online sales with less oversight as a result. Pet stores also provide greater opportunity to better educate consumers on responsible pet sourcing and ownership than online sources. We also acknowledge that many breeders take seriously their responsibility as a key source of education for potential purchasers, as they want to ensure the animals they have bred are going to a suitable home.'

and the following new paragraph inserted instead:

'The committee heard evidence that it is easier to regulate pet stores than online sources, but that it is limited to in-store oversight, rather than the conditions in which dogs being sold were bred and raised, and whether they come from ethical sources. The committee finds that while pet shops can be inspected and scrutinised, the breeders that pet shops source from are less visible to the public. The committee also notes that many breeding organisations do not allow their members to sell through pet shops. As a result, there is a risk that pet shops can serve as smokescreens for puppy farms and unethical breeders. Pet stores may provide greater opportunity to better educate consumers on responsible ownership than online sources.'

Ms Hurst moved: That the following new paragraph be inserted after paragraph 6.93: 'In light of the evidence, the Committee recommends that the NSW Government restrict the sale of dogs and cats in pet shops to those sourced from pounds, shelters or rescue groups.'

Mr Searle moved: That the motion of Ms Hurst be amended by omitting 'the evidence' and inserting instead 'interstate jurisdictional developments, such as in Victoria and Western Australia', and omitting 'restrict' and inserting instead 'move towards restricting'.

Amendment of Mr Searle put and passed.

Original question of Ms Hurst, as amended, put.

The committee divided.

Ayes: Ms Boyd, Ms Hurst, Mr Searle, Mr Veitch.

Noes: Mr Amato, Mr Barrett, Mr Mallard.

Question resolved in the affirmative.

Mr Searle moved that the following new recommendation be inserted before paragraph 6.94:

**Recommendation X**

That the NSW Government move towards restricting the sale of dogs and cats in pet shops to those sourced from pounds, shelters or rescue groups.

Question put.

The committee divided.

Ayes: Ms Boyd, Ms Hurst, Mr Searle, Mr Veitch.

Noes: Mr Amato, Mr Barrett, Mr Mallard.



Question resolved in the affirmative.

Resolved, on the motion of Ms Hurst: That ' However, the Committee also heard evidence of how difficult it is to identify an unethical breeder under the current regulatory framework, where anyone can set up a breeding business and dodgy practices are often hidden away from public view' be inserted at the end of the paragraph 6.97.

Resolved, on the motion of Ms Hurst: That paragraph 6.98 be amended by inserting:

- a) 'while' after 'To this end'
- b) ', we also recognise that consumers will continue to struggle under the current regime to identify unethical breeders' after 'when purchasing a puppy'.

Ms Hurst moved: That Recommendation 11 be amended by omitting 'pet ownership' and 'inserting instead 'animal care'.

Question put and passed.

Ms Hurst moved: That:

- a) the following new paragraph be inserted after 6.99:
 

"The Committee believes the current approach of treating sentient animals as 'property' under the law is fundamentally problematic. We recommend that this legal fiction be abolished, and that alternatives be considered as part of the NSW Government's ongoing review of animal protection laws."
- b) the following new recommendation be inserted before 6.100:

**Recommendation X**

That the NSW Government abolish the legal fiction that animals are property, and consider alternative ways of classifying animals under the law as part of their ongoing review into animal protection laws.

Question put.

The committee divided.

Ayes: Ms Boyd, Ms Hurst.

Noes: Mr Amato, Mr Barrett, Mr Mallard, Mr Searle, Mr Veitch.

Question resolved in the negative.

Resolved, on the motion of Ms Hurst:

- a) that the following new paragraph be inserted after paragraph 6.99:
 

"The Committee also recommends that the NSW Government take steps to protect animals and consumers by introducing an 'extended liability' scheme for breeders, and fund an 'anti-puppy farm legal clinic' to assist members of the public affected by puppy farms and other unethical breeding practices."
- b) that the following new recommendation be inserted:

**'Recommendation X**

The NSW Government introduce an 'extended liability' scheme whereby breeders are responsible for congenital, genetic and/or other health issue that arise in the first year of an animals' life.'

Ms Hurst moved: That the following new recommendation be inserted:

**Recommendation X**

The NSW Government fund an 'anti-puppy farm legal clinic' to assist members of the public affected by puppy farms and other unethical breeding practices.

Mr Searle moved: That the motion of Ms Hurst be amended by omitting 'fund' and inserting instead 'consider funding'.

Amendment of Mr Searle put and passed.

Original question of Ms Hurst, as amended, put and passed.

Ms Hurst moved:

- a) that paragraph 6.101 be amended by inserting 'and call for a review of the Australian Consumer Law to provide better protections in relation to the purchase of animals' at the end of the paragraph
- b) that Recommendation 12 be amended by inserting ', and call for a review of the Australian Consumer Law to provide better protections in relation to the purchase of animals.' after 'of animals'.

Question put and passed.

Resolved, on the motion of Mr Searle: That:

- The draft report as amended be the report of the committee and that the committee present the report to the House;
- The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions online questionnaire report, responses to the online questionnaire, and correspondence relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions and individual responses to the online questionnaire be kept confidential by the committee;
- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- Dissenting statements be provided to the secretariat within 48 hours after receipt of the draft minutes of the meeting;
- The secretariat is tabling the report at Thursday 25 August 2022;
- The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

## 6. Adjournment

The committee adjourned at 12.50 pm, *sine die*.

Talina Drabsch  
**Committee Clerk**

## Appendix 4 Dissenting statement

### The Hon Emma Hurst MLC, Animal Justice Party

This report makes some important recommendations regarding the serious problem of puppy and kitten farming in NSW.

However, it is disappointing that most other members of the Committee failed to support a recommendation to abolish the property status of animals.

The commodification of animals goes to the heart of the puppy farming problem. The fact that a mother dog can be confined in a tiny pen and used as a breeding machine against her will, forced to pump out litter after litter, all to produce profit for her so-called 'owner', is only made possible because animals are classified as 'property' under the law.

This legal fiction, that sentient animals can be treated by humans the same as a car or table, is the underlying reason for so many of the harms inflicted on animals in our society – not just in puppy and kitten farming and other animal use industries, but also in domestic and family violence situations where an animal's fate often comes down to whoever has the greater argument for "owning" the property, rather than the best interests of the animal. The link between this damaging legal fiction and puppy and kitten farming was highlighted by stakeholders at this inquiry. It is frustrating that the two major parties would simply ignore this evidence provided. The property status of animals under the law is inherently harmful and problematic and must be abolished.

I am also disappointed that the majority of the Committee did not support my amendment for definitive funding for rescue groups.

We heard evidence at this inquiry about the problems associated with the oversupply of companion animals, and how critical animal rescue groups are in rehoming dogs and cats and reducing euthanasia rates. At the moment, most community rescue groups receive no funding from the Liberal-National Government and rely entirely on volunteers and charitable donations, putting them in a precarious financial situation. Rescue groups perform an essential function in saving the lives of animals and must urgently be provided with Government funding.







